New South Wales
Adventure Activity Standards

Artificial Surface Rock Climbing
Version 1.2
NSW AAS for ARTIFICIAL SURFACE ROCK CLIMBING

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INTRODUCTION

The New South Wales Adventure Activity Standards (NSW AAS) provides guidelines for Organisations and Leaders in the planning and provision of Adventure Activities for Dependent Participants in NSW.

Adventure Activities take place within a wide diversity of landscapes, climates and cultures. This diversity means that many variables are considered by Organisations and Leaders when planning and conducting adventure activities. The NSW AAS represent practices that are common to all providers of Adventure Activities in NSW, however Organisations and Leaders will often apply additional practices and procedures that are relevant to their specific needs.

- The NSW AAS apply to Dependent Participants engaged in Adventure Activities in NSW
- The NSW AAS do not apply to Independent Participation in Adventure Activities in NSW

Some Organisations provide activities for both Dependent Participants and Independent Participants. In these situations, the Organisations and Leaders apply the NSW AAS only when Dependent Participants engage in the Adventure Activities that they provide. Organisations that provide for both Dependent and Independent Participants include Bushwalking clubs, skills training providers and youth development programs.

The statements in this document present guidelines (as a minimum) for the planning and provision of Adventure Activities for Dependent Participants in NSW. They do not reflect all possible scenarios and variables; an interpretation of the NSW AAS is required to apply the NSW AAS to the specific activity and context.

Organisations and Leaders may interpret and contextualise the NSW AAS through organisational policies, guidelines and/or standard operating procedures. An appropriate interpretation of the NSW AAS is when organisational policies, guidelines and/or standard operating procedures are consistent with the statements in this document.

Where policies, guidelines or SOP conflict with NSW AAS, Organisations and Leaders give due consideration to any additional risks involved and may conduct further risk management before proceeding with the Adventure Activity.

DISCLAIMER

The information contained in this publication has been gathered through widespread industry consultation. All reasonable attempts have been made to ensure that it is accurate, relevant and current at the date of publication. Nevertheless, the NSW Adventure Activity Standards (NSW AAS) are only advisory and general in nature and should not be relied upon to meet individual or specific requirements. They are recommendations for voluntary application to Adventure Activity providers and participants. They are not binding on any person or Organisation and have no legal force.

The NSW AAS will not cover each and every circumstance of an Adventure Activity. Nor can they, when adhered to, entirely eliminate the risk or possibility of loss or injury. Consequently they should be used as a guide only. Whenever using the information contained in this publication or any AAS, all Adventure Activity providers should carefully evaluate the specific requirements of the intended Adventure Activity and the persons participating in it. If necessary, advice should be obtained from a suitably experienced and qualified professional person.

This publication and the information and the NSW AAS it contains are made available on the express condition that Outdoor Recreation Industry Council NSW, the authors, consultants and advisors who have assisted in compiling and drafting this publication and the NSW AAS are not rendering professional advice to any person or Organisation and make no warranties with respect thereto and to the maximum extent permitted by law disclaim all liability and responsibility for any direct or indirect loss, damage or liability which may be suffered or incurred by any person as a consequence of reliance upon anything contained in or omitted from this publication.

REVIEW OF NSW AAS

The NSW AAS are not fixed documents; as activities and practices change, as equipment and technology develops and current practices evolve, the NSW AAS are reviewed.

Your comments and feedback are valuable, please provide feedback to ORIC or click here to email the NSW AAS Project Manager.
ACKNOWLEDGEMENTS

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PROJECT CONTRIBUTORS

Individuals representing the following Organisations contributed their time and expertise, mostly in a voluntary capacity

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| Association of Independent Schools of NSW. | Outward Bound Australia. |
| Australian Camps Association. | Paddle NSW. |
| Australian Canoeing. | Royal Coast Walks. |
| Barrington Outdoor Adventure Centre. | River Deep Mountain High. |
| Blue Mountains Adventure Company. | Scouts Australia (NSW). |
| Camp Somerset. | Service Skills Australia. |
| Catholic Education Commission NSW. | Snowy Mountains Climbing School. |
| Confederation of Bushwalking Clubs NSW. | The Crusader Union of Australia. |
| Coastlife Adventures. | The Duke of Edinburgh Award Scheme. |
| Girl Guides Australia. | The Great Aussie Bush Camp. |
| Glengarry - Scots College. | The Highgate Group. |
| Kangaroo Valley Canoes. | The Outdoor Education Group. |
| Knox Grammar School. | The Western Institute of TAFE NSW. |
| Leave No Trace. | The Western Sydney Institute of TAFE NSW. |
| Life's An Adventure. | Wild Horizons. |
| Liquid Assets Adventure Tours. | YMCA Camp Yarramundi. |

The NSW AAS Project Manager - Greg James
ACTIVITY DESCRIPTION

Artificial Surface Rock Climbing involves ascending vertical (or near vertical) structures, using ropes, belay devices and fall protection systems.

Structures may be permanent installations, temporary structures (either constructed or inflatable) or mobile (trailer mounted) structures.

This document does NOT apply to situations where participants engage in Artificial Surface Rock Climbing without the direct supervision of a Leader (eg. independent recreation in Rock Climbing Gym).

This document does NOT apply to Rock climbing on a natural surface, refer to the NSW AAS for Rock Climbing for details regarding natural surface Rock Climbing.

