



# Solicitor's Excess

## Your Award Winning Insurer



**IMPORTANT INFORMATION: PLEASE READ THE FOLLOWING INFORMATION BEFORE COMPLETING THIS PROPOSAL**

### Completing this Proposal Form

- Any references throughout this Proposal Form to “you”, “your” or “insured” are to be read as references to “the proposer”. Any reference to “we”, “us”, “our” or “BIA” are to be read as references to “Berkley Insurance Company (limited company incorporated in Delaware, USA) ABN 53 126 559 706 | AFSL 463129 t/as Berkley Insurance Australia”.
- Please answer all questions giving full and complete answers. If a question in the Proposal Form does not apply to the proposer, this should be marked as “Not Applicable” or “N/A”.
- If the space provided on the Proposal Form is insufficient, please use a separate signed dated sheet in order to provide a complete answer to any question.
- It is the duty of the proposer to provide all information that is requested in this Proposal Form as well as to disclose relevant facts. A relevant fact is a known fact or circumstances that may influence the evaluation of risk by the the insurer. If you are uncertain about what a relevant fact is, please contact your broker.

### A. Your Duty of Disclosure

Before you enter into an insurance contract, you have a duty to tell us anything that you know, or could reasonably be expected to know, may affect our decision to insure you and on what terms.

You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell us anything that:

- reduces the risk we insure you for; or
- is common knowledge; or
- we know or should know as an insurer; or
- we waive your duty to tell us about.

#### If you do not tell us something

If you do not tell us anything you are required to, we may cancel your contract or reduce the amount we will pay you if you make a claim, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim and treat the contract as if it never existed.

## **B. Claims Made and Notified Policy**

This Proposal Form is for insurance issued on a 'claims made and notified' basis. This means that the policy responds to:

- (a) claims first made against the insured during the policy period and notified to us during the policy period, provided that the insured was not aware at any time before policy inception of facts, matters or circumstances which would have put a reasonable person in the insured's position on notice that a claim may be made against the insured; and
- (b) written notification of facts pursuant to section 40(3) of *the Insurance Contracts Act 1984*. If the insured chooses to tell us in writing about facts which might give rise to a claim against the insured as soon as reasonably practicable after the insured becomes aware of these facts but before insurance cover provided by the policy expires, then we are not relieved of liability under the policy for the claim, when made, by reason only that it was made after the expiration of the period of insurance cover provided by the policy.

After the policy expires, no new notification of facts may be made on the expired policy even though the event giving rise to the claim against you may have occurred during the policy period. An exception to this is where an extended reporting period applies to the policy. If an extended reporting period applies, then cover may be available for notifications of facts or claims made up to expiry of the extended reporting period.

When completing the proposal the insured is required to provide full details of all facts, matters and circumstances of which they are aware and which a reasonable person in the insured's position would consider may give rise to a claim. It is important that the insured make proper disclosure. Refer to the Duty of Disclosure above to understand the insured's disclosure obligations.

## **C. Retroactive Date**

This policy does not provide cover for claims arising from or in connection with an act, error, omission or event occurring or alleged to have occurred before the policy's retroactive date, where such a date is specified in the schedule.

## **D. Subrogation Agreements**

Where another person would be liable to compensate you for any loss or damage otherwise covered by the insurance, but you have agreed with that person either before or after the loss or damage occurred that you would not seek to recover any monies from that person, we will not cover you under the insurance for such loss or damage.

## **E. Privacy Statement**

We are a member of the W. R. Berkley Corporation, which we refer to as WRBC.

We take privacy seriously and are committed to handling and protecting your personal information in accordance with the Privacy Act 1988 (Cth) and Australian Privacy Principles (APPs). This Privacy Statement explains how we collect, hold, use and disclose your personal information and who we share it with. It should be read with our Privacy Policy which provides more information about our privacy practices.

Our Privacy Policy is available at <https://berkleyinaus.com.au>. Alternatively, you can use the details in Contact Us at the end of this Privacy Statement to request a copy of our Privacy Policy.

### **Consent**

You agree to us collecting, holding, using and disclosing your personal information as set out in our Privacy Policy when you: (i) provide us with your personal information; or (ii) apply for, use or renew any of our products and services.

### **Personal information about others**

If you provide us with personal information about another person, then you must: (i) have their consent to do so; and (ii) tell them that you are disclosing their personal information to us and provide them with a copy of this Privacy Statement.

### How we collect your personal information

We collect your personal information directly from you, your agents and through others including the parties listed in our Privacy Policy. This includes our agents and service providers. We will use a variety of methods to collect your personal information from these parties, including written forms, telephone calls and electronic delivery.

### Not giving us your personal information

You may choose not to give us your personal information. However, this may affect our ability to provide you with any, some or all of the features of our products or services, including processing a claim.

### How we handle your personal information

We will use your personal information for the purposes we collected it. This usually includes: (i) providing you with assistance, a product or service you have requested; (ii) handling claims and complaints you have made; and (iii) facilitating our business functions and operations.

