



# **Design & Construct Professional Indemnity Insurance Proposal Form**

## IMPORTANT NOTICES

The proposed insurance is issued on a 'claims made' basis. This means that the policy responds to:

1. claims first made against the insured during the policy period and notified to Pacific Indemnity Underwriting Solutions Pty Ltd during that policy period, providing that the insured was not aware, at any time prior to the policy inception, of circumstances which would have alerted a reasonable person in the insured's position that a claim may be made against the insured; and
2. 'claims circumstances' notified pursuant to Section 40 (3) of the Insurance Contracts Act which states:

'where the insured gave notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as was 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.'

After policy expiry, no new claims can be made on the expired policy even though the event giving rise to the claim may have occurred during the policy period.

If during the policy period you become aware of circumstances which a reasonable person in your position would consider may give rise to a claim, and which you fail to notify to us during the policy period, we may not cover you under a subsequent policy for any claim which arises from these circumstances.

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.**

### Duty of Disclosure

Before entering into a contract of general insurance, you have a duty, under the Insurance Contracts Act, to disclose to us every matter that you are aware of, or could reasonably be expected to be aware of, that is relevant to our decision about insuring you and if so, on what terms. You have the same duty to disclose these matters to us before you renew, extend, vary or reinstate a contract of general insurance.

Your duty however does not require disclosure of matter -

- that diminishes the risk to be undertaken by us;
- that is of common knowledge;
- that we know or, in the ordinary course of our business, ought to know;
- as to which compliance with your duty is waived by us.

You should note that your duty continues after the proposal form has been completed until the policy is entered into, i.e. until the date we receive instructions to bind cover.

### Non-disclosure

If you fail to comply with your duty of disclosure, we may be entitled to reduce our liability under the policy in respect of a claim or may cancel the policy. If your non-disclosure is fraudulent, we may also have the option of avoiding the contract from its beginning. It is therefore vital that you enquire of all entities comprising the insured, including senior staff, before completing the proposal form and before you sign any declaration confirming no change in the information disclosed.

### Retroactive Liability

The proposed insurance may be limited by a retroactive date either stated in the schedule or endorsed onto the policy. Where the retroactive cover provided by the proposed policy is subject to such a date, then the policy does not cover any claim arising from actual or alleged act, error, omission or conduct occurring prior to such retroactive date.

### Average Provision

One of the insuring provisions of the proposed insurance may provide that where the amount required to dispose of a claim exceeds the limit of the sum insured in the policy then Pacific Indemnity Underwriting Solutions Pty Ltd shall be liable only for a proportion of the total costs and expenses. This shall be the same proportion of the total expenses as the policy limit bears to the total amount required to dispose of the claim.

### Surrender of Waiver of any Right of Contribution or Indemnity

If another person or company is liable to compensate you or hold you harmless for part or all of any loss or damage otherwise covered by our policy, but you agree with that person or company (either before or after the inception of our policy) that you would not seek to recover any loss or damage from them, we will not cover you for this loss or damage.

### Wholesale only

Pacific Indemnity Underwriting Solutions Pty Ltd is only licensed to offer or provide General Insurance products or services which do not include any of the following types of General Insurance (which are defined by the Corporations Act as "retail"): Motor Vehicle, Home Building, Home Contents, Sickness and Accident, Consumer Credit, Travel, Personal or Domestic Property, Medical Indemnity or any other kind of General Insurance which has been prescribed by the Corporations Regulations.

### About Pacific Indemnity Underwriting Solutions Pty Ltd

Pacific Indemnity Underwriting Solutions Pty Ltd, ABN 14 606 511 639, specialises in Professional Risk insurance (including Professional Indemnity Insurance, Malpractice Insurance, Information & Communication Technology Insurance, Management Liability Insurance and similar products).

Pacific Indemnity's Australian Financial Service Licence number is 480863

# Design and Construct Professional Indemnity Insurance Proposal Form

## 1. Details of Proposer

Full Legal Name(s) of each natural person & incorporated body to be insured, and any Trading Name(s)

ABN  Contact Person

Commencement Date of Business

Name(s) of any Legal Entity the Business has operated under other than those answered above

Name(s) of any other business your Business has purchased, merged or consolidated with

## 2. Address

Street Address

Suburb  State

Postcode  Telephone

Postal Address (If different)