- Artificial climbing structures and challenge courses AS 2316.1 - 2009 - Part 1: Fixed and mobile artificial climbing and abseiling walls
- The manufacturers recommendations
1. PRE-ACTIVITY PLANNING

When planning for Adventure Activities, Leaders and Organisations consider the following factors;

1.1 ACTIVITY SPECIFIC FACTORS FOR ARTIFICIAL SURFACE ROCK CLIMBING

- Access and pathways are clearly defined; methods to reduce trip hazards and rope entanglements are maintained
- The pathways and surrounding areas are environmentally sustainable
- The coverage of the soft fall area is appropriate and complete; gaps or holes are rectified prior to use
- Stability and soundness of the artificial climbing and associated structures
- The setup of a mobile Artificial Climbing structure is stable and secure
- ‘Safe areas’ are clearly defined
- Appropriate supervision of all participants is maintained
- Appropriate Personal Protective Equipment (PPE) is available
- Characteristics of the artificial climbing routes (difficulty, height, pitch, overhangs)
- The belay systems and related equipment are appropriate to the activity, the participants and the Artificial Climbing structure
- The effects of wind and severe weather events are considered; an emergency exit strategy is defined that includes procedures to dismantle or “make safe” the artificial climbing structure in the event of an emergency or severe weather event

1.2. PEOPLE

- The objectives or outcomes of the activity
- Skill, experience and/or physical fitness required by Leaders and participants
- Food and water requirements
- The Leader to participant ratio is appropriate
- The plan for the pre-activity briefing is appropriate to the situation
- Standard of care and supervision requirements for the group
- The Emergency Response Strategies are sufficient and relevant; evacuation points, assembly areas and escape route are identified

1.3. EQUIPMENT

- Safety equipment is used in accordance with the manufacturer’s recommendations
- Personal equipment is appropriate for the anticipated conditions
- Participants are informed of the type and quality of equipment they are expected to bring
- Equipment supplied to participants or Leaders is appropriate and in working order
- Navigation devices appropriate to the situation are available
- A Personal Locator Beacon (PLB) or Emergency Positioning Indicating Radio Beacon (EPIRB) is available depending on the duration, remoteness and activity
- Communications equipment and network coverage availability within the area of operations; (GSM mobile, Satellite mobile or UHF/VHF/HF radio)
- Back-up communication devices and batteries or an alternative means of communication is available
- Appropriate support and back-up resources are available (vehicle, driver and communications)

1.4. ENVIRONMENT

- Land Owner or Land Managers permission to access the area of operations (preferably written but may be verbal in some cases)
- The Environmental Sustainability Plan is relevant to the specific activity in the specific location
- Duration of the activity, the terrain, remoteness and access
- Seasonal factors (snow, bushfire, drinking water, river levels, and track conditions)
- Anticipated weather conditions and potential for extreme weather events
- Circumstances where it is appropriate and/or required to modify, postpone or cancel an activity due to weather conditions
2. PARTICIPANT ENGAGEMENT

2.1. PRE-ACTIVITY INFORMATION

Pre-activity information assists potential participants make an informed decision regarding their participation in the planned Adventure Activity. This information may be delivered in documentation and/or presentations to potential participants, client Organisation, and/or parents/guardians. The details contained within the pre-activity information are accurate (at that time), relevant and clearly articulates the following aspects:

- The type, nature and duration of the activities and environments in which they will take place
- Personal equipment, physical ability and fitness required to safely participate
- Any pre-requisite skills or qualifications and any required or recommended prior experience
- The inherent risk involved with participation and possible consequences
- An appropriate summary of the risk management and/or emergency response strategies
- Information regarding insurance and liability coverage held by the Organisation or Leaders
- Contact details of the Organisation or Leaders

2.2. PARTICIPANT PERSONAL AND MEDICAL DETAILS

Organisations maintain the security and privacy of the documents containing personal information. The information that Leaders or Organisations may collect prior to participation may include but is not limited to:

- Name, address, date of birth, gender
- Current or prior medical conditions, injuries or illness
- Emergency contact person / next of kin
- Height, weight or clothing/shoe size
- Physical fitness and abilities
- Specific physical or learning needs
- Specific fears or phobias
- Prior experience or qualifications

Personal information is archived for a period determined by the organisational governance, policy and relevant legislative requirements.

2.3. SIGNED ACKNOWLEDGEMENT OF RISK INVOLVED IN THE ADVENTURE ACTIVITY

A signed acknowledgement of the inherent risk involved is a means of confirming that the participant or parent/guardian has made an informed consent to participate in the planned Adventure Activity. An acknowledgement of risk form usually includes:

- The nature of the inherent risks involved and possible consequences
- All reasonably foreseeable hazards, events and possible consequences
- The name of the Organisation, the name of the activity and location
- The participants name and signature and/or parent/guardian if under 18
2.4. MODIFICATIONS OR CANCELLATION OF THE ADVENTURE ACTIVITY

Modifications or cancellation of the Adventure Activity may occur prior to or during the activity at the discretion of the Leader/s or Organisation. Any modification remains within or below the level of risk of the originally planned activity. Factors that commonly influence the decisions to modify or cancel an activity include but are not limited to:

- Weather conditions
- Recent changes to natural formations such as rivers, cliffs or trees
- River levels, tides or availability of drinking water
- Recent bushfire, flood, weed infestation or pollution risks
- Damaged, malfunctioning or missing equipment
- Behavioural or social issues within the group
- Other users at the site or in the area
- Closure by Land Owner or Land Manager

Individuals may be restricted from participation for the safety of themselves or others. The decision to exclude a participant is at the discretion of the Leaders or Organisation at the time of the activity. Factors that commonly influence the decisions to restrict participation include but are not limited to:

- Being under the influence of alcohol or illegal drugs
- Being injured or ill, especially if contagious
- Being affected by prescription medication which may affect performance
- Being unable or unwilling to follow directions, especially safety instructions
- Behaving in a manner which is reckless and/or endangers others
- Lacking suitable personal equipment
- Lacking an adequate level of fitness or physical ability to participate safely
- Exceeding the safe working load of safety or rescue equipment
3. RECOGNITION & RESPONSIBILITIES OF LEADERS

Leaders of Adventure Activities are recognised in three areas.

