Autumn.11

# Brokerwise

Brought to you by: Fitton Insurance (Brokers) Australia Pty Ltd

## Over 100 years of service

### INSURANCE INDUSTRY'S HISTORY OF GOOD SERVICE

For more than a century, the Australian General Insurance industry has been ready at short notice to support their customers when they have suffered loss as a result of an insured event.

More recently, during the past 43 years, a total of 182 events classed as 'catastrophic' were recorded by the Insurance Council of Australia. The experience of dealing with these events, an average of 4.2 per year, has resulted in our General Insurers developing excellent response systems when events of serious magnitude strike.

As soon as it is safe to enter the disaster areas, the General Insurers' mobilise their assessors and support staff to deal with the large volume of claims. The 'summer of 2011' combination of Queensland and Victorian flooding, Cyclone Yasi and Perth fires has resulted in property damage over a vast area. Naturally, this has stretched the services of assessors to the limit but they are working quickly to report. Based on past experience, once the cause of loss is established as an insured event, quick settlements will be forthcoming, allowing insured owners to move forward with their lives.

The next challenge is finding the skilled people to rebuild. Two years on, the Victorian bushfire disaster, where approximately 2300 building permits were issued, rebuilding still continues. The recent Queensland disaster statistics alone note well in excess of 30,000 buildings damaged which equates to a workload mountain 13 times the size. Recovery will take time.

The insurance industry in Australia is financially sound and in a strong position. This is confirmed by Australian Prudential Regulation Authority (APRA) which monitors audited annual returns from Australian general insurance companies.

During the Global Financial Crisis when banks continued to surprise with mind boggling revelations, the Australian general insurance industry negotiated the crisis with no negative revelations or adverse impacts.

You can be assured that when regulated Australian general insurance companies underwrite the policies for your property your interests are in good hands. ■

## Your policy wording EXPLAINS ALL

**This article first appeared in the Summer 07/08 issue of Brokerwise. The natural disaster events of Summer 2011 in Australia make a repeat of the article worthwhile.**

Insurance policies are complex contracts containing a myriad of conditions and exclusions and every insurer it seems uses different words, sentences and phrases in their policy wording documentation.

With every household and motor insurance policy purchased comes a booklet called a Product Disclosure Statement (PDS). Whilst all business related insurances have the terms of the contract with the insurer detailed in the Policy document that the insurer provides.

Granted, PDS booklets and Policy documents can be a dry old read but your understanding of the insurance cover you have purchased makes them essential reading. That sinking feeling in the pit of stomach is all too real when a claimable event occurs and you find out that you didn't have the cover you thought you had.

A recent Policy Wording Readership survey of 1006 Australian small businesses (defined as those with less than 20 full-time employees) revealed that:

- 24% of clients always read the document
- 11% never read
- 26% only skimmed
- 10% rarely read
- 28% occasionally read

That suggests a whopping 75% of small business owners have no idea or next to no idea about what they are covered for under their business insurance policies. This huge margin of blissful ignorance by the small business sector is likely to be echoed at the domestic insurance level.

As with any contract, all the information is relevant and important and the best advice would be to read it from cover to cover. ■

# What is the likely cost OF THE QUEENSLAND DISASTERS?

The Queensland floods, combined with those in three other eastern Australian states, may well turn out to be Australia's most costly event ever: not in terms of lives lost, nor perhaps in terms of insurance payouts (partly because many properties are not covered for flood damage); but quite likely in terms of its broader economic consequences.

And just when we were starting to come to grips with the size and impact of this catastrophic event, the largest cyclone to ever hit Queensland, Cyclone Yasi, crossed the coast around Mission Beach as a Category 5 and almost reached the Northern Territory border before it eventually dissipated into a tropical low.

The disasters are likely to have at least four significant economic effects.

### (i) The negative impact on economic activity

Queensland accounts for 56% of Australia's coal exports; and around 60%

of Queensland's 57 coal mines have been forced to halt or restrict production, either because the mines themselves have been flooded or because rail lines used to take coal to ports have been damaged. This is likely to cost over $2.5 billion in lost exports initially although some of this should be made up when production resumes.

Queensland produces 27% of Australia's fruit and nearly 30% of Australia's vegetables, 44% of Australia's cotton, and 93% of Australia's sugar. Destruction of or damage to these crops is estimated to be at least $3.0 billion, and unlike coal exports these losses cannot be made up.

The same is true of losses sustained by tourist operators as a result of cancelled visits: these have been estimated at in excess of $1.5 billion. It's hard to calculate the losses accruing to businesses which haven't been able to open, or employees who haven't been able to get to work, as a result of the floods and Yasi, but they seem likely to be in excess of $1.5 billion per week of total shut down.