Email Address

Website  Number of Office Locations

Other Office Locations

## 3. Details of the proposed Insured's principals/partners/directors:

*(if not enough space, please attach a list to the proposal form)*

| Name                 | Qualifications       | Years as a principal of this practice | Years as a principal of prior practice | Name of prior practice in which you were a principal |
|----------------------|----------------------|---------------------------------------|--|--|
| <input type="text"/> | <input type="text"/> | <input type="text"/>                  | <input type="text"/>                   | <input type="text"/>                                 |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                  | <input type="text"/>                   | <input type="text"/>                                 |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                  | <input type="text"/>                   | <input type="text"/>                                 |

**4. Number of full-time equivalent staff in the following categories:**

|                               |                      |
|-------------------------------|----------------------|
| Partners/principals/directors | <input type="text"/> |
| Professional/technical staff  | <input type="text"/> |
| Administration/support staff  | <input type="text"/> |
| Other staff (please specify)  | <input type="text"/> |
| <b>Total</b>                  | <input type="text"/> |

**5. Details of Professional Services provided**

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**6. Total amount of the Proposed Insured's Turnover, Professional Fees and Financial Report for the following periods:**

|                              | Total Turnover (as described below) | Income relating to Professional Fees (actual or notional) associated with professional services performed |
|------------------------------|-------------------------------------|---|
| (a) Last 12 months (to date) | <input type="text" value="\$"/>     | <input type="text" value="\$"/>   |
| (b) Previous 12 months       | <input type="text" value="\$"/>     | <input type="text" value="\$"/>   |
| (c) Next 12 months           | <input type="text" value="\$"/>     | <input type="text" value="\$"/>   |

*Please note that the turnover declared should include the estimated gross value of all design and construct projects, including all work to be executed, all goods and materials to be supplied and all professional fees (actual or notional) associated with professional services performed. Turnover should also include income from joint ventures and fees attributable to sub-contractors and sub-consultants.*

**Please provide a copy of the latest Financial Report, ensuring the latest Balance Sheet and Profit & Loss Statement are included.**

*Please tick the box to indicate the Financial Report has been attached.*

**6.a) Does any one contract or client represent more than 30% of the Proposed Insured's turnover?**

**YES NO**

*(If "Yes", please provide details of the name of the client and the service(s) provided)*

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**7. Please confirm the percentage of the Proposed Insured's total turnover/fees that fall into the following categories:**

| Category  | Previous Financial Year | Current Financial Year  |
|---|-------------------------|-------------------------|
| (a) Turnover from contracts where you are responsible for design and construction and you do the design yourself  | \$ <input type="text"/> | \$ <input type="text"/> |
| (b) Turnover from contracts where you are responsible for design and construction and you outsource or subcontract the design component                           | \$ <input type="text"/> | \$ <input type="text"/> |
| (c) Professional fees received from design only contracts, reports, and engineering or feasibility studies  | \$ <input type="text"/> | \$ <input type="text"/> |
| (d) Professional fees received for contracts where you are engaged in a professional capacity to carry out project management and/or construction management      | \$ <input type="text"/> | \$ <input type="text"/> |
| (e) Turnover where you are responsible for construction, erection, installation and manufacture and have no responsibility for design or professional supervision | \$ <input type="text"/> | \$ <input type="text"/> |
| (f) Turnover not included in the above (please provide details below)   | \$ <input type="text"/> | \$ <input type="text"/> |
| <b>Total turnover (must reconcile to question 6 above)</b>  | \$ <input type="text"/> | \$ <input type="text"/> |

**Please include additional detail for question (f) above**

**8. a) Please further allocate the professional services undertaken by you and forming part of question 7(a), (b), (c) and (d) above into the following professional disciplines:**

| Professional Service                 | % Fee Income           | Professional Service              | % Fee Income           | Professional Service                                 | % Fee Income           |
|--------------------------------------|------------------------|-----------------------------------|------------------------|--|------------------------|
| Civil Engineering                    | <input type="text"/> % | Geotechnical Engineering          | <input type="text"/> % | Architecture   | <input type="text"/> % |
| Structural Engineering               | <input type="text"/> % | Acoustic Engineering              | <input type="text"/> % | Interior Design                                      | <input type="text"/> % |
| Mechanical Engineering               | <input type="text"/> % | Mining Engineering                | <input type="text"/> % | Landscaping  | <input type="text"/> % |
| Electrical Engineering               | <input type="text"/> % | Hydraulic Engineering             | <input type="text"/> % | Town Planning  | <input type="text"/> % |
| Chemical Engineering                 | <input type="text"/> % | Marine Engineering                | <input type="text"/> % | Mechanical Engineering                               | <input type="text"/> % |
| Process / Control System Engineering | <input type="text"/> % | Project / Construction Management | <input type="text"/> % | Heating / Ventilation / Air Conditioning Engineering | <input type="text"/> % |
| Environmental Engineering            | <input type="text"/> % | Surveying                         | <input type="text"/> % | Other (please provide details below)                 | <input type="text"/> % |
|                                      |                        |                                   |                        |  | <b>Total 100%</b>      |

