ANZECC BENCHMARKING AND BEST PRACTICE PROGRAM

Visitor Risk Management & Public Liability

Prepared for:

ANZECC Working Group on
National Parks and Protected Area Management

Prepared by:

Department of Conservation and Land Management (WA)

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1.0 Introduction

1.1 Background

A Benchmarking and Best Practice Program was established through the ANZECC Standing Committee on Conservation in 1994, and coordinated by the ANZECC Working Group on National Parks and Protected Areas Management. This Program comprises a series of Best Practice projects which aim to assist in sharing knowledge and information to improve practices and processes for a range of responsibilities undertaken by land management agencies.

Western Australia's Department of Conservation and Land Management (CALM) has completed the benchmarking process to determine best practice for visitor risk management. This report outlines the steps taken to achieve the present best practice framework of visitor risk management in outdoor environments. It also provides an example of a visitor risk management policy and guidelines which have recently been prepared by the lead agency in this benchmarking review.

Effective visitor risk management practices play an important role in the management of outdoor recreation. Many forms of outdoor recreation have inherent risks associated with them, indeed for many recreational activities risk and challenge are integral components.

Park agencies have an extremely high duty of care and an associated significant and alarming potential for large personal injury claims. Throughout Australia there has been a rapid and dramatic increase in the number of incidents and liability payouts. The reasons for this include:

- increasing visitation, increasing public mobility and increasing size of the estate managed;
- increasing potential for claims due to heightened public awareness;
- increasing prevalence, Australia wide, of claims involving serious injury (eg, quadriplegia and paraplegia) coupled with the substantial initial and continuing costs and expenses involved in funding such cases;
- claims, even involving serious injuries, may not come to light for several years and may not be settled or litigated for many years after that - an inflationary element is obviously involved;
- considerable emphasis is placed on the statutory responsibilities of land managers for care, control and management of public lands and there is an increasing trend towards litigation as a whole;
- ongoing expectation to provide some recreational experiences with elements of challenge and risk and a low level of management control.

1.2 Objectives

- To use benchmarking to determine the best practice process for the continuous improvement of techniques and performance in the management of visitor risk by agencies.
- To identify the processes followed by agencies in the systematic and continuous identification of hazards.
- To identify the methods used by agencies in the analysis of the hazards and risk exposures in terms of frequency and severity.
- To facilitate the development and implementation of effective incident prevention and risk minimisation procedures.

1.3 Scope

This report provides the structure for the implementation of a formal and integrated risk management program. The implementation of this program will provide the basis for effectively managing risk and creating a safety conscious recreational environment.

An effective visitor risk management program will require the following essential components:

- provision of training and educational forums for relevant staff;
- inspection and identification of risk areas - regular inspections of natural attractions and recreational facilities with those inspections being documented to support maintenance programs and defence of claims;
- liaison and networking - regular meetings with insurers, legal advisers and associated agencies to discuss such aspects as trends, strategies and claims which have arisen;
- reporting of incidents and exposures - a formal reporting mechanism should be implemented with the data generated being analysed continually and any necessary corrective action taken in relation to work practices, procedures or potential incident sites.

1.4 Definition of Visitor Risk Management

For the purpose of this report, the following terms have been defined:

Visitor risk management - *"the systematic identification, analysis and control of the broad range of visitor risks which threaten an agency or its ability to achieve its objectives".*

Hazard - *"a situation or condition with the potential to cause injury or damage."*

Risk - *"the probability of a hazard resulting in injury or damage; together with the seriousness of the injury or damage."*

It involves defining answers to the following three questions:

Risk Assessment - What can go wrong?

This requires the identification of major adverse contingency situations, measuring their potential effect and then defining that potential in terms of frequency, severity and variability from the expected.

Risk Control - What can we do about it?

This means developing, implementing and monitoring policies, procedures and mechanisms for responding to contingency situations. This is the heart of the risk management program.

Risk Financing - How do we pay for it?

This focuses on the provision of funds to meet contingencies as they occur so as to maintain the fiscal health of, and public confidence in, the agency.

2.0 Methodology

The following steps have been taken in order to determine best practice in relation to visitor risk management:

- a review of literature and records relating to visitor risk management in an outdoor recreation environment.
- development of a questionnaire which was completed by the ANZECC benchmarking partners (see list of partners below).
- analysis of the questionnaire in order to review the current procedures in visitor risk management conducted by land management agencies in Australasia, and a comparison between agencies.

The above evaluation has led to the development of a best practice model for visitor risk management.

The following benchmarking partners completed the visitor risk management questionnaire:

- Department of Conservation, New Zealand
- Department of Conservation and Land Management, Western Australia

- Department of Natural Resources and Environment, Victoria
- Environment Australia
- National Parks & Wildlife Service, New South Wales
- National Parks & Wildlife Service, Department of Environment, Queensland
- Natural Resources Group, Department of Environment and Natural Resources, South Australia
- Parks and Wildlife Commission of the Northern Territory
- Parks and Wildlife Service, Department of Environment and Land Management, Tasmania

3.0 Results & Analyses

3.1 Introduction

As indicated in the methodology, all nine benchmarking partners were required to complete a questionnaire regarding visitor risk management policy and procedures.

This section of the report gives a brief overview of the questionnaire results provided by each of the benchmarking partners. Comprehensive details of questionnaire results are provided in Appendix II.

3.2 Risk Management Policy

The questionnaire begins with an assessment of whether agencies have a risk management policy statement in place.

Currently, about half of the agencies issue a risk management policy document which is endorsed by both their respective Chief Executives and insurers. Further, each document has clearly stated goal(s), objectives, strategies and performance indicators.

Some of the other agencies have a risk management policy but no clearly stated goal(s), objectives, strategies or performance indicators. It is unclear to what degree these agencies have obtained the support of their respective corporate executives or insurers. This information is provided in Appendix II - Figure 1.

3.3 Process of Identifying Risk

The majority of the agencies indicated that they have or are currently developing a structured process for the identification of risk in the event of injury to visitors.

This process is taken further, where most agencies assess the risk identified (some of which are conducted with the agency's insurer), determine control measures and monitor the success of the control measures.

This emphasises the importance placed on the management of risk by these agencies. See Appendix II -Figure 2 for the questionnaire results.