Your personal information may also be used for other purposes that are set out in our Privacy Policy.

We may disclose your personal information to other members of WRBC, agents or service providers (either yours or ours), other insurers, reinsurers, persons involved in a claim and other parties set out in our Privacy Policy. These disclosures will be for the same purposes described above or as otherwise permitted by law.

### Overseas Disclosure

Sometimes we need to provide your personal information to, or get personal information about you from, persons or organisations located overseas. We will do this for the same purposes as in the 'How we handle your personal information' section above.

The complete list of countries is contained in our Privacy Policy.

From time to time, we may need to disclose your personal information to, and collect your personal information from, persons and organisations located in countries that are not on the list.

### Marketing

Every now and then we might let you know – including via email, telephone or online - about news, products and services that we think may be of interest to you.

We will engage in marketing unless you tell us otherwise. We want you to be able to exercise your marketing preferences. Accordingly, you can contact us to update your marketing preferences by using the details in Contact Us below. Alternatively, you can simply follow the unsubscribe instructions in the relevant communication. More information about our marketing practices can be found in our Privacy Policy.

### Access, correction and complaints

You have the right to request access and correct your personal information held by us. Our Privacy Policy provides information about how you can: (i) access your personal information; (ii) ask us to correct your personal information; and (iii) complain about a breach of the APPs and how we will deal with such a complaint.

### Contact Us



[www.berkleyinaus.com.au](http://www.berkleyinaus.com.au)



02 9275 8566



[privacy@berkleyapac.com](mailto:privacy@berkleyapac.com)



Berkley Privacy Officer, PO Box Q296, QVB NSW 1230

**GENERAL DETAILS**

1. Please provide the following details:

- a) Name of Firm, Company or Sole Practitioner:
- b) Date the firm/Company/Practice was established:
- c) Address(es) of the Firm, Company(ies) (specifying which Partner, Principal is responsible at each location):
- d) Website address:
- e) Email address:
- f) Name of any previous Entities requiring cover, and relationship to current Entity(ies), and the dates on which they ceased business:
- g) Name of service/administration company(ies):

2. a) Please provide the following details

Name of all Partners or Principals/Self	Age	Qualifications	Date Qualified	How long as Partner/Principal of this practice	How long as Partner/Principal of other businesses

b) Please detail those past Partners, or Principals of the Firm or Company for whom cover is required and the date that they left the business: (if insufficient space please give full details by way of attachment)

3. Please give total numbers of Principals, Partners and Staff:

a) Partners/Principals/Directors	
b) Qualified Staff Solicitors	
c) Consultants	
d) Staff, other than Typists and Office Juniors	
e) Typists and Office Juniors	
f) Temporary Staff	
Total	

4. Do any of your activities require you to be Licensed under Chapter 7 of the Corporations Act 2001? No  Yes

5. Please give an approximate **percentage** split of the disciplines within your firm:

Conveyancing	%
Commercial	%
Litigation	%
Probate	%
Family	%
Common Law	%
Criminal	%
Intellectual Property	%
Mergers and Acquisitions	%
Migration Agent Work	%
Other (please provide details below)	%
Total	100%

6. Please state the gross income received for each of the last two financial years and an estimate for the next financial year:

	Last Financial Year				Current Financial Year				Coming Financial Year			
Financial Year Ended			/				/				/	
Australia												
Elsewhere**												
Total												
**Please advise where												

7. Please give a **percentage split totalling 100%** of which state(s) generate the proposer's income.

NSW	VIC	QLD	SA	WA	TAS	NT	ACT	O/S

If income is generated in NSW, please answer the following additional questions:

- a. Is the proposer a Capital Gains Tax small business entity (within the meaning of section 152-10(1AA) of the *Income Tax Assessment Act 1997* (Cth))? No  Yes
  - b. Is the proposer a small business individual, partnership, company and/or trust, which is carrying on a business, and the business has an aggregated turnover of less than \$2,000,000? (Aggregated turnover is your Australia wide annual turnover plus the annual turnovers of any business entities that are your affiliates or are connected with you).  
No  Yes
8. Is the whole Firm currently accredited with any quality standards? No  Yes
  9. Does the Firm offer advice and/or transact business over the internet? No  Yes   
If yes, are security checks regularly undertaken and appropriate disclaimers used? No  Yes
  10. Does the Firm have clearly defined and documented procedures for the screening of all clients? No  Yes
  11. Does the Firm use an engagement letter for each new matter which:
    - a) Identifies the client? No  Yes
    - b) Confirms instructions received? No  Yes
    - c) Sets out the scope of the retainer? No  Yes
    - d) States what is expected of the client? No  Yes
    - e) Includes an outline of the proposed schedule for the new matter? No  Yes
    - f) Complies with requirements regarding costs? No  Yes
  12. Does the Firm have policies and procedures for communicating with clients which include:
    - a) Keeping the client regularly updated of progress? No  Yes
    - b) The requirement to confirm all significant advice in writing? No  Yes
  13. Does the Firm have clear policies and procedures laid down for the allocation, delegation and supervision of work? No  Yes   
If yes, are the Principals/Directors aware of any circumstances where the policies and procedures have been ignored? No  Yes
  14. Does the Firm have policy and established systems and procedures that emphasise the importance placed on researching, identifying, recording and complying with contractual, statutory and procedural time limits and ensure compliance with them? No  Yes
  15. Does the Firm or Company perform work outside Australia, or work for clients who are outside Australia? No  Yes