**8. b) Please categorise the business activities undertaken by contract type:**

| Contract Type           | % Turnover/<br>Fees           | Contract Type                        | % Turnover/<br>Fees           | Contract Type                           | % Turnover/<br>Fees           |
|-------------------------|-------------------------------|--------------------------------------|-------------------------------|---|-------------------------------|
| Residential Buildings   | <input type="text" value=""/> | Petrochemical plants /<br>refineries | <input type="text" value=""/> | Waste disposal<br>treatment             | <input type="text" value=""/> |
| Commercial Buildings    | <input type="text" value=""/> | Nuclear Facilities                   | <input type="text" value=""/> | Pollution Control<br>Systems Design     | <input type="text" value=""/> |
| Industrial Buildings    | <input type="text" value=""/> | Foundations /<br>Underpinning        | <input type="text" value=""/> | Pre-purchase<br>inspections             | <input type="text" value=""/> |
| Institutional Buildings | <input type="text" value=""/> | Bridges / Tunnels                    | <input type="text" value=""/> | Land surveying                          | <input type="text" value=""/> |
| Modular Buildings       | <input type="text" value=""/> | Dams                                 | <input type="text" value=""/> | Building surveying                      | <input type="text" value=""/> |
| Fairground Structures   | <input type="text" value=""/> | Roads                                | <input type="text" value=""/> | Marine surveying                        | <input type="text" value=""/> |
| Mines                   | <input type="text" value=""/> | Harbours / Jetties                   | <input type="text" value=""/> | Quantity surveying                      | <input type="text" value=""/> |
| Oil and Gas Pipelines   | <input type="text" value=""/> | Sewerage plants                      | <input type="text" value=""/> | Other (please provide<br>details below) | <input type="text" value=""/> |
|                         |                               |                                      |                               |   | <b>Total 100%</b>             |

**9. Please provide a brief description of the Proposed Insured's five (5) largest contracts or projects during the last 5 years:**

| Name of Contract or Project   | Nature of Services            | Contract Period  | Contract Value                   |
|-------------------------------|-------------------------------|--|----------------------------------|
| <input type="text" value=""/> | <input type="text" value=""/> | <input type="text" value=""/> to <input type="text" value=""/> | \$ <input type="text" value=""/> |
| <input type="text" value=""/> | <input type="text" value=""/> | <input type="text" value=""/> to <input type="text" value=""/> | \$ <input type="text" value=""/> |
| <input type="text" value=""/> | <input type="text" value=""/> | <input type="text" value=""/> to <input type="text" value=""/> | \$ <input type="text" value=""/> |
| <input type="text" value=""/> | <input type="text" value=""/> | <input type="text" value=""/> to <input type="text" value=""/> | \$ <input type="text" value=""/> |
| <input type="text" value=""/> | <input type="text" value=""/> | <input type="text" value=""/> to <input type="text" value=""/> | \$ <input type="text" value=""/> |

**10. Please advise the average project value of your contracts**

\$

**11. Are any of the Proposed Insured’s professional services performed outside of Australia or provided to clients based outside of Australia?** **YES NO**

*If “Yes”, please give details of the name of the client(s), the country they are located within and what service(s) are provided*

| Name of client(s) | Country | Services provided |
|-------------------|---------|-------------------|
|                   |         |                   |
|                   |         |                   |
|                   |         |                   |

**12. Has the Proposed Insured ever undertaken work in respect of which any potential civil liability is covered by a specific project insurance policy?** **YES NO**

*If “Yes”, please provide brief details of the project and the gross income/fees received for the Proposed Insured’s work in relation to the project and when the project was completed. Please also provide details of the Policy Number, Limit of Indemnity and Insurer below.*

**13. Does the Proposed Insured maintain a Contract Works Insurance Policy with a “London Engineering Group” (LEG) exclusion or a similar DE5 provision?** **YES NO**

*If “Yes”, is this for a specific project or an annual policy and please attach/provide a copy of that policy with the LEG exclusion wording or similar DE5 provision applied?*

**Annual Specific Project**

*If for a Specific Project – please provide details below.*

Note: this information will influence our willingness to offer terms and what terms, if any, we may be prepared to offer.