3.4 Incidents and Claims

Most agencies have a designated course of action in the event of an incident occurring involving a member of the public. The procedure to be followed in the event of an incident is usually set out in guidelines. However, the relative efficiency of these procedures is difficult to gauge. Appendix II - Figure 3 shows this information in table form.

The details of claims or incidents is always documented and recorded internally by the agencies. Staff and visitor incidents are recorded in most cases, although the precise nature and completeness of these records is not known. Issues related to record keeping such as custodianship, security and freedom of information legislation is also unknown from the questionnaire. Some maintain claim details on a computerised database. Appendix II - Figure 3 shows these details.

There is an internal group or section responsible for claims management within each agency. However, there are few agencies which have a unit dedicated solely to the

management of risks and claims. It appears that claims responsibility often fall under the jurisdiction of several sections with other responsibilities in addition to risk management. This information is shown in Appendix II - Figure 3.

3.5 Risk Management Training

Formal management training in relation to visitor risk management is not provided by many of the agencies for their staff. Most agencies have structured training only in minimising financial risks or unstructured ('on the job') training. See Appendix II - Figure 4 for the breakdown of results between the agencies.

3.6 Risk Inspections

All agencies have a program for regular risk inspection of recreation sites and facilities in place or currently being introduced. However, not all agencies document the inspection details and document the follow up actions taken in response to the risks identified. These details can be found in Appendix II - Figure 5.

3.7 Legal Advice

All agencies have access to outside legal advice in the event of a claim through the Crown Solicitors Office, with some also accessing a private legal practice. It is unclear as to how quickly that advice can be obtained.

Some agencies have access to their own 'in-house' legal adviser, thereby allowing legal advice to be obtained readily in the event of a claim. Information collected is provided in Appendix II - Figure 6.

3.8 Insurance

Insurance cover for public liability risk is held by most agencies. The level of cover and excess varies between agencies. Insurance cover and excess details can be found in Appendix II - Figure 7.

Most agencies participate in regular case review meetings with the their respective insurers.

3.9 Transfer of Risk for Commercial/Non-Commercial Activities

All agencies 'transfer' risks to commercial operators as standard practice. In the majority of cases, part of this 'transfer' includes a requirement for the operators to hold a minimum level of liability cover. See Appendix II - Figure 8 for this information.

Agencies usually 'transfer' some risk for non commercial activities also. However, this transfer is generally limited to obtaining indemnity from works programs, clubs or other incorporated bodies and does not extend to individuals. Appendix II - Figure 8 shows this information.

It is unclear to what extent and how successful agencies are at using techniques such as disclaimer notices to 'transfer' liability to the individual.

3.10 Restriction of Liability

Although not a component of the original questionnaire, further information was sought on whether any legislation was in existence, or planned, to limit the potential liability of public land management authorities.

The nature and scope of the law of negligence has expanded so that the liability of and compensation paid by public authorities to those who are injured when on land and/or water owned or occupied by that authority has increased dramatically over the past decade.

If the trend continues then it may well be that land managers will be forced to restrict access of the community to public resources and facilities. As a matter of economic necessity, those facilities may have to be withdrawn due to the unrealistic and inordinately high standard of care being placed on land managers and their increasing exposure to

liability claims, damages and awards and escalating insurance premiums.

The time has probably arrived whereby serious consideration needs to be given to the concept of legislative reform. In certain American states, liability arising out of incidents in natural areas has been excluded by legislation. Therefore, in a similar vein, model legislation could be introduced within Australia to either limit, or place a capping on public liability exposure for land managers.

Appendix II - Figure 9 outlines the current situation at common law in the states and territories of Australia and, where applicable, their respective attitudes to the introduction of model legislation limiting liability of public land management authorities.

3.11 Conclusion

The majority of agencies expressed the opinion that a standardised or rationalised approach to visitor risk management should be adopted by all land management agencies throughout Australia.

After reviewing the visitor risk management policies and procedures of the nine benchmarking partners involved in this ANZECC program, a best practice model can be determined.

4.0 Determining Best Practice for Visitor Risk Management

4.1 Characteristics of Sound Visitor Risk Management Practice

As discussed earlier in this report, best practice in relation to visitor risk management has been determined by reviewing relevant literature, industry practice and experience as well as analysing the results of a questionnaire survey to assess current work practices.

Although it is accepted that visitors have a responsibility to look after their own well being and safety, recent court decisions have made it increasingly unclear as to what degree individuals are held responsible for their own actions. It is apparent however, that land management authorities are burdened with a far more onerous duty of care than are individuals.

Best practice of risk management requires the development of a visitor risk management program. A visitor risk management program involves a broad based understanding of the risks encountered by visitors and the provision of funds and staff time in the most efficient and cost effective way possible to minimise the frequency and consequences of visitor misadventure and injury.

The following points all relate to the success of an effective visitor risk management program:

- As the basis to visitor risk management, it is essential to develop a **policy statement**, expressing the agency's belief in a visitor risk management program. The policy statement should outline the mechanisms used to manage the risks presented to visitors by their activities and the natural, cultural and developed environments they visit.

  The policy should clearly state the:

  - goal(s),
  - objectives,
  - strategies by which the objectives of the policy will be met, and
  - the performance indicators, that is, the instruments to be used to monitor how well the stated objectives are achieved.

- There should be a structured **process to identify risk**. This should be followed by an assessment of the risk, prioritisation, implementation of control measures to minimise risk and regular review of control measures implemented to ensure their effectiveness. The risk identification process includes the detailed examination of available information on past incidents and areas where incidents may occur.

Risks cannot be managed unless they are identified and understood. The identification process will provide the factual base on which key decisions can be made. This enables the provision of duty of care and due diligence required by an agency of their visitors.

- In the case where control measures are not implemented or prove ineffective in the management of risk, all visitor accidents and injuries need to be **investigated** promptly. The primary approach should be to report the facts in an objective and unbiased manner and in sufficient detail to allow for analysis and appraisal. Ideally an agreed standard procedure should be implemented to ensure consistency and to enable confidence in results.
- A structured **incident investigation process** is essential and should include the following elements:
  - efficient investigation so as to obtain the most accurate and relevant information possible. Witness statements (albeit brief) need to be taken as soon as reasonably possible after the incident has occurred.
  - incident report completed stating fact rather than opinion from information collected.
  - photographs taken of the scene. Over time, memories fade or disappear and sites change appearance. It is of critical importance to have photographic evidence of the area in question if possible.
- At the completion of the incident investigation process, all information and evidence collected requires collation in a detailed **recording system**. This system enables a means of maintaining a record of all reported incidents and searching for and retrieving information as required. This minimises the potential liability against an agency in the event of litigation. A recording system also facilitates ongoing monitoring and review and enables information to be shared amongst different divisions within an agency. The system must include records of:
  - incident reports,
  - maintenance programs and schedules,
  - risk assessments,
  - claims, and
  - management response.

