

Insurance

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Cleaning up your act

Environmental risk is a crucial but often overlooked component of the modern insurance landscape. Liberty's **Alan Thorn** tells *Insurance Business* how brokers can prepare their clients for its wider implications

FOR ALAN THORN, environmental concerns are more than an abstract consideration for the future of the planet. As assistant vice president of environmental impairment liability at Liberty Special Markets, Thorn grapples with these questions every day. Securing coverage in difficult situations presents a number of issues, particularly when many potentially affected parties aren't even aware of the risks involved.

"We don't want to be underwriters who sit behind a desk and churn out quotes," Thorn explains. "We like to be part of the process, consulting with brokers and clients alike in order to determine whether there is a gap in their exposures and, if so, fill it."

Though Australia faces several unique environmental challenges, particularly when it comes to natural disasters, Thorn says the country tends to lag behind the international curve when it comes to environmental insurance. He believes there are several reasons for this, which means dealing with it effectively will require a multifaceted response.

"I think a key problem is that there's just not a lot of education and training around it," he says. "Environmental training programs are yet to become a regular feature in insurance industry training syllabuses. That breeds a lack of risk awareness and, in turn, a lack of awareness around the products available that can assist to protect against environmental incidents."

Additionally, many businesses simply

aren't aware that they don't have the necessary coverage, believing that any potential issues – such as pollution-related problems – will be covered by their existing insurance products, particularly general liability. Not so, says Thorn.

"There's often a disconnect between the public perception of an industry's impact on the environment and the actual impact," he explains. "There are a few industries that tend to capture the spotlight, but they actually tend to be the best insured against this kind of risk. It's the businesses that aren't aware they could be at risk that find themselves shocked when something does go wrong."

Environmental risk also tends to deal with worst-case scenarios – and companies rarely envision themselves in one, Thorn says.

"My rebuttal for that argument is that clients need to keep in mind that environmental risk claims are low-frequency but are always high dollar amounts," he says. "Companies need to have resources in place to remediate disasters, and if you don't have

the right insurance in place, it can seriously impact the bottom line."

Landlords and environmental legislation

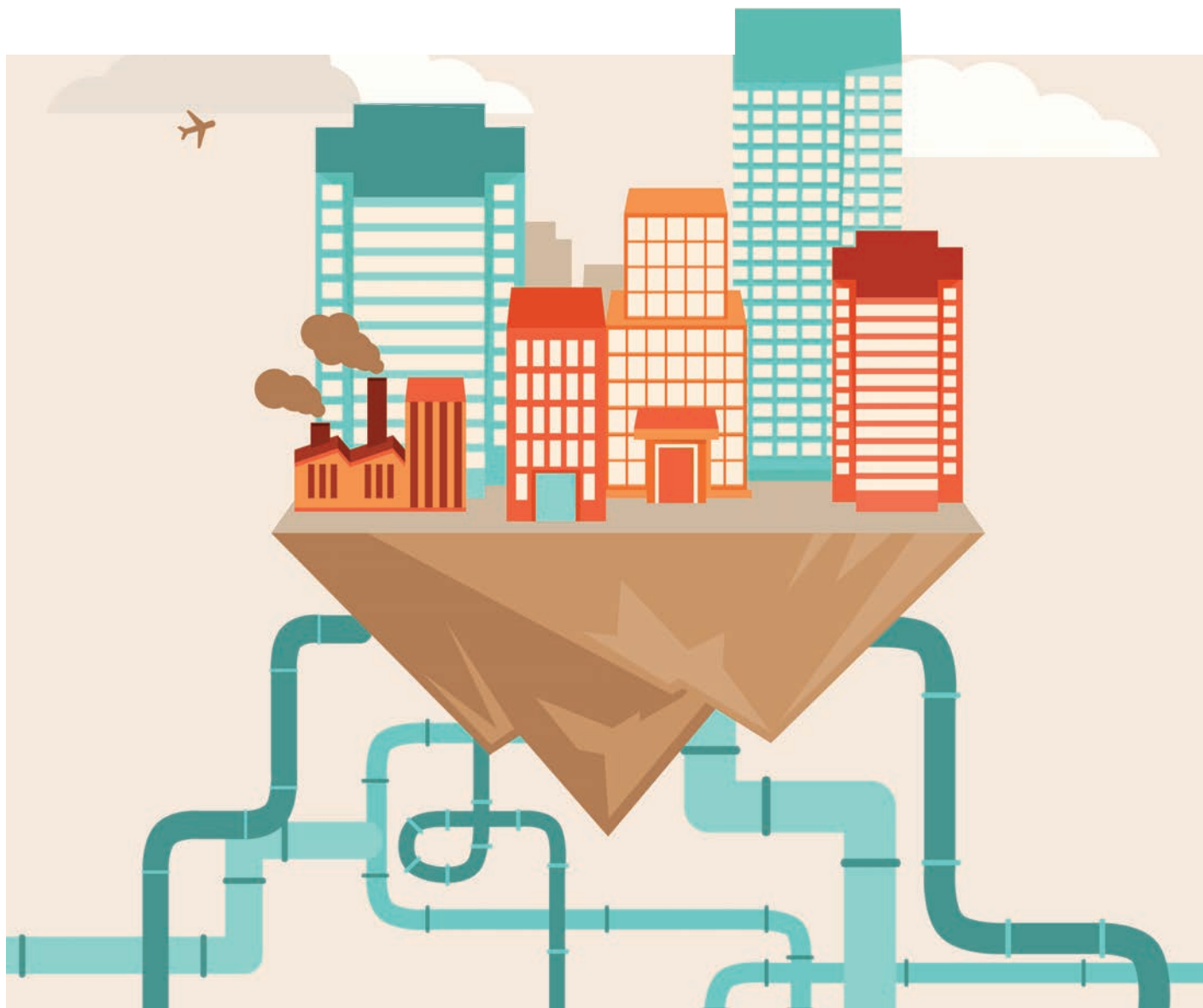
One of the most common places where Thorn sees risk is in landlord-tenant relationships, particularly in situations where commercial properties are positioned on brownfield land. This can emerge as an issue even if remediation has occurred on the property prior to construction – Thorn points out that it can be somewhat of a moving target, given that the technology and science available to detect risk are constantly evolving. What were considered 'safe' levels of contamination a decade ago might no longer be viewed the same way now.

