

REAL ESTATE AGENTS & BUSINESS BROKERS PROFESSIONAL INDEMNITY PROPOSAL FORM

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

When completing the proposal you are obliged to report and provide full details of all circumstances of which you are aware and which a reasonable person in your position would consider may give rise to a claim.

It is important that you make proper disclosure (see Duty of Disclosure, below) so that your cover under any new policy with us is not compromised. Pursuant to the Insurance Contracts Act your duty to disclose all relevant information is set out below.

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 that 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 Professional Indemnity Insurance on a “Claims made and Notified” basis. This means that the policy covers you for claims made against you and notified to the insurer during the period of cover. It does not provide cover for:

- claims arising from an event which occurred before the policy’s “retroactive date” where such a date is specified in the schedule;
- claims made after the period of cover expires (even where the event giving rise to the claim occurred during the period of cover);
- claims made, threatened or intimated before the period of cover commenced;
- claims arising from facts or circumstances of which you first became aware before commencement of the policy and which you knew or ought reasonably to have known, had the potential to give rise to a claim under the policy of any previous policy;
- claims arising from circumstances noted on the proposal form or any previous proposal form.

By operation of section 40(3) of the *Insurance Contracts Act 1984* (Cth), where the insured gives notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim, when made, by reason only that it was made after the expiration of the period of insurance cover provided by the contract.

C. 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, the Insurer will not cover you under the insurance for such loss or damage.

D. Average Provision

Section 1.2 of the policy provides that if the Insured's liability for any Claim is for an amount in excess of the amount of the Indemnity Limit, then Berkley Insurance Australia's liability for such Defence Costs will be in the same proportion as the Indemnity Limit bears to the sum required to dispose of that Claim.

E. Privacy Statement

Berkley Insurance Australia handles your personal information in a responsible manner and in accordance with the Australian Privacy Principles and the Privacy Act 1988 (Cth).

Consent

By requesting us to provide you with insurance and insurance related services, you consent to the collection, use and disclosure of personal information you have provided to us for the purposes set out in our Privacy Policy.

How we collect your personal information

Generally we collect personal information from you or your agents. Personal information may also be collected by us from our agents and service providers; other insurers and insurance reference bureaus; third parties who may claim under your policies; service providers who assist us in investigating, processing and settling claims; third parties who may be arranging cover for a group that you are part of; statutory, regulatory and law enforcement bodies and from publicly available sources.

Why we collect personal information

The personal information we collect enables us to provide our products and services. This may include processing and settling claims; offering products and services that may be of interest to you and conducting market research for products and services that may be relevant to you.

You can choose not to receive product or service offering from us by calling (02) 92758500 Eastern Standard Time 9am to 5pm Monday to Friday inclusive. For further information, you can access our Privacy Policy at www.berkleyinaus.com.au

Who we disclose your personal information to

Your personal information may be disclosed to other parties with whom we have business arrangements for purposes set out in the paragraph above. These parties may include insurers, intermediaries, reinsurers, related companies, our advisers and parties involved in claims assessment, processing, investigation and settlement. Where required by law, we may also disclose information to government, law enforcement, dispute resolution and statutory or regulatory bodies.

Personal information about others

Where you provide personal information about others, you represent to us that you have made them aware that you will do so, the types of third parties we may disclose it to together with the purposes we and our third parties use it for, how they can access such information and how complaints can be made

Where you provide sensitive information about others, you represent to us that you have obtained their consent. If you have not, and will not do so, you must tell us before you provide the sensitive information.

Overseas Disclosure

Your personal information may be disclosed to other companies in the Berkley group, reinsurers and service providers that may be located in Australia and overseas. The countries this information may be disclosed may vary from time to time but may include the United States of America and other countries where the Berkley group has a presence.

Any information disclosed may only be used for the purposes detailed above.

Accessing your personal information and dealing with complaints

You may request access to the personal information we hold about you by calling us at any time.

Our Privacy Policy details how you can make a complaint about a breach of the privacy principles as set out in the Privacy Act 1988 (Cth) and our complaints process.

Our Privacy Policy is available at www.berkleyinaus.com.au

Contact Details

Berkley Insurance Australia

Level 7, 321 Kent Street

SYDNEY NSW 2000

Ph: 02 9275 8500

Fax: 02 9261 2773

Email: australia@berkleyinaus.com.au

Web site: www.berkleyinaus.com.au

SECTION 1 – GENERAL DETAILS

1. Please provide the following details:

Name of proposer(s) to be covered	ABN	Date established

2. Main address of the proposer and any other addresses:

Principal address:

Other addresses:


Email address:

3. Individual, partner, principal, director, consultants details:

Name	Age	Qualifications	Date(s) Qualified	Length of Service	
				This practice	Previous practice

Please attach CV where the proposer has been established less than 3 years and/or where any individual has no relevant qualifications.

4. Is or has the firm or any of its owners, partners or officers any financial interest (other than a fee for service) in any venture with a property developer in respect of which the insured firm provides professional services (including real estate sales) to third parties?

