

CONSTRUCTION INSURANCE KNOW-HOW

11 PROFESSIONAL INDEMNITY COVER

INTRODUCTION

More and more today we are seeing builders being asked for Professional Indemnity (PI) Insurance. While this has been commonplace for “design and construct” builders for some time the request is now being made to suburban based “supply and construct” builders. To meet the need for incidental PI insurance, SURA Construction has introduced an Endorsement (E-154) which extends cover under Section 2 Public Liability for PI.

For builders who are involved in a significant amount of design and construct exposures we recommend the [SURA Professional Indemnity policy](#).

This edition of “Know-How” helps explain the extent of coverage under the SURA policy, how it works in practice and how SURA’s innovative approach can help you, our broker, and our mutual clients.

WHAT IS PI INSURANCE?

PI insurance covers commercial enterprises for liability to third parties that arises from the provision of advice or professional services. A PI policy will cover the insured for loss, damages, rectification costs and related expenses suffered by a third party resulting from the professional services provided by the insured and costs incurred in dealing with a claim.

Most professional advice and services are provided for a fee. Under Australian law (and most other countries) there is an expectation that the advice or service provided will be free from errors and “fit for purpose”. If the advice or service is flawed or inappropriate and this results in loss or increased costs to the client (unrelated third party) then the client may seek compensation from the insured for the amount of loss sustained.

A TYPICAL SCENARIO

Our friendly builder, Joe Blogs Building Company Pty Ltd (JBBC), undertakes insurance work for the Department of Housing who have asked him to take out Professional Indemnity Insurance. The work is mostly of a non-structural nature and should any structural works need to be undertaken the plans and design calculations are done by independent architects and engineers.

In this circumstance JBBC are conducting conventional building work using licensed tradespeople who are managed by an on-site supervisor. SURA would classify JBBC as a supply and construct builder and as such would be eligible for coverage under the SURA Construction PI endorsement.

TYPES OF COVER SURA PROVIDES

Most PI policies in the current market are called “Civil Liability” wordings which offer the broadest form of cover currently available. This essentially means that if you are found liable at law then the policy will respond (subject to policy terms and conditions). SURA Construction’s PI endorsement is an “acts, errors and omissions” cover which requires there to be an identifiable error which led to a loss for there to be a claim under the policy. This cover is regarded as suitable where the exposure to PI is seen as an incidental risk.

For JBBC in our typical scenario their PI exposure arises essentially from project management and for them to be found liable under this endorsement an identifiable error needs to be established.

HOW DOES SURA’S COVER WORK?

The cover is for liability arising out of a breach of Professional Services (which is a defined term under the policy). It is on a “claims made” basis meaning only *claims made against the Named Insured and notified to SURA during the Policy Period for acts or omissions after the retroactive date, where applicable, are covered*.

This endorsement applies only to annual policies. For underwriting assessment SURA requires the completion of our Supplementary Application (which you can find on our website: [sura.com.au](#)).

Indemnity Limits up to \$2,000,000 are available.

RISK MANAGEMENT TIPS

What things could you do to better understand which type of CI policy best suits your client’s needs?

- Obtain a detailed description of the client’s activities which should identify any involvement in design work by having your client complete our Supplementary Application.
- Wherever possible our clients should be looking to sign approved or standard forms of building contract wherever possible. Whether these are Australian Standards or prepared by industry associations for their members these documents attempt to provide an equitable allocation of liabilities between the contracting parties.
- Should a non-standard contract be in play the relevant insurance and indemnity conditions should be carefully reviewed.

For any further enquires we are always happy to help, please contact either:

Jim Wiechman
Underwriting Manager, Construction
Jim.Wiechman@sura.com.au
T: 02 9930 9574
M: 0400 090 722

Michael Holbrook
Senior Engineering Underwriter, SA and NT
Michael.Holbrook@sura.com.au
M: 0414 836 172