  All records have the potential to be used as evidence. Therefore, there must be an awareness of the need to deal with the following issues when developing the recording system:
  - custodianship,
  - confidentiality,
  - security, and
  - freedom of information legislation.
- Where possible within an agency, there should be a dedicated **risk management group or unit** which has the responsibility for:
  - monitoring and measuring the agency's performance in terms of visitor risk management.
  - providing guidance to both the agency's management and operations divisions on loss prevention.
  - the investigation, co-ordination and settlement of claims.
  - the procedure and co-ordination of staff training of risk management (whether it is provided within or outside the agency).
- A formalised system of **risk management staff training** is another requirement for meeting best practice. All staff involved in managing visitor risks (both field staff and managers) need to be provided with fully structured and accredited training.

  In order to meet the public's needs and expectations of accessing natural environments, land management agencies provide a diverse range of recreational, educational and cultural

opportunities in partnership with the community.

Staff need to be made aware of the moral and legal duty of care required in providing these opportunities and must be trained and have proficiency in the identification, assessment and treatment of risk.

Staff training programs will also enable agencies to have accountability in the event of litigation.

- Staff training will also aid in the awareness of regular and effective **risk inspections.** Regular inspections should be carried out so as to detect and manage hazards before visitors are injured, thereby minimising the frequency of incidents. The frequency of inspections required will vary according to the type of risk and the nature of the specific attraction or facility. A routine and systematic inspection process must be established and conducted regularly to ensure that significant risks can be identified and solutions developed for each incident. There must be regular monitoring of the inspection sites to ensure that the solution which has been developed and implemented has addressed the risk identified in the original inspection.

- Best practice requires agencies to have access to appropriate **legal advice** immediately upon the presentation of a claim against the agency. Legal advice should not only be readily available, but also pro-active and responsive to the nature of the claim and the agency's needs.

- In connection with adequate legal advice, agencies should seek appropriate **insurance protection**. Insurance protection is essential, given the increase in potential public liability. This is attributed to changes such as the increasing awareness of visitors to natural attractions and facilities, increasing public mobility leading to increased visitation and the increased tendency for injury to lead to litigation.

  Agencies should endeavour to implement insurance arrangements that are simple and effective as a risk financing mechanism. They should assist with the management of risk exposures through a combination of risk management programs, self-insurance and re-insurance. A key factor in these arrangements is determining the best balance between cost of the premium and residual risk.

  It is important to participate is regular case reviews with the insurer so as to develop a plan to best protect both parties from potential losses as a result of visitor incidents.

- Where **commercial operations** are permitted, private operators are required to indemnify and hold harmless the agency against any liability. This should be presented in a signed agreement which should be broadly drafted to provide as wide a cover as possible. In addition to this, contractors should be required to sign standard clauses to provide the agency with indemnity.

- Agencies should arrange for some 'transfer' of risk for **non-commercial activities** as well as commercial operations. Where appropriate, notices disclaiming liability should be located at strategic points of entry and to catch the visitors' attention. This will ensure that visitors understand that entry is subject to the specific terms and conditions set out on the notice.

  An exclusion clause may be sufficient in limited circumstances to exclude liability if the agency has done what is reasonable to give visitors notice of those conditions.

  It is also essential that, wherever possible, land management authorities encourage appropriate visitor behaviour by way of brochures and other promotional material, to enable visitors to consider risks in planning their activities and to conduct themselves accordingly.