- Adventure Activity skills
- First aid qualifications
- NSW Working with Children Check (if child related)

It is widely acknowledged that a qualification does not always mean competence; that confidence does not always accompany a list of competencies and that experience can be more valuable than a qualification. Leaders of Adventure Activities acquire and develop their skills and abilities in a variety of ways.

- Leaders of Adventure Activities are recognised using one or more of pathways detailed below.

- Organisations apply the recognition pathway/s appropriate to their specific context.

Factors considered when determining an appropriate Recognition of Leaders framework includes but is not limited to following the outcomes of a risk management process that considers;

- Participants, clients and community expectation
- The organisational culture, capacity and experience
- Human and financial resources available

3.1. RECOGNITION OF LEADERS

CERTIFICATE III IN OUTDOOR RECREATION

(For Adventure Activity Leaders only)

- Including Rock Climbing (Artificial Surface) competencies, electives and/or specialisations

STATEMENT OF ATTAINMENT IN SKILL SETS (From SIS10)

(For Adventure Activity Leaders only)

- Climbing Guide (Artificial Surfaces) Top Rope

NATIONAL OUTDOOR LEADER REGISTRATION SCHEME (NOLRS)

(For Adventure Activity Leaders only)

- Climbing (Artificial) Top Rope Restricted - Guide (or above)
3.1. RECOGNITION OF LEADERS - continued

ORGANISATIONAL ACCREDITATION OR QUALIFICATION
(For Adventure Activity Leader or Supervising Leader)

Key factors of an Organisational accreditation or qualification system may include but are not limited to;

- Recognises the skills of the Leader using a formal process
- Supports and recognises the progressive development of skills
- Maintains documented evidence of the accreditation or qualification system
- Is maintained by a group of Leaders, usually more experienced Leaders (e.g. a committee or training team)
- Identifies individuals who are approved to conduct assessments using the system
- Is benchmarked against other recognised guidelines or criteria
- Is contextualised to the Organisation’s requirements; may have currency requirements

PEER RECOGNITION AND VERIFICATION
(For Adventure Activity Leader or Supervising Leader)

Key factors of peer recognition and verification process may include but is not limited to;

- Recognises the skills of the Leader using a peer recognition process
- Progressive skills development is supported and recognised using a mentoring or coaching approach
- Documented evidence may include log books or other records of participation
- Verification is often conducted in-situ during participation
- Is based on the experience and judgement of the peer who is recognising the Leader
- Is benchmarked against Organisational context, expectations and other related experience
- Currency of skills is usually demonstrated through regular participation

TEACHER
(For Supervising Leaders only)

- A permanent, temporary or casual teacher employed by a recognised educational Organisation

Examples of how Leader recognition pathways may be applied

- a club or community group may consider Peer Recognition and Verification an appropriate means of recognising Leaders within their context and expectations;
- a large community based Organisation may apply their own Organisational Accreditations, supplemented by Peer Recognition And Verification in specific situations that are appropriate to their organisational culture;
- a commercial outdoor education provider may consider that a Certificate III in Outdoor Recreation and their own Organisational Accreditations are a basis for employment and supplement this with a Peer Recognition And Verification during a period of probationary employment.
### 3.2. RESPONSIBILITIES OF LEADERS

**ADVENTURE ACTIVITY LEADER**

An Adventure Activity Leader

- Applies technical skills and knowledge to conduct an Adventure Activity for Dependent Participants without direct supervision
- Provides a reasonable level of guidance or instruction to Dependent Participants to enable supervised participation in an Adventure Activity
- Provides a reasonable level of supervision for Dependent Participants during Adventure Activities
- Exercise a duty of care to Dependent Participants
- Establishes and maintains a rapport with participants; maintains the well-being of participants and others in the group
- Conducts a risk assessment and applies risk management strategies
- Conducts a pre-activity safety briefing appropriate to the activity and applies group management practices appropriate to the situation
- Checks weather forecasts and warnings prior to the activity, monitor environmental conditions during the activity and take action to manage/respond to hazardous or extreme weather conditions
- Confirms that all equipment is in an appropriate condition; uses equipment in accordance with manufacturers recommendations and/or standard operating procedures
- Handles situations where judgement is required to address non-routine situations and solve problems
- Delegates responsibilities and tasks to Supervising Leaders, other Leaders and participants as appropriate
- Responds to an emergency using an Emergency Response Plan and Applies First Aid as required; at times in a remote situation

**SUPERVISING LEADER**

A Supervising Leader

- Provides a reasonable level of supervision for Dependent Participants during Adventure Activities
- Exercise a duty of care for Dependent Participants
- Initiate an emergency response as required appropriate to skills and experience

ℹ️ A Supervising Leader works in conjunction with an Adventure Activity Leader and does not assume responsibility of technical aspects of the Adventure Activity.
3.3. FIRST AID

ONE LEADER WITH THE GROUP HOLDS A CURRENT AND APPROPRIATE FIRST AID QUALIFICATION

A NON-REMOTE SITUATION is where two-way communications with emergency services may be established within a time frame determined as appropriate by a risk management process.

Where an Adventure Activity is conducted in a NON-REMOTE SITUATION the Leader/s hold a current Apply First Aid qualification (HLTAID003 - Provide first aid).