All told, these losses amount to over $9 billion, equivalent to over 3.5% of the annual value of Queensland's gross product and just under 0.8% of Australia's. If all of these losses accrue in the March quarter, then the value of Australia's GDP in the current quarter could be reduced by as much as 2.5% - almost certainly enough to result in "negative growth" in real GDP for the first time since the December quarter of 2008.

### (ii) The additional economic activity generated by the rebuilding/replacement

This will involve the rebuilding of homes and the replacement of furniture, floor coverings, appliances and motor vehicles; the replacement of stock and restoration of business premises; and the reconstruction of roads, bridges, railways and other infrastructure assets. Some of this is already underway, which, to some extent, will help to mitigate the detraction from measured GDP in the March quarter.

Recovery and reconstruction activities will continue over the remainder of this year but logistically, much of the work will be tasks for next year and beyond. Economic activity should therefore be higher than it would have been otherwise in the June, September and December 2011 quarters - possibly by enough to ensure that, for 2011 as a whole, GDP is no lower than it would have been had the floods and Cyclone Yasi not occurred.

### (iii) Inflation

Just as banana price increases over the two quarters following Cyclone Larry in March 2006 lifted the "headline" CPI, these events will have some inflationary effect on the economy. However, since there are at least some alternative sources of supply for most of the fruit and vegetable crops destroyed or damaged by the floods in Queensland (and Tasmania) - unlike in the aftermath of Cyclone Larry, when the then Government refused to permit bananas to be imported - the effects on prices shouldn't be quite so dramatic: but it will be noticeable nonetheless. There could also be some temporary upward pressure on rents in Brisbane and other affected cities as people whose houses have become uninhabitable seek alternative accommodation.

### (iv) The economic effect on Federal and State Budgets

The Federal Government has already spent several hundred million dollars on emergency payments to flood and cyclone victims, and the direct budgetary cost will rise substantially once reconstruction work gets under way in earnest.

The 2010-11 Budget set aside only $80 million per annum for natural disaster relief from 2010-11 onwards (20% less than was provided in the last Budget of the Howard government), which clearly won't be enough to cover expenses arising from the floods in Queensland and other States and Cyclone Yasi in North Queensland. This should prompt the government to re-think how much it should be setting aside each year for disaster relief, and more generally stimulate the search for on-going expenditure savings which since coming to office it has largely avoided. ■

# New challenges FOR DIRECTORS

As you may be aware if you read our Autumn 2010 edition of Brokerwise, the Federal Government has passed the new Australian Consumer Law. Not only does this legislation introduce significant changes with respect to consumer law, it also presents new challenges and imposes new possible liabilities for directors and officers of companies. It will be necessary for all directors and officers of companies to apprise themselves of the new laws in order to understand the possible risks and exposure they face, particularly with a view to ensuring that they have adequate insurance cover.

Prior to the introduction of the new Australian Consumer Law, a director or officer could be disqualified for breaching some provisions of the Trade Practices Act. Under the new Australian Consumer Law they can now also be disqualified for breaching some of the consumer protection provisions. These include such matters as breaches of consumer safety provisions and unconscionable conduct. This includes where the director or officer has not directly contravened the laws themselves, but have been involved in someone else's contravention. The disqualification can either be permanent or for a fixed period of time. They can also face significant fines if they are knowingly involved in breaches of the Australian Consumer Law.

To make matters worse for directors and officers, under the Australian Consumer Law the company isn't allowed to indemnify them for their legal costs in defending such actions arising out of alleged breaches, or with respect to any fines they may face. The new Australian Consumer Law makes it an offence for a company to seek to do so, and any attempt to do so is void. The company is not, however, prohibited from arranging D&O insurance for directors and officers covering themselves against such liabilities.

It will be incumbent upon all directors and officers to ensure that they have adequate D&O insurance cover in place to cover such situations. Anyone currently operating as a director or officer of a company should review their D&O policy wording, and seek any necessary advice to ensure they are covered with respect to the new risks they now confront under the Australian Consumer Law. Companies should also review the indemnity provisions contained in their Deeds of Access and Indemnity to ensure that they comply with the new legislation. A failure to do so could result in significant financial exposure. ■

# Flood, cyclone, bushfire. WHAT NEXT?

Only a few months into 2011 and phew!, what a year so far with floods, cyclones and bushfires unleashed across the country with few states missing out and with, wouldn't you know it, an extra serving for Queensland.