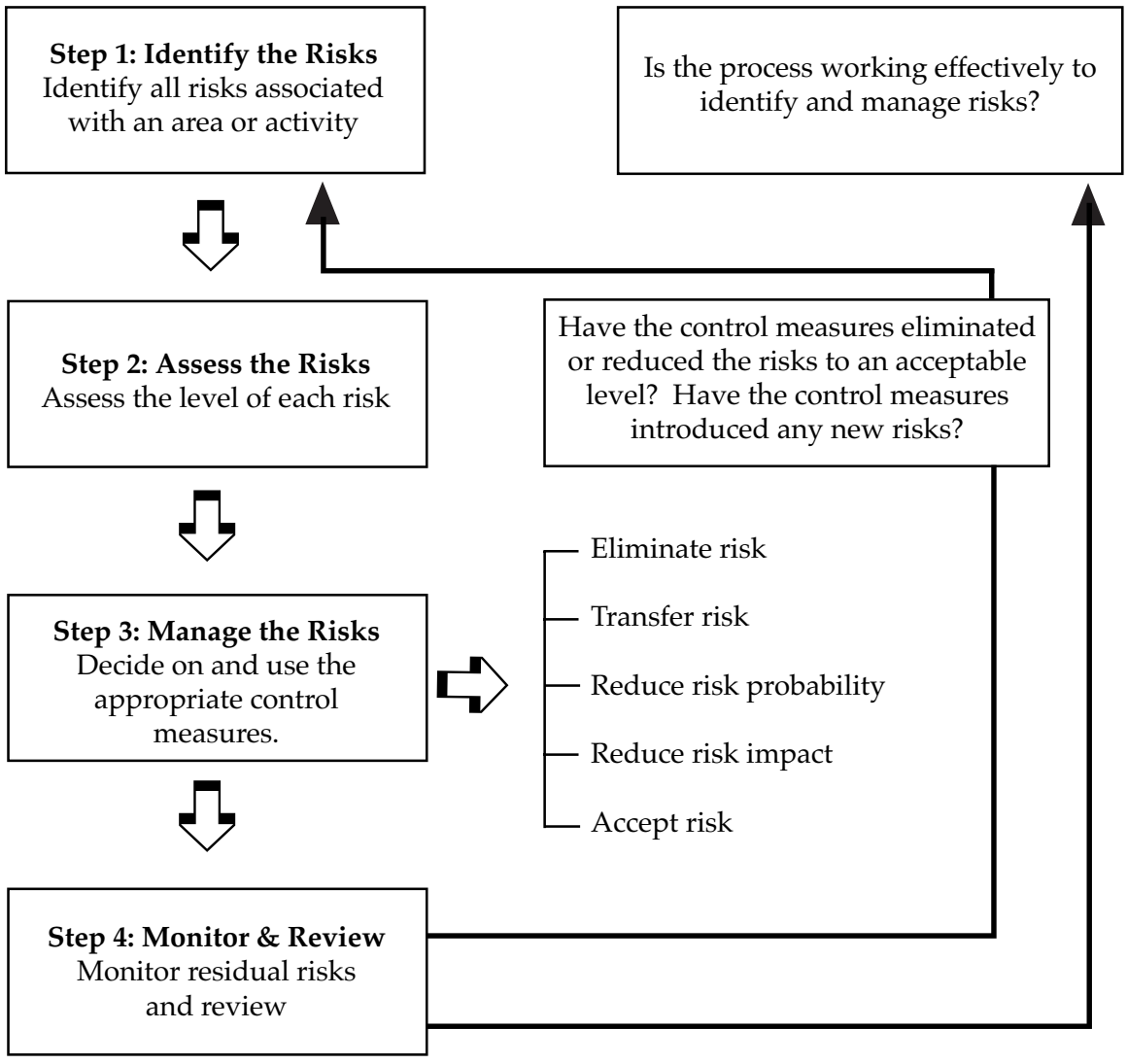
4.2Best Practice Model

On reviewing questionnaire responses from benchmarking partners, it is clear that the development of a risk management program will assist in ensuring a pro-active approach to managing visitor risks within land management agencies. It will also present the basis for a planned program of strategies and actions that minimise risk and indicates full intent to take reasonable care in the event of legal action. Such a program should not be seen as the end means of managing risk, but rather aimed at identifying areas of risk and developing appropriate action strategies in specific areas of responsibility.

This report presents a series of steps to establish and develop a dedicated visitor risk management program. This suggested approach as the best practice model, is designed to accommodate a range of needs and allows users to customise the principles to ensure that they best suit the objectives and resources of their respective agencies.

The following diagram and strategy provide the structure for the best practice model on visitor risk management.

Overview of the Risk Management Process



There are four main stages in the risk management program, which are:-

Step 1: Identify the risks.

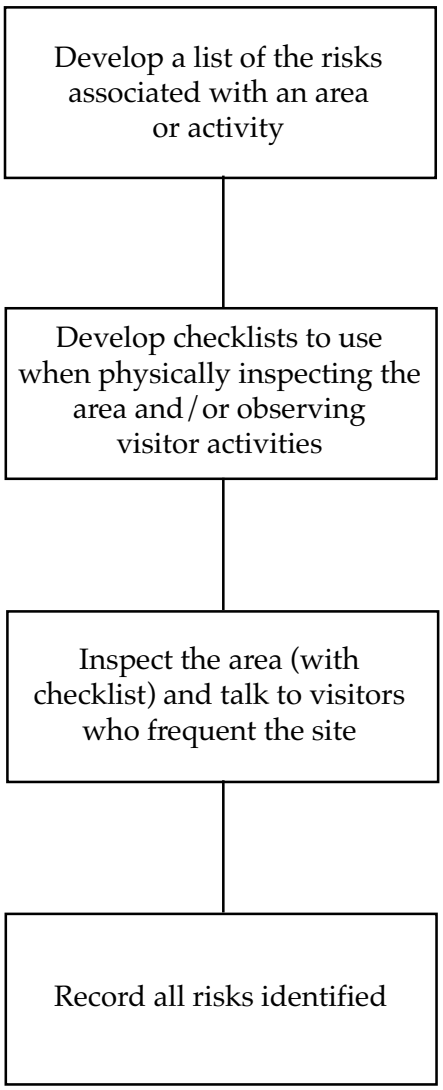
Step 2: Assess the risks.

Step 3: Determine what control measures to take.

Step 4: Review, apply and monitor control measures.

STEP 1:

The first stage in the program, the risk identification process is illustrated in the table below.

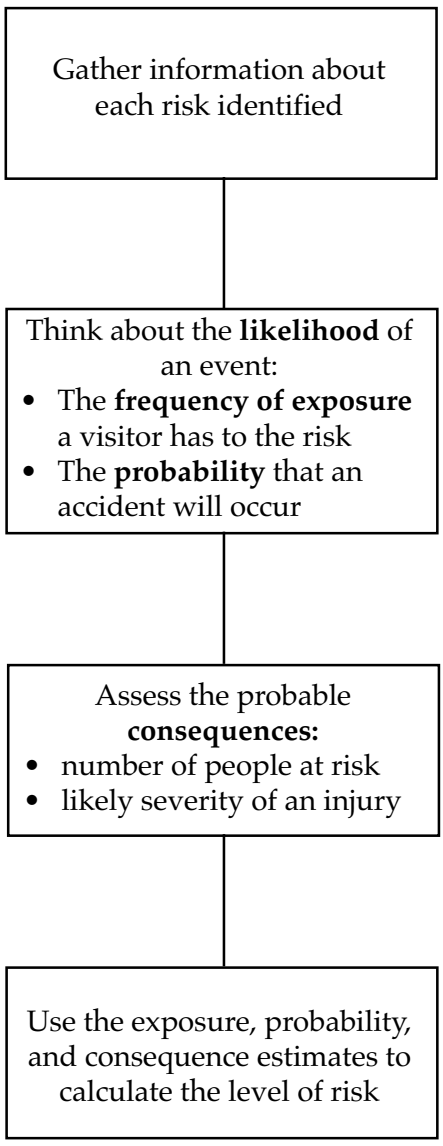


Sources of Information:

- **past risk assessment reports**
- **incident reports for area**
- **employees working in area**
- **visitors to area**
- **relevant reports or articles**

STEP 2:

Once a risk has been identified, an assessment should be carried out in order to determine the extent of the risk. The following table provides an overview of the risk assessment process:



Sources of Information:

- **past risk assessment reports**
- **incident reports for area**
- **staff working in area**
- **visitors to area**
- **relevant reports or articles**

Frequency of Exposure: a measure of the likelihood of an event in a given time ranging from occasional to continuous.