If Yes, please give details (i.e. Work performed, countries involved and fee income of each):

16. a) Has your name ever been changed? No  Yes   
 b) Has any other Practice or Business amalgamated or merged with you? No  Yes   
 c) Have you purchased any other Practice or Business? No  Yes

If Yes, in any case, please give details:

17. Has any insurer ever:

- a) Declined to offer Insurance for this Firm or Company, or for any Partner or Principal? No  Yes   
 b) Imposed any special terms on this Firm or Company or any Partner or Principal? No  Yes   
 c) Cancelled or voided any Insurance held by this Firm or Company or any partner or Principal? No  Yes

18. Have you or any Partner/Principal or staff member ever been subject to disciplinary proceedings for misconduct in a professional respect? No  Yes

If Yes, please give details:

19. a) During the past ten (10) years, has any claim been made, or has liability for an error or breach of duty been alleged against the Firm, Company or Sole Practitioner or any of their predecessors in business of any prior Entity or any of their present or former Partners, Directors, Principals, Consultants, or Employees; or have any circumstances been notified to insurers which may result in a claim?

No  Yes  If yes, please provide the following details in respect of each matter:

Year of Notification	Name of Insurer (if any)	Name of Claimant	Nature of Problem	Amount Paid or Estimated Potential Liability	Is Matter Finalised or Outstanding?

- b) Are any of the Partners, Directors, Principals or Employees AFTER FULL INQUIRY, aware of any circumstances which may give rise to a claim against the Firm, Company or Sole Practitioner, its predecessors in business or any past or present Partner, Director, Principal, Consultant, or Employee?

No  Yes  If yes, please give full details by way of attachment if necessary:

20. If the answer is **Yes** to Question 18 or 19, please provide a detailed description of the steps or changes the proposer have made to prevent similar claims from occurring. Please attach a separate piece of paper if necessary.

If the answer is **No** to Question 18 and 19, please state N/A.

21. Outside Directorships

- a) List all the present Partners who hold or have held outside Directorships solely for the purpose of representing the Company for who coverage is required:

Name	Position	Company

- b) Provide details of any existing coverage carried by these Companies (Note: Annual Reports may be required for these companies)

22. a) Does the Firm/Company currently insure above the compulsory scheme? No  Yes

- b) If the answer to (a) is Yes, please supply the following data:

Amount of Cover	<input type="text"/>
When lapsed or expiry date:	<input type="text"/>
Last Annual Premium:	<input type="text"/>
Name of Insurer and Broker:	<input type="text"/>

- c) What amount of indemnity is required? (i)  (ii)

23. The answers you have provided to the above questions will usually provide sufficient information for a proper consideration of the proposal. However, if there are any matters which are material to the risk to which this Proposal Form relates, you should disclose such matters to us in the space below, or on a separate sheet if necessary.

## DECLARATION

This Declaration must be completed and signed on behalf of all persons making the application for insurance.

I declare that:

- I am authorised by each of the persons making the application for insurance to complete and sign this Proposal Form.
- after making inquiries, all facts, information and statements given in this Proposal Form and any supporting documents attached or otherwise supplied ("**representations**") are true, correct, accurate and complete.
- no material representations have been omitted, misstated, withheld or suppressed which may affect the decision to accept the application for insurance or the terms and conditions on which any insurance is offered or provided.
- I undertake that, should there be any change to the representations after they have been provided to BIA, then I will immediately inform BIA about these changes before the relevant policy is entered into.
- I understand that BIA relies on the representations in forming its decision to offer any policy and that (except where otherwise indicated) BIA will treat the representations as being made by all persons to be insured.
- I understand that no insurance is in place until such time as BIA has confirmed acceptance of the application for insurance, and that if the application for insurance is accepted, the insurance cover will be subject to the terms, conditions and exclusions of the policy.
- I consent to BIA collecting, using, holding and disclosing personal information in accordance with the Privacy Statement contained in this Proposal Form, and that if I have provided or will provide information to BIA about any other individuals, I am authorised to disclose the other individual's personal information to BIA and also to give the previously mentioned consent on both my and their behalf.
- I acknowledge receipt of the Important Information contained in this Proposal Form and that I have read and understood the content of them.

D	D	/	M	M	/	2	0		
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Date

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Name of authorised individual/partner/principal/director

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Signature of authorised individual/partner/principal/director