

Future Proofing: An Insurance and Risk Management Perspective





Overview

Professional Indemnity (PI) Insurance

- The devil is in the detail
- Common exclusions

- **Risk Management**

- Defining your business
- Manage contractual risks



PI Insurance: What do these exclusions look like?

Underwriters shall not be liable for any claim made which arises directly or indirectly from or in connection with:

- (a) Any actual, alleged or threatened discharge, release, escape or disposal of Pollutants into or on real or personal property, water or the atmosphere;*
- (b) Any direction or request that the Insured test for, monitor, clean up, remove, contain, treat, detoxify, or neutralise Pollutants or any voluntary decision to do so*

Including but not limited to any Claim for financial loss to the Insured, its security holders or its creditors based upon or arising from or in consequence of the matters described in (a) or (b) of this exclusion except to the extent covered under automatic coverage clause 7.

Automatic Coverage Clause 7

This policy, subject otherwise to its terms, conditions, limitations and exclusion includes cover for:

Claims arising out of Seepage and Pollution as a direct result of any negligent act, error or omission by the Insured.



PI Insurance: Other Common Exclusions

- Asbestos
- “Toxic Mould” – often defined to include any mould or fungus
- Professional services versus contracting exposures - have significant implications for both professional indemnity and public liability insurance



Obtaining Appropriate Cover

- Don't assume you have appropriate cover just because you asked for it in an application form
- Use a specialist broker: Does your broker understand your business?
- Read your policy wording
- Ask questions:
 - What does this mean?
 - Can the clause be amended?
 - Obtain advice in writing
- Don't assume



Risk Management – Defining Your Business

- Our perspective (professional negligence)
- Define your business – by your deliverables
- Scope of services – client versus consultant drafted
- Manage scope creep
- Define by exclusion if necessary
- eg.
 - Consulting versus remediation (contracting)
 - Prescriptive testing/sampling versus project management
- Reduce ambiguity = reduced risk



Risk Management – Managing Contractual Liability Risks

- Scope of engagement
- Assumption of risk/liability:
 - Indemnities
 - Waiver or rights
 - Warranties: standard of care and scope (including assuming liability of others)
 - Contracting out of proportionate liability legislation
- Read, negotiate, seek advice....
- Transfer (some) risks via insurance but understand what is/is not transferrable



Thank You.