Probability: the likelihood of an event occurring ranging from practically impossible to almost certain.

Likelihood: a measurement of the probability of an event combined with the frequency of exposure.

Consequence: the outcome of an event if it were to occur.

The process of evaluating risk should result in a thorough look at potential hazards and the risks associated with the hazards. During this process, multiple issues may be highlighted and there may be value in assigning priority areas that warrant immediate management action. Limited time, budgets, or personnel may dictate that some risk issues should receive attention without delay, while others will not. The Australian/New Zealand Standard on Risk Management (AS/NZS 4360:1995) outlines a method for setting priorities.

STEP 3:

Using the results of the risk assessment, the control measures can be determined, or the necessary action taken in order to eliminate or reduce the risks.

Control measures may include:

- elimination of the risk - when risk is considered very high.
- transfer some of the risk - to reduce incident responsibility eg. signage which allows the visitor to make an informed decision about the risk.
- reduce the risk probability - reduce the likelihood of an incident occurring where there is moderate risk potential eg. only allow access under supervision.
- reduce the risk impact - minimise the severity of the incident where there is moderate risk potential eg. limit or control access.
- accept the risk - when risk is deemed to be within acceptable limits ie. low or negligible risk.

STEP 4:

Once the control measures have been determined to minimise or eliminate risk, the effectiveness of these measures need to be assessed. This involves a process of:

- reviewing the proposed control measures to be applied.
- applying the control measures, if the review indicates that they would reduce the risk and would not introduce new risks.
- monitoring the effectiveness of the control measures through regular assessments and stringent documentation.

This best practice model contains four major steps. These steps need to be applied with a degree of flexibility to attain the most suitable fit for the organisation in question.

In summary, the four major steps can be further broken down to the following essential components:

(a) Establish Visitor Risk Management Program

First and foremost, you must ensure that mechanisms are in place to support the Visitor Risk Management program for the long-term. This requires solid backing from senior management including the dedication of staff time and funding appropriate to manage the risks encountered by visitors. This is also the time to firmly set program objectives, to identify personnel who will play a direct role in visitor risk management and to determine how information and instructions will flow to and from the decision-makers.

(b) Assess Visitor Risks

This deserves careful attention. It requires a detailed look at available information on past incidents, visitors and victims, and on specific locations and/or activities where incidents tend to occur. No risk can be adequately managed until it is identified and understood. This step provides the factual base on which key decisions can be made. The results of this step form the basis for a Risk Assessment.

(c) Organise and Evaluate Risk Issues

The full range of risk issues that may come to light should be summarised and organised in a manner that will lead to action. These issues need to be listed in priority order so as to distinguish the vital risk control mechanisms.

(d) Develop Risk Control Objectives

This requires a thorough examination of the several different ways of controlling risk. There are usually many optional methods to reduce probability or consequences of an occurrence, and each technique must be explored to make a reasonable choice. In many cases, the existing approach to controlling the risk may prove to be the best and no further action is required. In other instances, new approaches may be warranted.

(e) Establish Action Plans for Risk Control

In this stage of the process, decision-makers select the most favourable action to control risk according to set criteria. Risk control in this context refers to the combination of efforts to prevent mishaps and reduce the severity of their consequences. The most successful safety measures satisfy the practical demands of the issue, meet legal requirements and other field expectations, and offer a net benefit to the organisation.

(f) Prepare Plan

This requires preparing a plan to represent the information and decisions made during the foregoing process. The plan must be prepared, reviewed and revised by the key players before receiving final approval.

(g) Implement, Evaluate and Update Plan

Risk control measures are usually implemented through a combination of managerial directives and internal communication. In addition, risk control measures must be monitored to ensure future decisions are based on rational and verifiable deliberation.

5.0 Conclusion

This review has found that the most effective means of managing risks to visitors in natural areas in through the adoption of an integrated risk management program, one which:

- identifies potential risks to visitors,
- assesses these risks,
- determines what control measures to adopt, and
- reviews, applies and monitors control measures.

Visitor risk management will expand the traditional concept of visitor safety when implemented properly, by more formally embracing prevention of incidents as a priority. This formal process, as outlined in Section 4.2 of this report, provides best practice recommendations for visitor risk management.

The degree to which these recommendations are utilised will depend upon an agencies needs and priorities.

References

Department of Conservation & Land Management, Western Australia. (1991). *Policy Statement No.18, Recreation, Tourism and Visitor Services*.

Department of Conservation & Land Management, Western Australia. (1996). *Recreation & Tourism Workshop - Proceedings, Strategy & Action Plans 1996 - 2000.*

Department of Conservation & Land Management, Western Australia. (1997). *Policy Statement No.53, Visitor Risk Management.*

Department of Conservation & Land Management, Western Australia. (1997). *Visitor Risk Management - Operational Guidelines.*

Department of Conservation & Natural Resources, Victoria. (1994). *Public Liability Risk Management Manual.*

Department of Primary Industries, Forest Services, Queensland. (1994). *Sound Practice Indicator for Visitor Site Management on State Forests.*

Parks Canada, Department of Canadian Heritage. (1994). *Visitor Risk Management Handbook*. Minister of Supply and Services Canada.

Peterson, James A. (1987). "*Risk Management for Park, Recreation and Leisure Services*". Management Learning Laboratories, Illinois, USA.