A REMOTE SITUATION is where two-way communications with emergency services may be delayed beyond an appropriate time frame as determined by a risk management process.

Where an Adventure Activity is conducted in a REMOTE SITUATION the Leader/s hold a current SIS 10 Wilderness First Aid qualification or hold a statement of attainment that includes SIS OOPS 305A - Provide first aid in a remote location and/or participate in additional organisational training (not nationally recognised training) or skills development that includes aspects of remote area first aid specific to the organisational context.

Factors considered when determining an appropriate time frame include but is not limited to:

- Access to the site
- Planned activity duration
- Environmental conditions
- The Leaders or Organisations risk tolerance
- Participants characteristics

3.4. NSW WORKING WITH CHILDREN CHECK

In NSW, the NSW Child Protection (Working with Children) Regulation 2012 defines the obligations that individuals and employers/organisations have in relation to engaging individuals in child related activities.

Individuals (either in a paid or voluntary role) are required to maintain a current NSW Working With Children Check. Employers and Organisations (either paid employees or volunteers workers) are required to:

- Conduct a verification check to determine an applicant's current "Working With Children Clearance Status"; individuals who have a 'Barred' status are not engaged in Child Related Roles
- Develop and maintain appropriate Child Protection policies and procedures
- Provide staff training regarding Child Protection issues and reporting obligation appropriate to their organisational context.
4. GROUP MANAGEMENT PRACTICES

4.1. PRE-ACTIVITY BRIEFING

The pre-activity briefing communicates all relevant safety and activity specific information to participants. It is usually conducted immediately before the activity however; some elements may be communicated at other times.

Timing and scheduling of briefings allow an appropriate period of time between pre-activity briefing and actual participation to allow participants to make informed decisions regarding their participation in that activity at that time.

- Facilitation techniques and adventure based learning principles may be applied to the delivery of some pre-activity briefings.
- Depth of detail and content of the pre-activity briefings may vary according to prior skills and experience of the participants.

Regardless of the timing, scheduling and depth of detail, Leaders communicate all relevant aspects listed below.

4.2. ARTIFICIAL SURFACE ROCK CLIMBING PRE-ACTIVITY BRIEFING

- Identify the Safe areas, pathways and toilets
- Articulate the use of specific verbal or non-verbal communications techniques
- Articulate and/or demonstrate appropriate personal clothing requirements for that activity at that time
- Articulate the requirements for when and where Personal Protective Equipment (PPE) is required
- Articulate the actions and requirements in the event of an emergency exit situation
- Check that all equipment is in a safe and serviceable condition prior to use
- Demonstrate the correct fitting and use of Personal Protective Equipment (PPE)
- Demonstrate the correct use of belay systems and other fall protection systems
- Demonstrate appropriate climbing techniques relevant to the participants and structure
- Demonstrate the "lowering off" and/or "top-out" procedure
- Demonstrate the exit from the belay system
4.3. GENERIC CONTENT FOR ALL PRE-ACTIVITY BRIEFINGS

- Introduce and identify the Leaders, their roles and responsibility for the activity
- Explain the responsibilities and expectation of participants’ for that activity at that time
- Articulate the objectives of the activity and inherent risks
- Communicate relevant aspects of the Environmental Sustainability Plan and Emergency Response Strategy
- Explain circumstances where modification, cancellation or restriction of participation may occur
- Identify food and drinking water sources and make recommendations on the appropriate intake of food and drinking water during the activity

4.4. GROUP FACILITATION, SUPERVISION AND MANAGEMENT

- Leaders check all relevant documentation prior to the activity
- Leaders have access to participant personal and medical details appropriate to the situation and activity
- Leaders communicate information in a manner appropriate to the participants’ needs and activity objectives
- Leaders establish and maintain a supportive environment for all participants
- Leaders establish and maintain an inclusive environment (where possible) for people with specific needs
- Leaders provide opportunities to encourage the progressive development of skills
- Leaders conduct regular headcount before, during and at the completion of the activity
- Leaders employ techniques to provide the most appropriate level of supervision within the constraints of the activity, topography and conditions
- Leaders avoid situations where participants may not have an appropriate level of skill or experience to participate
- Leaders encourage participants to communicate hazards or concerns in an appropriate manner
- Leaders communicate the safe completion of the activity to supervisors, Land Owner or Land Manager
- Leaders communicate any incidents according to organisational Standard Operating Procedures

4.5. LEADER TO PARTICIPANT RATIOS

Ratios are determined by a risk assessment process, the following factors are taken into consideration (where applicable)

- Level of difficulty and skills required
- Anticipated environmental conditions, remoteness and duration
- Prior experience of Leader and participants
- Requirements of Land Owner or Land Manager
- Availability of communications and access
- Environmental sustainability
5. EQUIPMENT MANAGEMENT PRACTICES

When considering the equipment requirements Leaders and Organisations take into account the prior experience of participants and the qualifications, skills and experience of Leaders.