**Details of Specific Project Contract Works Insurance Policy with a LEG exclusion or similar DE5 provision:-**

**14. Does the Proposed Insured issue any brochures (or other promotional material)?** **YES NO**

*If “Yes”, please attach copies of each.*



## Risk Management Questions

**15. Does the Proposed Insured have a formal evaluation and approval process, including involvement of the Proposed Insured’s principals, to engage new clients or accept new projects?** **YES** **NO**

*If “No”, please provide details of why not*

**16. Does the Proposed Insured always use standard written contracts with clients that clearly outline the scope of services provided and contain appropriate limitations of liability?** **YES** **NO**

*If “Yes”, please provide a copy as part of this submission.*

*If “No” to the above question, does the Proposed Insured always use internal or external legal counsel to review non-standard contracts with clients?* **YES** **NO**

*If “No”, to either of the two questions above, please provide additional details below*

**17. Does the Proposed Insured operate any quality assurance systems, or utilise risk management programs, or belong to a limitation of liability scheme?** **YES** **NO**

*If “Yes”, please give details*

**18. Does the Proposed Insured work on innovative designs?** **YES** **NO**

*If “Yes”, please confirm there are no aspects of the proposed project, which comprise of any unusual, innovative, prototype or hazardous features, either in terms of professional activities, construction methods or contractual liabilities.*

**19. Do the Proposed Insured’s principals, partners, directors and employees participate in continuing professional development (internal or external)?** **YES** **NO**

*If “No”, please provide details of why not*

**20. Does the Proposed Insured use independent specialist consultants or sub-contractors to perform professional services on the Proposed Insured’s behalf?** **YES** **NO**

*If “Yes”, do you always insist that such specialist consultants or subcontractors hold and maintain professional indemnity insurance?*

**YES** **NO**

*If “No”, please provide details of why not*

**21. Has the Proposed Insured been involved in a joint venture or alliance in the last 10 years, or is the Proposed Insured contemplating engaging in a joint venture or alliance in the next 12 months?** **YES** **NO**

*If “Yes” then please provide the details of the name of your partner(s), the structure of the joint venture or alliance, details of allocation of liabilities, the nature of the work conducted by each joint venture or alliance partner, the period of the joint venture or alliance, and turnover or fees derived from the joint venture or alliance by you:*

**22. Have you ever taken an equity stake in a project, or do you anticipate taking an equity stake in a project that you also provide design and construct services for?** **YES** **NO**

*If “Yes”, please provide details of how you separate your roles as an equity holder and participant in the same project and how you limit your liability?*



**23. Does the Proposed Insured ever enter into Build Own and Operate (BOO) contracts or Build Own Operate and Transfer Projects (BOOT) contracts?** **YES** **NO**

*If "Yes", please provide details of your prior experience for these type of contracts and how you manage your risk in each or the various stages of the contract?*

**24. Does the Proposed Insured ever sign contracts where liability for consequential or indirect loss is accepted?** **YES** **NO**

*If "Yes", please provide details of such contracts and of your risk assessment process in respect of such liability assumed for consequential or indirect loss*

**25. Does the Proposed Insured ever agree to hold harmless any third party for claims arising from their services?** **YES** **NO**

*If "Yes", please provide details*

**26. Does the Proposed Insured ever enter into contracts that limit the other parties' liability (including clients, sub-contractors or joint venture partners)?** **YES** **NO**

*If "Yes", please provide details*

**27. Does the Proposed Insured ever agree to contract out of proportionate liability legislation?** **YES** **NO**

*If "Yes", please provide details*

## Claims Information

**28. After enquiry of the Partners/Principals/Directors and employees, has there been or is there now pending a claim against the Proposed Insured, its Subsidiaries, its predecessors in business or its current or former Partners/ Principals/Directors or employees for a Civil Liability in the performance of the Proposed Insured's Professional Services?** **YES** **NO**

*If "Yes", please give details*

| Date of Claim | Details of each Claim | Claimant | Amount Paid and/or Outstanding |
|---------------|-----------------------|----------|--------------------------------|
| / /           |                       |          | \$                             |
| / /           |                       |          | \$                             |
| / /           |                       |          | \$                             |

**29. After enquiry of the Partners/Principals/Directors and employees, is the Proposed Insured or any of its Subsidiaries aware of any circumstance or incident which may give rise to a claim against the Proposed Insured, its Subsidiaries or its Partners/ Principals/ Directors or employees?** **YES** **NO**