Acknowledgements

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David Phillips	Environment Australia
Clarel Castagnet	National Parks & Wildlife Service New South Wales
Bill Kearney	Parks and Conservation Australian Capital Territory
Peter Egan	Parks and Wildlife Commission Northern Territory

ANZECC WORKING GROUP
BENCHMARKING BEST PRACTICE PROGRAM
RISK MANAGEMENT / PUBLIC LIABILITY

		Please circle appropriate response	
1.	Has your organisation issued a formal risk management policy statement?	YES	NO
	1.1 If YES, does the statement contain -		
	a) goals;	YES	NO
	b) objectives;	YES	NO
	c) strategies;	YES	NO
	d) performance indicators	YES	NO
	COMMENTS:		

2.	Within your organisation is there a structured process of identifying any exposures in relation to the risk of possible injury to visitors to the estate?	YES	NO
	2.1 If YES, is there a method used whereby your organisation is able to:		
	a) assess those risks in terms of impact on the organisation;	YES	NO
	b) determine what control measures to implement;	YES	NO
	c) review the degree of success of the control measures implemented.	YES	NO
	COMMENTS:		

3.	Is there a designated course of action in the event of an incident or advice of a potential claim against the organisation?	YES	NO
	COMMENTS:		

4.	Are details of claims or incidents documented and recorded internally?	YES	NO
	4.1 If YES, is a computerised data base used?	YES	NO
	COMMENTS:		

5.	Within your organisation, is there an internal group or section which is responsible for claims management?	YES	NO
	5.1 If YES, outline where within your organisation this responsibility lies. If NO, outline where the responsibility does lie.		
	COMMENTS:		

6.	Is there any formal training program for your staff in relation to visitor risk management?	YES	NO
	6.1 If YES, is that training conducted -		
	a) in house;	YES	NO
	b) by external specialists;	YES	NO
	c) both.	YES	NO
	COMMENTS:		

7.	Does your organisation have a program of regular risk inspections of recreational sites and facilities?	YES	NO
	7.1 If YES -		
	a) are those inspection details documented and retained?	YES	NO
	b) are maintenance details and schedules also documented and retained?	YES	NO
	COMMENTS:		

8.	How does your organisation currently obtain legal advice and/or representation on risk management/public liability issues?		
	Through:		
	a) Crown Solicitor;	YES	NO
	b) private legal practice(s);	YES	NO
	c) in house legal officer;	YES	NO
	d) combination of above	YES	NO
	COMMENTS		

9.	Does your organisation hold insurance cover for public liability risk?	YES	NO
	9.1 If YES -		
	a) what is the level of cover?	$	
	b) what is the level of excess or deductible (if applicable)?	$	
	c) does your organisation participate in regular case review meetings with the insurer?	YES	NO

COMMENTS:

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10..	In relation to commercial operators does your organisation “transfer” risk by way of indemnity clauses within contracts or agreements?	YES	NO

COMMENTS:

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11.	Is there any similar "transfer" of risk in place for non commercial activities?	YES	NO
	COMMENTS:		

12.	Does your organisation consider that a standardised or rationalised approach to visitor risk management issues should be adopted by land management agencies?	YES	NO
	COMMENTS:		

RETURN TO:

Mr J Ireland
Principal Risk Management Officer
Department of Conservation and Land Management
Locked Bag 104
BENTLEY DELIVERY CENTRE WA 6893

BY: 31 OCTOBER, 1996

APPENDIX II: QUESTIONNAIRE RESULTS

FIGURE 1: RISK MANAGEMENT POLICY

Question 1	NSW		NT		Qld		SA		Tas		Vic		WA		EA		NZ	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
Has your organisation issued a risk management policy statement?		N	Y		Y		Y			N	Y		Y			N		N
If YES, does this statement contain:																		
a) goals;				N		N	Y				Y		Y					
b) objectives;			Y		Y		Y				Y		Y					
c) strategies;			Y			N	Y				Y		Y					
d) performance indicators.				N		N	Y				Y		Y					

Summary:

5 out of 9 agencies have issued a risk management policy statement. Of these 5 statements:

- 3 of the 5 contain goals.
- 5 of the 5 contain objectives.
- 4 of the 5 contain strategies.
- 3 of the 5 contain performance indicators.

FIGURE 2: PROCESS OF IDENTIFYING RISK

Question 2	NSW		NT		Qld		SA		Tas		Vic		WA		EA		NZ	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
Within your organisation is there a structured process of identifying any exposures in relation to the risk of possible injury to visitors to the estate?	Y		Y		Y		Y		Y		Y			N		N		N
If YES, is there a method used whereby your organisation is able to:																		
a) assess those risks in terms of impact on the organisation;	Y		Y		Y		Y			N	Y							
b) determine what control measures to implement;	Y		Y		Y		Y		Y		Y							
c) review the degree of success of control measures implemented.	Y		Y			N	Y		Y		Y							

Summary:

6 of the 9 agencies have a structured risk identification process. Of these:

- 4 of the 6 agencies assess those risks in terms of impact on the organisation.
- All 6 determine what control measures to implement with regard to the risk.
- 5 of the 6 agencies review the success of the control measures implemented.

FIGURE 3: INCIDENTS AND CLAIMS

Question 3	NSW		NT		Qld		SA		Tas		Vic		WA		EA		NZ	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
Is there a designated course of action in the event of an incident or advice of a potential claim against the organisation?	Y		Y		Y		Y		Y		Y		Y		Y		Y?	N?

Summary:

All 9 agencies have a set course of action in the event of an incident.

Question 4	NSW		NT		Qld		SA		Tas		Vic		WA		EA		NZ	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
Are details of claims or incidents documented and recorded internally?	Y		Y		Y		Y		Y		Y		Y		Y		Y	
If YES, is a computerised database used?	Y			N	Y		Y		Y					N	Y			N

Summary:

All 9 agencies document and record details of claims or incidents internally (although for Tasmania, only incidents involving staff, not members of the public, are recorded). Of these:

- 5 of the 9 record this information on a computerised database (Victoria gave no response to the question).

FIGURE 3 (cont'd): INCIDENTS AND CLAIMS

Question 5	NSW		NT		Qld		SA		Tas		Vic		WA		EA		NZ	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
Within your organisation, is there an internal group or section which is responsible for claims management?	Y		Y		Y		Y		Y		Y		Y		Y		Y	
If YES, outline where in your organisation this responsibility lies. If NO, outline where the responsibility does lie.																		

Summary:

All agencies have an internal group or section responsible for claims management.

FIGURE 4: RISK MANAGEMENT TRAINING

Question 6	NSW		NT		Qld		SA		Tas		Vic		WA		EA		NZ	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
Is there any formal management training program for staff in relation to Visitor Risk Management		N		N	Y		Y			N	Y		Y			N		N
If YES, is that training conducted:																		
a) in house;					Y		Y				Y							
b) by external						N	Y				Y							
specialists;						N	Y				Y							
c) both.																		

Summary:

3 of the 9 agencies have a formal training program for staff in relation to Visitor Risk Management. Of these:

- 3 of the 3 use in house training.
- 2 of the 3 use external specialists (ie use both).