Equipment is usually managed in three categories;

- Group equipment - used by all participants, Leaders and others. Leaders and/or participants may at times supply and use their own personal equipment that is listed as group equipment
- Participant equipment - normally used by the participant and normally supplied by the participant
- Leader equipment - normally used by the Leader, normally supplied by the Leader; some equipment supplied by an Organisation

5.1. WATER

During Adventure Activities drinking water is

- Readily accessible from a known water source or portable bulk storage

OR

- Carried in sufficient quantities; appropriate to the activity, intensity and anticipated weather conditions

AND

- Leaders encourage participants to consume an appropriate amount of water to avoid dehydration
- Water purification methods may be used where water quality is unknown

5.2. GROUP EQUIPMENT FOR ARTIFICIAL SURFACE ROCK CLIMBING

- Fall Protection and Personal Protective Equipment (PPE) complies with the requirements of the Australian Standard for Artificial climbing structures and challenge courses AS 2316.1 - 2009 - Part 1: Fixed and mobile artificial climbing and abseiling walls
- Helmet, Harness, Belay device and Karabiner are manufactured to a recognised standard (where they exist); this may include CE, UIAA or EN standard mark

5.3. PARTICIPANTS’ EQUIPMENT FOR ARTIFICIAL SURFACE ROCK CLIMBING

- Closed toe footwear, appropriate for Artificial Surface Rock Climbing
- Clothing appropriate to the activity, current and anticipated weather conditions
- Sun protection (if outdoors) and personal emergency medication
5.4. LEADERS’ EQUIPMENT FOR ARTIFICIAL SURFACE ROCK CLIMBING

- Vertical rescue equipment appropriate to the specific activity site at the time of the activity
- Communication equipment appropriate to the activity context; this may include land line phone, mobile phones or handheld radio.
- A First Aid Kit appropriate to the activity context, level of training and qualification
- A water resistant method of storing or carrying communications equipment and first aid equipment (if outdoors)

5.5. USAGE PRACTICES AND PROCEDURES FOR ARTIFICIAL SURFACE ROCK CLIMBING

- Equipment usage procedures comply with the requirements of the Australian Standard for Artificial climbing structures and challenge courses AS 2316.1 - 2009 - Part 1: Fixed and mobile artificial climbing and abseiling walls and/or the manufacturer’s specifications
- A system for monitoring the condition, logging use and removing damaged equipment is established and maintained
- The date of manufacture and manufacturers recommendations are considered when determining the retirement date of Personal Protective Equipment (PPE)

5.6. STORAGE AND MAINTENANCE FOR ARTIFICIAL SURFACE ROCK CLIMBING EQUIPMENT

- Equipment storage and maintenance complies with the requirements of the Australian Standard for Artificial climbing structures and challenge courses AS 2316.1 - 2009 - Part 1: Fixed and mobile artificial climbing and abseiling walls and/or the manufacturer’s recommendations
- If no manufacturer’s recommendations exist equipment is stored clean, dry and free from degrading influences (eg environmental exposure, chemical, extremes of temperature or damp conditions)
6. ENVIRONMENTAL SUSTAINABILITY PLAN

Environmental sustainability is an underlying factor in all Adventure Activities. There are many models and recommendations that assist with minimum impact, conservation and environmental protection; Leaders and Organisations select methods that best suit their particular circumstances.

All management models, organisational policies and standard operating procedures follow the Leave No Trace - 7 Principles.

LEAVE NO TRACE 7 PRINCIPLES

- Plan Ahead and Prepare
- Travel and Camp on Durable Surfaces
- Dispose of Waste Properly
- Leave What You Find
- Minimise Campfire Impacts
- Respect Wildlife
- Be Considerate of Your Hosts and Other Visitors

6.1. ENVIRONMENTAL SUSTAINABILITY SPECIFIC TO NSW AAS FOR ARTIFICIAL SURFACE ROCK CLIMBING

Text adapted from the Leave No Trace - 7 Principles - click to view full details

PLAN AHEAD AND PREPARE

- Plan to Leave No Trace
- Areas of ecological sensitivity or significance are identified
- Areas of cultural or heritage significance are identified

ARTIFICIAL SURFACE CLIMBING IS CONDUCTED ON DURABLE SURFACES

- Durable surfaces include
  - Constructed and landscaped areas (for permanent installations)
  - Established paddocks, sporting fields and picnic grounds (for mobile structures)

DISPOSE OF WASTE PROPERLY

- All general waste is carried out and disposed of properly
- Recyclable waste is carried out and separated where possible
- Food and organic waste is carried out; burning food waste is only conducted where permitted by the Land Owner or Land Manager
- Existing toilets are used where possible; a temporary pit style toilet is established using a hole at least 15cm deep, 100m from any water source or campsite
- Smokers’ waste is carried in a suitable container
LEAVE WHAT YOU FIND

- Vegetation, rock formations and natural features are not disturbed, modified or removed
- Culturally significant sites are afforded appropriate respect; rock art is not touched, artefacts are not disturbed; sacred sites are avoided

MINIMISE CAMPFIRE IMPACTS

- The use of campfires is not appropriate at an Artificial Surface Rock Climbing site

RESPECT WILDLIFE

- Wildlife is observed from a safe distance
- Leaders and Organisations offer environmental awareness and ecological interpretations appropriate to the group, location and activity
- Nesting, feeding or breeding sites are not approached
- Leaders and Participant's do not feed wildlife; food is stored securely, especially at night
- Injured wildlife are reported to the Land Owner or Land Manager
- Sightings of known feral animal species and locations of invasive plant species are reported to the Land Owner or Land Manager
- Vehicles and equipment are appropriately cleaned to avoid spreading environmental pathogens (eg fungal dieback) and invasive plant species
- Vehicles and equipment are free of plant material prior to leaving or entering an area
- Leaders and Organisations do not conduct Adventure Activities in Quarantine Areas

BE CONSIDERATE OF YOUR HOSTS AND OTHER VISITORS

- The traditional inhabitants of the country are appropriately acknowledged at the commencement of the activity
- Leaders and Organisations afford other users the courtesy of peaceful enjoyment of the area
- Trip hazards are managed; walking tracks are have clear access for all users
- Leaders communicate with other users to establish a plan to allow for safe and equitable access for all users
- Leaders and Organisations apply strategies to avoid over-crowding at popular public areas
- The use of powered generators, amplified sound, music or lighting is minimised to reduce disturbance to other users
- Activity sites and group congregation areas are managed to reduce disturbance to other users
- Leaders and Organisations comply with Land Owner or Land Manager requirements
7. RISK MANAGEMENT STRATEGY

Risk is inherent in all adventure activities; many different Risk Management models are used to meet the specific needs of adventure activities. The AS/NZS/ISO 31000:2009 - Risk Management is widely recognised and accepted as a generic risk management framework. Organisations and Leaders will adopt a model that is consistent with AS/NZS/ISO 31000:2009 and best suits their particular circumstances.