No Yes  If yes, provide details:

SECTION 2 – THE BUSINESS: WORK UNDERTAKEN

5. Please provide the proposer's fees/income in each of the financial years derived from clients based in:

	Last Financial Year	Current Financial Year	Coming Financial Year
Financial Year Ended	___ / ___	___ / ___	___ / ___
Australia			
Elsewhere			
Total			

6. If fees/income are/is declared as derived from clients based “Elsewhere” please provide details including territories involved and income derived.

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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. Please allocate below, as a **percentage of a total of 100%**, the split in fees/income between activities for the **last financial year** and an **estimate for the coming financial year**:

	Last Year	Coming Year
Residential Sales (existing)		
Residential Sales (off the plan – not house & land packages)		
Residential Sales (off the plan – house & land packages)		
Commercial Sales (existing)		
Commercial Sales (off the plan)		
Residential Property Management		
Resident Unit Manager		
Commercial Property Management (not shopping centres)		
Shopping Centres Property Management		
Business Broking		
Mortgage Broking		
Mortgage Originator (i.e. delegated authority from a lending Institution)		
Valuations		

Auctioneering			
Insurance			
Other (specify)			

9. If you have indicated you undertake Business Broking Activities, please answer the following additional questions:

a) What types of businesses do you handle?

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b) What is the maximum value any one business sold over previous 5 years?

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c) How many businesses have you sold in the last 12 months?

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d) What was the average sale price for businesses sold in the past 12 months?

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e) Do you always advise the purchaser to seek independent legal and financial advice?

No Yes

10. If you have indicated you act as a Resident Unit Manager, please answer the following additional questions:

Number of Units

--

Units in Letting Pool

--

Number of Commercial Leases

--

Types of Commercial Leases

--

Please list all facilities at the complex

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11. If you have indicated your provide Property Management (including Resident Unit Managers) and/or Strata Title Management services please answer the following additional questions?

a) Do you use the standard Property Management and/or Strata Title Management agreements as recommended by the Real Estate Institutes?

No Yes

b) Do you maintain a Complaints/Repairs Register to record all reports it receives about problems with the properties the Insured is managing?

No Yes

c) Prior to leasing a property (or renewing a property lease), does the Insured complete a property inspection report and insist the landlord fixes all potential issues raised in the report prior to the tenant moving in (or the lease being re-signed)?

No Yes

SECTION 3 – CLAIMS INFORMATION

12. After full enquiry has any claim been made against the proposer’s business or any principal, partner, director or employee whilst in this or any other business?

No Yes If yes, please provide details (please attach a separate piece of paper if necessary):

Date matter notified	Insurer	Claimant (or potential claimant)	Brief description	Amount paid including legal costs	Estimate of liability if not paid	Finalised or open

13. After full enquiry is the proposer aware of any circumstances or incident which has or could result in any claim being made against the proposer’s business, or any principal, partner, director or employee whilst in this or any other business?

No Yes If yes, please provide details:

14. After full enquiry, has any principal, partner, director or employee been subject to any disciplinary proceedings or actions for misconduct in a professional respect whilst in this or any other business?

No Yes If yes, please provide details:

SECTION 4 – THE BUSINESS: RISK MANAGEMENT

15. Does the proposer always obtain satisfactory written references when engaging employees?

Yes No If no, please provide details as to why:

16. If any partner, principal, director or employee is allowed to sign cheques without a counter signature please provide details of the individuals, the cheque limit and the circumstances?

Individual	Cheque Limit	Circumstance

17. Are employees who receive cash/cheques in the course of their duties required to pay in daily?

Yes No If no, please provide details of the procedures implemented:

18. Does that proposer ensure that sub consultants are engaged in a binding contract accepting responsibility for their own negligence, error or omission and does the proposer ensure that all sub consultants carry Professional Indemnity and Public Liability Insurance?

Yes No If not, why not?

SECTION 5 – INSURANCE COVERAGE

19. Does the proposer currently have Professional Indemnity Insurance in force for the activities for which cover is being sought?

No Yes If yes, please advise the renewal date:

20. Has any proposal for similar insurance made on behalf of the proposers business, any predecessor of the business, or any principal, partner or director ever been declined or has such insurance ever been cancelled, renewal refused or any special terms imposed (other than general market increases)?

No Yes If yes, please provide details:

SECTION 6 – INSURANCE REQUIRED

Please indicate the limit of indemnity you require and the excess you would prefer (Note: an excess will apply).

1. Limit of Indemnity

2. Excess

SECTION 7 – DECLARATION

I declare that I am authorised to complete this Proposal Form (Proposal) on behalf of the Company and that to the best of my knowledge and belief the statements and particulars in this Proposal are true and correct and no material facts have been omitted or misrepresented. I undertake to inform Berkley Insurance Australia (BIA) of any change to any material fact which occurs before any insurance based on this Proposal is entered into (up to an including the policy inception date).

By completing and signing this Proposal you acknowledge, accept and agree that in underwriting and issuing a policy (including replacement policies) BIA does and will rely on all disclosures, proposals, declarations and representations made by you to BIA.

____ / ____ / 20____

Name of authorised individual/partner/principal/director

Signature of authorised individual/partner/principal/director

Sydney
Tel. (02) 9275 8500
sydney@berkleyinaus.com.au

Melbourne
Tel. (03) 8319 4080
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