FIGURE 5: RISK INSPECTIONS

Question 7	NSW		NT		Qld		SA		Tas		Vic		WA		EA		NZ	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
Does your organisation have a program of regular risk inspections of recreation sites and facilities?		N	Y		Y		Y			N	Y		Y		Y		Y	
If YES: a) are those inspection details documented and retained: b) are maintenance details and schedules also documented and maintained.			Y Y		Y Y		Y	 N			Y Y			N N	Y Y		Y Y	

Summary:

7 of the 9 agencies have a program of regular risk inspections of sites and facilities. Of these:

- 6 of the 7 document and retain the details of the inspections.
- 4 of the 7 document and maintain maintenance details and schedules.

FIGURE 6: LEGAL ADVICE

Question 8	NSW		NT		Qld		SA		Tas		Vic		WA		EA		NZ	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
How does your organisation currently obtain legal advice and/or representation on risk management/public liability issues?	Y		Y		Y		Y		Y		Y		Y		Y		Y	
Through:	Y			N		N		N		N	Y		Y			N	Y	
a) Crown Solicitor;	Y			N		N		N		N	Y		Y		Y		Y	
b) private legal practice(s);	Y			N		N		N		N	Y		Y			N	Y	
c) in house legal officer;																		
d) combination of the above																		

Summary:

All 9 agencies seek legal advice and/or legal representation on risk management/public liability issues through the Crown Solicitor.

- 3 of the 9 agencies seek legal advice and/or legal representation on risk management liability issues through the private legal practice(s).
- 5 of the 9 agencies seek legal advice and/or legal representation on risk management/public liability issues through an in house legal officer.
- 4 of the 9 agencies seek legal advice and/or legal representation on risk management/public liability issues through a combination of the above methods.

FIGURE 7: INSURANCE

Question 9	NSW		NT		Qld		SA		Tas		Vic		WA		EA		NZ	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
Does your organisation hold insurance cover for public liability risk?	Y			N		N	Y		Y		Y		Y		Y		Y	
If YES:																		
a) what is the level of cover?	As rqd						Unlimited		$10m		$5		$200m		$100m		$5m	
b) what is the level of excess of deductible (if applicable)?	N/A						$20 000		$500		$25 000		$100 000		$1 000		$5 000	
c) does your organisation participate in regular case review meetings with the insurer?	Y						N		Y		Y		Y		N		Y	

Summary:

7 of the 9 agencies hold insurance cover for public liability risk. Of these:

- NSW and SA have unlimited funds, Tasmania - $10 million cover, WA - $200 million cover, Environment Australia - $100 million cover, Victoria and New Zealand - $5 million cover.
- NSW - no excess, SA - $20 000 excess, Tasmania - $500 excess, WA - $100 000 excess, Environment Australia - $1 000 excess, Victoria - $25 000 excess and New Zealand - $5 000 excess.
- 5 of the 7 agencies participate in regular case review meetings with their insurer.

FIGURE 8: TRANSFER OF RISK FOR COMMERCIAL/NON-COMMERCIAL ACTIVITIES

Question 10	NSW		NT		Qld		SA		Tas		Vic		WA		EA		NZ	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
In relation to commercial operators, does your organisation 'transfer' risk by way of indemnity clauses within contracts or agreements?	Y		Y		Y		Y		Y		Y		Y		Y		Y	

Summary:

9 of the 9 agencies 'transfer' risk by way of indemnity clauses within contracts and agreements in relation to commercial operations.

Question 11	NSW		NT		Qld		SA		Tas		Vic		WA		EA		NZ	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
Is there any similar 'transfer' of risk in place for non-commercial activities?	Y		Y			N	Y			N	Y		Y		Y			N

Summary:

6 of the 9 agencies use similar techniques as those used with commercial operators to 'transfer' risk with regard to non-commercial activities.

FIGURE 9: RESTRICTION OF LIABILITY

Question	NSW	NT	Qld	SA	Tas	Vic	WA	EA
Is any legislation in existence, or planned, to limit the potential liability of your organisation?	No. Common law prevails.	No. Common law prevails. Most recent case. Romeo v. Conservation Commission of NT. Case involved quadriplegia - Conservation Commission successful in high court.	No. Common law prevails.	Common Law generally prevails. Recent amendment to Crown Lands Act 1929 limits liability on "unoccupied Crown Land" to a consequence of an act or activity of the Crown. "Unoccupied Crown Land" includes National Parks, Forest reserves, and other land not used "for any purpose". Yet to the tested.	No. Common law prevails.	No. Common law prevails.	Common law generally prevails. Recent Land Admin. Act 1997 removes liability associated with "public access routes" over Crown Land. Yet to be tested.	No. Common law prevails.
What is your attitude to the introduction of model legislation limiting liability of public land mngt authorities?	Supports the idea	Supports the idea	Supports the idea	Supports the idea	Supports the idea	Supports in principle	Supports the idea	Only a small number of personal injury cases have been recorded against the agency. The number of claims needs to be assessed across all jurisdictions to determine the need for model legislation.

Note: The Department of Conservation in New Zealand already has legislation which limits liability.

DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT

Policy Statement No: 53

VISITOR RISK MANAGEMENT POLICY

POLICY

In addition to a genuine concern for visitor welfare, CALM has a moral and legal responsibility to consider the personal safety and welfare of visitors to CALM managed lands and waters. We will aim to manage the potential for injuries and misadventure to visitors, in a manner that does not render the environment sterile or unnecessarily diminish visitor use and enjoyment in the process.

CALM will manage the risks presented to visitors by their activities and by the natural, cultural and developed environments under CALM control, by implementing a visitor risk management program. This involves a broad-based understanding of the risks encountered by visitors and provision of funds and staff time in the most efficient and cost effective way possible to minimize the frequency and consequences of incidents.

Our commitment and approach will be part of an integrated risk management program comprising identification, analysis and efficient control of exposure to public liability risks.

Guidelines for CALM area managers on how to conduct a visitor risk management program will be prepared.

GOALS, OBJECTIVES, STRATEGIES AND PERFORMANCE INDICATORS

Goal

We seek to minimize the incidence of injury to visitors to CALM managed lands and waters through the implementation of a comprehensive and structured visitor risk management program and, by so doing, manage CALM's exposure to public liability.