This can present problems for landlords and tenants alike, as it's not always immediately obvious which party bears responsibility for fixing the issue. The potential problems, Thorn notes, aren't limited to the

ABOUT LIBERTY SPECIALTY MARKETS

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immediate clean-up, but also can be caused by the wider flow-on effects.

“You can be out of business for months while clean-up takes place – obviously that has an effect on your ability to trade and in turn your income,” he says. “These are make-or-break considerations, particularly given the cost that can be involved in the remediation process.”

Accordingly, he recommends that brokers discuss lease terms with commercial clients seeking insurance to ensure that any loopholes are spotted.

“Tenants don’t always fully do their due



“It’s the businesses that aren’t aware they could be at risk that find themselves shocked when something does go wrong”

Alan Thorn, Liberty Specialty Markets

diligence on lease agreements,” Thorn says. “If the site has been used as, say, a waste facility in the past, there’s the potential for residual contamination. Tenants can find themselves responsible for managing the remediation process, even if the contamina-

tion is pre-existing.”

It’s a problem Thorn has run across a number of times, particularly in warehousing and logistics. He points to a situation he encountered last year, which involved historic risk as a result of industrial building

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waste being previously stored on the site of a client's current warehouse.

"On paper, there was no pre-existing risk," he says. "But in practice, we realised that we needed to undertake more investigative work to ensure that the historic issues weren't going to cause future problems. If it's not dealt with, you run the risk of putting the people who work for you at risk, not to mention the long-term financial viability of the company."

Environmental risk in the future

Thorn is reluctant to make hard and fast predictions for the next year or so, but he stresses that environmental awareness is constantly shifting and changing – and so are the attendant risk profiles.

"Realistically, I think there will be high-profile claims that draw public attention to the underlying issues," he says. "That's not necessarily an ideal outcome, because no company wants to serve as the test case.

something of an environmental police force," Thorn says. "Their focus was more reactive. But in the last couple of years, we've seen that shift; there's more active involvement, which can be daunting for businesses that haven't dealt with them directly before. Often these cases are now profiled in the mainstream media, and there are corporate reputational risks to consider."

But Thorn believes that the EPA's proactive approach is far and away a net positive that bodes well for the insurance industry.

"The bulk of businesses we deal with are mum-and-dad operations that haven't dealt with the EPA before other than perhaps for licence applications," he says. "These are areas that haven't been a concern for them previously, either through ignorance or as a result of changed legislation. So we're happy to be involved in the process; we want to work with organisations to ensure they've got the coverage they need and have a healthy working relationship with the EPA."

Additionally, Thorn is certain that, regardless of high-profile disasters, there will be increased emphasis on environmental risk in the future. "We've got better science around the issue, and managing environmental risk is increasingly seen as best practice from a corporate social responsibility perspective," he says. "Businesses need to be ready to make the shift if they haven't already, and brokers need to be spreading the word." **IB**

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However, Thorn isn't necessarily in favour of a blanket approach to mandatory environmental insurance. Rather, he says, brokers need to be part of the process to ensure that organisations are provided with the cover they need.

"I think it's difficult to regulate in its current state," he says. "There's lots of grey areas involved, and until some of those get resolved with clearer science, policies are going to have to be very heavily individualised."

You can ruin your reputation in the process. Unfortunately, though, it's traditionally been the most effective way of shining a light on these issues."

Additionally, Thorn notes that the various state divisions of the Environmental Protection Authority are becoming more proactive in their approach to handling environmental risk, which is changing their relationships with business.

"I think in the past, the EPA was seen as

EDUCATING BROKERS, EDUCATING CLIENTS



Alan Thorn believes brokers have a crucial role to play in educating their clients about potential environmental risks. To this end, Liberty has invested heavily in educational services to equip brokers to have difficult conversations with their clients. The company has partnered with specialist environmental lawyers to deliver seminar instruction to brokers, providing them with up-to-date information about best environmental risk practice across industries.

"We've tried to be distinct with the seminars we offer," Thorn says. "They're deliberately not oriented around product. Instead, they highlight a hot topic that's facing the industry at the moment and explain how brokers' clients could be affected. Getting the message about the risks out there is the best way to combat issues like underinsurance."

DETAILS CHANGE, RELATIONSHIPS ARE CONSTANT.



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