Heartbreak and misery has struck with random abandon and as the dust settles and the water dries, it's the beginning of an unprecedented workload for the country that started at the door of the emergency services, engulfed the insurance industry and now flows through to reconstruction and renewal industry of all kinds.

Thankfully, there's one natural 'event' that we've been spared this year, so far... earthquake!

Can't happen? Don't you believe it. Mother Nature is in a mischievous mood just now so who knows when the next shake-up will be delivered.

We expect to hear of earthquakes in New Zealand because that country sits on top of one of the largest geological faults in the world. Unlike our NZ neighbours who live under this constant threat, the event is rare in Australia. The most recent 'big one' being the Newcastle quake (Richter scale 5.6) of 1989 causing 13 deaths, injuries to 150 and widespread destruction. The largest recorded quake in Eastern Australia was at sea off Bundaberg in 1918. This one measured 6.8 on the Richter scale with damage recorded in Rockhampton and tremors felt in towns down the coast to Northern NSW.

In the last 80 years there have been 17 earthquakes in Australia registering

6 or more on the Richter scale. That's about one serious quake in Australia every 5 years - compared to a world average of about 140 per year.

So we're pretty safe. Aren't we? And if it did happen, we have insurance. Don't we? Check your PDS or policy wording (not just the policy schedule) to confirm cover and any excess that may be applicable. ■

# Faulty products MORE DISCLOSURE?

In 2010, the Trade Practices Act 1974 (Cth) was changed a number of times as the Australian Consumer Law (ACL) reforms were progressively implemented. These new laws will involve broader triggers for the recall of consumer goods, increased regulatory enforcement and greater public exposure of defective products.

## Compulsory Recalls

A recall notice for the compulsory recall of consumer goods can be issued if it appears that the goods may cause injury during use or misuse; do not comply with a safety standard; or are the subject of ban. Such a recall notice may require the supplier to recall the goods; and/or publicly disclose the nature of the defect including the dangerous circumstances during use or misuse and how to dispose of the goods.

Arguably, compulsory recalls have the potential to result in more frequent and larger claims against Product Recall Insurance Policies, which in simple terms, intend to cover product recall expenses and liability owed to third parties due to recall e.g. loss of income suffered. Increased claims may lead to insurers reassessing the risks involved and increasing premiums.

There is also the threat of increased product liability insurance claims, even though the ACL provides that the compulsory recall notice is confidential and not to be taken for any purpose to be an admission of liability, there are circumstances that the report may be disclosed if it is considered in the public interest. This could in theory lead to liability claims against suppliers and even assist law firms in encouraging class action lawsuits.

## Voluntary Recalls

Suppliers must recall goods because of safety concerns; e.g. as soon as it is known that the goods may cause injury during use or misuse; do not comply with a safety standard; or are banned. Within two days of the voluntary recall, a written notice must be provided to the Minister setting out information about the goods, nature of defect and dangerous circumstances, etc. Non-compliance may result in criminal charges and/or a fine.

To manage your recall expenses and liability risks, we strongly recommend you arrange for your broker to provide you with an updated technical view of your current insurance policies such as public and products liability, professional indemnity, directors and officers and last but not least, product recall. ■

# wise.words

**Where the willingness is great, the difficulties cannot be great.**

— Niccolò Machiavelli

"I would never die for my beliefs because I might be wrong."

— Bertrand Russell

"All things that are truly great are at first thought impossible."

— Friedrich Nietzsche

## Be sure. Before you insure!

## Ask your Council of Queensland Insurance Broker about...

### COMMERCIAL AND RETAIL INSURANCE

- Business Property
- Business Interruption and Loss of Rent
- Liability, Money, Glass Breakage
- Burglary
- Machinery Breakdown
- Computer
- Goods in Transit
- Contractors Risk
- Motor
- Tax Audit

### LIABILITY

- Public Liability
- Products Liability
- Professional Indemnity
- Directors and Officers
- Employment Practices Liability

### PRIVATE AND DOMESTIC INSURANCE

- Home and Contents
- Car, Caravan, Boat and Trailer
- Travel

### INCOME PROTECTION INSURANCE

- Long Term Disability
- Sickness and Accident

### LIFE, SUPERANNUATION, PARTNERSHIP

- Mortgage Protection
- Key Man
- Term Life
- Superannuation

The CQIB represents over 60 Queensland firms employing nearly 400 staff and placing in excess of $500,000,000 in annual premiums. The CQIB charter is to maintain the level of professionalism of its members by the sharing of knowledge, information and ideas.

CQiB Council of Queensland Insurance Brokers Inc.

**For more information visit www.cqib.org.au**



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