Risk Management Strategies are periodically reviewed to ensure continued relevance and compliance.

Risk management is defined as a series of well defined steps which, taken in sequence, support better decision making by contributing a greater insight into risks and their impacts.
8. EMERGENCY RESPONSE STRATEGY

The Emergency Response Strategy documents the pre-planned response to reasonably foreseeable emergency events. Emergency Response Strategies assist individuals to respond appropriately to emergencies.

Emergency Response Strategies are usually documented and include plans regarding reasonably foreseeable emergency events.

Leaders and Organisations often consider previous incidents and risk assessment outcomes when preparing and evaluating their Emergency Response Strategies.

EMERGENCY RESPONSE STRATEGIES ADDRESS THE FOLLOWING KEY FACTORS

- An appropriate person acts as a First Response Emergency Contact Person. This person is contactable within a reasonable time frame during the activity and can readily access emergency services and/or provide non-urgent assistance
- Emergency Response Plans: a pre-planned series of actions to be carried out in the event of emergency; these plans may be site/event specific or more generic according to the activity context
- Communications equipment carried by the Leader
- Location of any assembly or evacuation points or escape routes
- Access to participants personal and medical information
- A system for recording, documenting and reporting incidents
- Emergency Response Strategies are readily available and displayed prominently (where appropriate)
- Emergency Response Strategies are periodically reviewed, often done in conjunction with reviews of the Risk Management Strategies
GLOSSARY OF TERMS

ADVENTURE ACTIVITY
An outdoor pursuit requiring a wide variety of skills and equipment to engage in activities that have inherent risks and uncontrolled hazards, usually in a natural environment.

ORGANISATION
A recognised commercial or voluntary body co-ordinating or managing the provision of assistance to participants in Adventure Activities.

LAND OWNER/LAND MANAGER
The Organisation or individual in control of entry onto any land and what activities may be conducted on it.

LEADER
Person upon whom Dependent Participants rely upon for the provision of Adventure Activities. 2 types of Leadership are applied to Adventure Activities;

ADVENTURE ACTIVITY LEADER
Is a person who

- Applies technical skills and knowledge to conduct (without direct supervision) an Adventure Activity for Dependent Participants
- Provides a reasonable level of guidance or instruction to Dependent Participants to enable supervised participation in an Adventure Activity
- An Adventure Activity Leader also includes the role of a Supervising Leader; listed below

SUPERVISING LEADER
Is a person who

- Provides a reasonable level of supervision for Dependent Participants during Adventure Activities
- Exercise a duty of care for Dependent Participants
- Initiate an appropriate emergency response as required
- Usually works in conjunction with an Adventure Activity Leader

DEPENDENT PARTICIPANTS
A person who depends upon the Leader for supervision, guidance or instruction to support supervised participation in an Adventure Activity.

INDEPENDENT PARTICIPANTS
A person who possesses the skills and knowledge to participate in an Adventure Activity without dependence on a Leader. A person who acknowledges the inherent risk and assumes responsibility for their own safety and welfare.
LEGAL ASPECTS OF THE NSW AAS

1. LEGAL STATUS OF ADVENTURE ACTIVITY STANDARDS

Adventure Activity Standards (AAS) are voluntary guidelines only. Their purpose is to assist operators and organisers of outdoor activities with risk management with a view to-

1. promoting the safety of participants and operator/organisers;
2. protecting operators and organisers against legal liability claims and criminal penalties arising out of injury or property damage sustained in the course of the activities; and
3. enhancing operators’ and organisers’ ability to obtain insurance cover.

AAS have no legal force. They are not standards imposed by law.

2. DISCLAIMER

Likewise the comments below on the legal framework within which operators and organisers of outdoor activities can incur liabilities are not legal advice. They contain general information only and are not a substitute for obtaining legal advice.

The Outdoor Recreation Industry Council of NSW (ORIC) makes no warranties as to the accuracy of the legal information provided. To the maximum extent permitted by law it disclaims any responsibility for loss, damage or liability suffered or incurred directly or indirectly by any individual, company or organisation as a result of reliance upon anything contained in or implied by this document or the omission of anything from it.

3. BASIS OF LIABILITY OF OPERATORS/ORGANISERS OF OUTDOOR ACTIVITIES

Liability for personal injury and property damage is mainly governed by the common law of negligence and contracts but also by statutes such as Competition and Consumer Act 2010 and the Australian Consumer Law. There is considerable overlap in these areas of law and the same circumstances can potentially give rise to liabilities in contract, negligence and under statute.

Whatever the basis of the liability, damages for personal injury can be very substantial if the victim's injuries are significant - well beyond the capacity of small businesses to absorb. Public liability and sometimes professional indemnity insurance are essential for operators and organisers of outdoor activities. Appropriate insurance is best obtained through the services of an insurance broker.

3.1. LIABILITY IN CONTRACT

A liability under a contract only arises where the injured party has a contractual relationship with the operator/organiser or provider of the activity. Typically, but not necessarily, the client's payment for the provider's services marks the relationship as contractual.