*If "Yes", please give details*

| Name of Practice and/or Principal | Claimant | Details of each Claim | Amount Paid and/or Outstanding |
|-----------------------------------|----------|-----------------------|--------------------------------|
|                                   |          |                       | \$                             |
|                                   |          |                       | \$                             |
|                                   |          |                       | \$                             |

**30. After enquiry of the Partners/Principals/Directors and employees, is the Proposed Insured or any of its Subsidiaries aware of any prosecution or investigation (actual or pending) of the Proposed Insured, any Subsidiary, or any Partner / Principal/ Director or employees under any International, Commonwealth, State or Local statute, legislation, regulation or By Law?** **YES** **NO**

*If "Yes", please give details*

**31. After enquiry of the Partners/Principals/Directors and employees, has the Proposed Insured, any Subsidiary or any Partner/Principal/Director or employee ever been subject to any disciplinary action, been fined or penalised, or been the subject of an inquiry investigating or alleging professional misconduct?** **YES** **NO**

*If "Yes", please give details*

## Details of Current Insurance

**32. As at today's date does the Proposed Insured have Professional Indemnity Insurance currently in force that has been paid for?** **YES** **NO**

*If "Yes", please state*

Insurer

Indemnity Limit

Expiry Date

Retroactive Date

**33. Has the Proposed Insured ever had any Insurer decline a proposal, imposed any special terms, cancelled or refused to renew a Professional Indemnity Insurance Policy?** **YES** **NO**

*If "Yes", please give details*

**34. What limit(s) of liability does the Proposed Insured require quotations for?**

\$1,000,000

\$2,000,000

\$5,000,000

\$10,000,000

\$20,000,000

Other

\$

**35. What self insured retention (Excess) is the Proposed Insured prepared to carry?**

\$10,000

\$25,000

\$50,000

\$100,000

Other

\$

## Deeds of Novation

**36. a) Has the Proposed Insured ever accepted responsibility for the professional work of another party by way of deed of novation or similar arrangement in the last 10 years?** **YES** **NO**

*If "Yes", please provide details, including details of the contracts, including what due diligence you have performed*

36. b) If "Yes", has any Claim arising from a Deed of Novation ever been made against the proposer, its Subsidiaries or, after enquiry of the Partners/ Principals/ Directors, is the proposer or its Subsidiaries aware of any circumstances which may give rise to a Claim against the Proposed Insured, its Subsidiaries, or any its Partners/ Principals/ Directors or employees? YES NO

*If "Yes", please supply the relevant details and advise what precautions have been taken to prevent a recurrence*

37. Is the Proposed Insured currently contemplating entering into a deed of novation that you wish to specifically cover under the proposed policy? YES NO

*If "Yes", please provide details, including details of the contract, including what due diligence you have performed*

## Stamp Duty

38. For the purpose of calculating Stamp Duty please state the percentage of the Proposed Insured's gross income/fees that was earned in each state in the last 12 months:

| NSW | VIC | QLD | SA | WA | TAS | ACT | NT | Overseas | Total        |
|-----|-----|-----|----|----|-----|-----|----|----------|--------------|
| %   | %   | %   | %  | %  | %   | %   | %  | %        | <b>100 %</b> |

*\*If "Yes" to overseas operations, please give details of the overseas work*

## Additional information and accompanying documents

Please provide any additional information that is material to this application and list any accompanying documents below.

## Declaration

I/We hereby declare that:

My/Our attention has been drawn to the Important Notice accompanying this Proposal form and further I/we have read these notices carefully and acknowledge my/our understanding of their content by my/our signature/s below.

The above statements are true, and I/we have not suppressed or mis-stated any facts and should any information given by me/us alter between the date of this Proposal form and the inception date of the insurance to which this Proposal relates I/we shall give immediately notice thereof.

I/we agree that, by submitting this form, the personal information I/we provide to Pacific Indemnity Underwriting Solutions Pty Ltd in this form or otherwise may be collected, held, used and disclosed in the manner set out in the Pacific Indemnity Privacy Policy including for processing this application and providing me/us with cover.

I/We also confirm that the undersigned is/are authorised to act for and on behalf of all persons who may be entitled to indemnity under any policy which may be issued pursuant to this Proposal form and I/we complete this Proposal form on their behalf.

**To be signed by the Chairman/President/Managing Partner/Managing Director/Principal of the association/partnership/company/practice/business.**

Name:

Title:

Signature:

Date:

It is important the signatory/signatories to the Declaration is/are fully aware of the scope of this insurance so that all questions can be answered. If in doubt, please contact your insurance broker since non-disclosure may affect an Insured's right of recovery under the policy or lead to it being avoided.