A member of the client's family, for whom the client might pay, may not be a party to any contract with the provider. Nor will a participant in a corporate team building exercise or something similar arranged with the provider by his/her employer. In such cases the provider's contract is with the employer or family member alone. However the mere fact that a participant had no personal dealings with the provider does not necessarily mean that they were not in a contractual relationship. A contract with the provider may have been made on the participant's behalf by a third party acting as the participant's agent.

A contract may be in writing or verbal or contain both written and oral terms. Some terms, known as "implied terms", are unstated but inferred from the conduct of the parties or are imposed by law. Implied terms are very important in practice. For example, a provider will not usually promise expressly to conduct an activity with the level of skill and care for participants' safety that could reasonably be expected of a competent operator of outdoor activities. However a term to that effect will be implied and such terms are probably the most commonly relied upon in claims by participants against providers.

Theoretically contract law allows one party to exclude its liability to the other and it would certainly be in the interests of operators/organisers of outdoor activities to exclude liability to participants. Consumer protection legislation to a certain extent prevents this. The Australian Consumer Law, which applies in NSW and all of the other States and Territories, not only imposes implied guarantees that services be rendered to consumers with due care and skill and goods supplied be of appropriate quality and fitness for purpose but prohibits any other contractual term which excludes or limits those guarantees. However special provision is made for contracts for the supply to a consumer of "recreational services". These include "sporting activity(ies) or similar leisure time pursuits", a description which would cover the various activities which are the subject of AAS.

So, although recreational service providers are subject to the guarantees imposed by law, the Australian Consumer Law allows them to contract with consumers on the basis that those guarantees and the providers’ liability for participants’ injuries caused by failing to comply, are excluded or restricted. However liability for failings which amount to reckless conduct by the provider cannot be excluded. The actual wording of waivers of rights or exclusion clause(s) is a matter on which providers should seek specific legal advice. This is particularly so if the operator or organiser trades in or provides services in states or territories outside NSW. The extent to which exclusion clauses are permitted to operate can vary between jurisdictions and it is likely, although not certain, that the law which applies to a NSW - based provider is that of the jurisdiction in which the recreation services are actually provided.
3.1. LIABILITY IN CONTRACT - continued

Just as contracts only afford a remedy to contracting parties so exclusion clauses will only protect providers from liability to participants with whom they are in a contractual relationship. The position as regards contracts with minors is also fraught with difficulties of enforcement for the provider owing to minors’ qualified legal capacity. Assuming that the provider was contractually obliged to provide the relevant services with reasonable care and skill issues then arise as to whether or not he/she/it did so (breach of contract) and whether or not the participant’s injury or property loss were actually caused by the breach.

Contractual obligations vary from the very specific to the general, such as the implied terms under discussion. It is usually straightforward to ascertain whether there has been a breach of a specific term but less so when the obligation is as broadly defined as simply to exercise reasonable care and skill. The factors involved in liability for breach of such an obligation are very similar to those involved in liability for negligence which is the next topic.

3.2. LIABILITY IN NEGLIGENCE

Participants injured while undertaking outdoor activities seeking to recover compensation from the operator or organiser must establish that the provider owed them a duty of care and that their injury was caused by the provider’s failure to comply with the duty. The duty of care is to all intents and purposes identical to the implied term in the contract requiring the operator/organiser to provide the relevant services with reasonable care and skill. However they arise from different sources. The law imposes the duty upon a person who carries on an outdoor activity operation business. The contractual duty arises out that person's agreeing with the individual participant to provide the relevant services.

The contractual duty and the duty of care are not mutually exclusive. A provider will owe both a duty of care and a contractual duty to a contracting participant but in that case any exclusion of the provider's liability under the contract will also prevent the participant claiming in negligence.

However not all participants take part under a contract with the operator or organiser of outdoor activities and the law of negligence (and sometimes statutory liabilities under the Australian Consumer Law) may be their only basis for compensation in the event they are injured while participating. Although the first question asked in connection with liability in negligence is whether a duty of care was owed, in the context of outdoor activities this really does not arise. The risks of injury are such that the operator or organiser is clearly subject to a duty of care towards participants.

The issues that do arise are much the same as in contract - was there breach of the provider's obligation and did this breach cause the participant's injury? Breach of the obligation depends on what the provider was required to do, the "standard of care". This issue tends to involve consideration of whether the risks involved in the activity were identified properly, appropriate warnings as to the risks given, the adequacy of instructions and supervision and the suitability and maintenance of any equipment provided.

In the context of outdoor activities the Civil Liability Act 2002 (NSW) provides operators and organisers with certain levels of protection. Firstly the provider's duty of care in relation to a particular risk of a recreational activity is satisfied if the provider has given the participant appropriate warning of the risk.

Secondly the Act recognises that certain activities involve "obvious risks" which participants are presumed to understand. Providers are not required to warn participants of such risks. Moreover where the activity in question constitutes a "dangerous recreational activity" namely a "recreational activity that involves a significant risk of physical harm" then the provider is relieved of liability for injury resulting from the materialisation of an obvious risk of the activity.

The extent of the protection afforded by this legislation is not as complete as it might appear. To take the example of obvious risks of dangerous recreational activities, the Act will not necessarily protect an abseiling operator from liability to a participant injured in a fall from a cliff (arguably an obvious abseiling risk) where the immediate cause of the fall was the failure of a karabiner. The reality is that most injuries have a multitude of effective causes and not all will attract the Act's protective provisions. Sometimes the only means of protection is a strong contractual exclusion clause.

Of course appropriate and effective risk management is another means of protection from liability. It is to this end that the AAS themselves are directed. They provide a checklist for activity operators and organisers to help ensure that proper attention is paid to risks of injury and to risk management generally. In the event that a court must determine a provider's liability for injury, the prospects of escaping liability are much enhanced if the provider can prove reliance upon a documented and thorough risk management system. Reliance should not be placed on the AAS themselves however or at least not solely on the AAS. They provide only a framework for operators/organisers to devise their own specific risk management programmes and strategies.

The next issue in liability in negligence (and for breach of contract) is causation -was the injury/damage caused by the breach? This gives rise to considerations of whether the injury was the result of breach of a duty or, alternatively an inherent risk which could not be eliminated or the result of reckless or careless conduct of the participant him/herself. Such conduct may be only a contributing factor (contributory negligence) or may be the sole effective cause of the harm. In the latter case the participant's claim will fail altogether. Contributory negligence by contrast reduces the damages otherwise payable in proportion to the extent of the participant's contribution.Damages have historically been assessed with a view to absorbing without insurance protection.
3.3. STATUTORY LIABILITIES

Reference has been made to consumer protection legislation, mainly the Australian Consumer Law and related provisions of the Commonwealth Competition and Consumer Act 2010 (formerly Trade Practices Act 1974) and the Fair Trading Acts of the various states including NSW. The protection afforded by this legislation to outdoor activity participant consumers is the entrenchment of consumer-friendly contractual implied terms as discussed above. These have declined in importance for recreational service providers who have been liberated by recent legislative changes - again driven largely by the prohibitive cost of insurance - from the restrictive effect of these provisions and can now "contract out" by way of exclusion clauses.

The consumer protection legislation also establishes independent liabilities for "unfair practices" most importantly for misleading or deceptive conduct in trade or commerce. In the context of outdoor recreational service providers however claims of this nature are generally ancillary to the more essential allegations of negligence or breach of contract based on failure to conduct or organise activities safely. For example, a bushwalking tour leader's failure to warn of a known hazard fundamentally gives rise to a liability based on negligence but may also point to misleading or deceptive conduct by the organiser who represented the trails were safe. Similarly the abseiling operator who supplies faulty equipment may be liable not only for the supply itself but for misrepresentation as to the equipment's standard. An important feature of liability for misleading and deceptive conduct however is that, unlike negligence, it involves no element of "fault" on the provider's part. There may be circumstances in which providers face a liability for a participant's injuries in the absence of any negligence, based on representations to participants which in effect amounted to guarantees that the relevant activities involved minimal or negligible risk only.

3.4. OCCUPATIONAL HEALTH AND SAFETY & WORKERS COMPENSATION LIABILITIES

These are forms of statutory liability, not to participants but to an operator/organiser's employees and, in the case of occupational health and safety, to other workers engaged in providing the recreational services. They are mentioned in this context as, like the liabilities to participants, they also involve substantial exposures arising from unsafe operation or organisation of outdoor activities. For the most part these cannot be excluded by agreement with the workers.

Workers compensation legislation provides a no fault scheme covering a provider's employees against injuries sustained in the course of their employment. Insurance is compulsory and a failure to insure has consequences including liability for premiums, penalties and uninsured exposure. A form of cover is also available for voluntary workers. Without such cover liability to such persons is sometimes uninsured - not covered by workers compensation or public liability policies. The NSW Occupational Health and Safety Act 2000 and Occupational Health and Safety Regulations provide a very detailed regulatory regime directed towards the safety of individuals engaged in workplace activities including of course those of an outdoor recreational nature. They provide for substantial criminal penalties for significant breaches of their provisions and breaches of some provisions also give rise to liabilities in damages to workers injured as a result.

The Act and Regulations give statutory recognition, subject to Ministerial approval, to Codes of Practice developed in specific industries. Despite statutory recognition these codes only provide guidelines for compliance with employers' obligations under the Act and Regulations. Like the AAS they have no legal force. They are far more detailed and prescriptive than the AAS however and there appears to be no prospect that statutory Codes of Practice will be introduced in the outdoor recreational services industries in the immediate future.

3.5. ADMISSIONS AND APOLOGIES

One incidental reform achieved by the NSW Civil Liability Act 2002 (and its counterparts in the other States and Territories) was to clarify confusion surrounding apologies in circumstances such as where a participant is injured in the course of organised outdoor activities. Historically there has been an unfortunate reluctance to offer apologies or expressions of regret or even sympathy for fear of implicitly admitting liability. This has sometimes resulted in escalation of relatively trivial incidents. The Act makes it clear that an apology or expression of regret or sympathy towards an injured person does not amount to an admission of any fault on the provider's part and does not prejudice the provider's position as regards liability to the participant. The risk management value of a compassionate response to a participant's injury should not be underestimated.

4. IN CONCLUSION

4.1. The NSW Adventure Activity Standard are non-compulsory guidelines for risk management in the operation of organised outdoor activities. However they are a framework only and a checklist for outdoor activity providers to devise their own individual risk management programmes and strategies (see Section 1 above);

4.2. The above outline of the liabilities which providers face is introductory only and should not be relied on as legal advice (see Disclaimer Section 2);

4.3. Operators and organisers of recreational activities assume responsibilities to participants to conduct activities with due care and skill but to a large extent it is possible for them to protect themselves from liability for injuries suffered by participants by way of appropriately drafted waivers or exclusions of liability. Again the drafting of such clauses is a matter for specific legal advice.

4.4. The potential exposures to claims by participants are significant and appropriate insurance against such liabilities is essential. This is a matter for an insurance broker's services.

4.5. However the best protection against exposure to liability is effective risk management. The Adventure Activity Standards provide a good starting point for providers to develop their own effective risk management programmes and strategies.
No appendix for this document

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