1.1 Objective

To minimize the likelihood and undesirable consequences of misadventure or injury to our visitors through the implementation of measures which are reasonable in the context of hazard, activities undertaken, intensity of use and inherent character of the site.

2 Strategies

1.2.1 Prepare and disseminate visitor risk management guidelines and provide assistance and training for staff, committees of management, and commercial concessionaires in the management of risks to visitors to CALM managed lands and waters.

1.2.2 Apply relevant industry standards and utilise appropriate expertise and quality of materials in the design and construction of facilities and structures.

1.2.3 Carry out periodic risk assessments of all CALM recreation sites, facilities and visitor services to identify risks and potential hazards and use this information as part of the basis for preparing and implementing recreation site and facility maintenance programs and refinement of visitor services.

1.2.4 Develop and maintain an information gathering and recording system to monitor the risks associated with sites and facilities and the frequency, situation and type of injury and misadventure incidents that occur on CALM managed lands and waters.

1.2.5 Consider risk management issues during the process of preparing or reviewing area management plans and interim management guidelines.

1.2.6 Promptly investigate all reported visitor accidents and injuries on CALM managed lands and waters and implement appropriate risk mitigation measures.

1.2.7 Use specialist expertise to identify and rate risks where necessary.

1.3 Performance Indicators:

1.3.1 The number and severity of reported incidents or injuries to visitors on CALM managed lands and waters (per 100 000 visits or similar unit).

1.3.2 The relative cost of public liability insurance premiums.

2.1 Objective:

To encourage appropriate visitor behavior with respect to hazards posed by activities and by natural, cultural and developed environments.

2.2 Strategies

2.2.1 Provide appropriate training to ensure that staff possess adequate knowledge of codes of safe practice for specific recreation activities, risk assessment, risk control and incident management procedures.

2.2.2 Provide brochures and other promotional material, including information on public safety, to enable visitors to consider risks in planning their activities on CALM managed lands and waters, and be empowered to act in an informed manner in providing for their own safety.

2.2.3 Adopt codes of safe conduct for popular activities (eg, hiking, swimming, diving, canoeing, abseiling, caving), and promote and publicise them as appropriate.

2.2.4 Provide signs to bring to visitors' attention, those hazards associated with structure, facilities or natural attractions which are not reasonably obvious. (Where practicable, standard pictogram or symbol signs will be used for easy comprehension).

2.2.5 Encourage safe practices and attitudes with respect to wildlife and other visitors by providing information brochures and displays.

2.2.6 Use specialist expertise to identify and rate risks where necessary

2.3 Performance Indicator

2.3.1 The number of reported visitor injuries which can be attributed in part or in full to inappropriate visitor behavior.

3.1 Objective

Develop and apply efficient procedures for visitor risk management.

3.2 Strategies

3.2.1 Maintain a level of insurance cover appropriate to the level of risk and CALM's exposure to liability claims.

3.2.2 Obtain appropriate indemnity from organisations, individuals or their agents in connection with the commercial use of CALM managed estate and/or facilities. In special circumstances apply similar procedures (including evidence of acceptable insurance cover) to non-commercial visitors.

3.2.3 Implement an incident reporting procedure for collecting and recording information about visitor injury and misadventure.

3.2.4 Regularly review the status of claims and through liaison with our insurers attempt to promptly finalise them on a commercial basis.

3.2.5 Structure the liability claims management process in CALM to form an integral part of the overall visitor risk reporting process.

3.2.6 Identify and prepare regular management reports on the frequency and severity of events resulting in claims; and on the costs of risk control measures and visitor risk management administration in CALM.

3.2.7 Analyse the occurrences of visitor injury and misadventure to determine the best options for a suitable balance between risk control and risk financing management strategies.

3.3 **Performance Indicators:**

3.3.1 The number of claims or possible claims which are investigated in detail and evaluated with respect to potential liability implications within a pre-determined target time.

3.3.2 The annual “cost of risk” expenditure by CALM taking into account self-insured deductibles, premium, risk control and administration of the visitor risk management program.

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1. Using These Guidelines

This manual has been produced primarily for use by staff of the Department of Conservation and Land Management WA. It is designed to be used by staff responsible for identifying, assessing, controlling and monitoring risks associated with the use of CALM managed lands and waters.

It is intended to provide a formalised set of guidelines for districts and regions to follow when establishing and applying a Visitor Risk Management Program.

2. Scope Of These Guidelines

The guidelines cover four main sections:-

- The background of the Visitor Risk Management Program.

    1. The importance of establishing a formalised risk management program in CALM.

    1. How to conduct a risk assessment.

    1. Documentation required.

3. Background Of Visitor Risk Management

Each year hundreds of thousands of people recreate on lands managed by CALM. As a result, incidents resulting in injury or misadventure for visitors unavoidably occur. Some of these incidents invariably result in serious injury - occasionally even death - or can cause property damage.

The Department of Conservation and Land Management has developed a Visitor Risk Management Policy Statement to address this issue. The goal and objectives of the policy are outlined below.

3.1 The Visitor Risk Management Policy

In addition to a genuine concern for visitor welfare, CALM has a moral and legal responsibility to consider the personal safety and welfare of visitors to CALM managed lands and waters. Our aim is to manage the potential for injuries and misadventure to visitors, in a manner that does not render the environment sterile or unnecessarily diminish visitor use and enjoyment in the process.

CALM will manage the risks presented to visitors by their activities and by the natural, cultural and developed environments under CALM control, by implementing a visitor risk management program. This involves a broad-based understanding of the risks encountered by visitors and provision of funds and staff time in the most efficient and cost effective way possible to minimise the frequency and consequences of incidents.

Our commitment and approach will be part of an integrated risk management program comprising identification, analysis and efficient control of exposure to public liability risks.

Guidelines for CALM area managers on how to conduct a visitor risk management program will be prepared.

3.1.1 The Goal

We seek to minimise the incidence of injury to visitors to CALM managed lands and waters through the implementation of a comprehensive and

structured visitor risk management program and, by so doing, manage CALM's exposure to public liability.

Objective 1:

To minimise the likelihood and undesirable consequences of misadventure or injury to our visitors through the implementation of measures which are reasonable in the context of the hazard, activities undertaken, intensity of use, and inherent character of the site.

Objective 2:

To encourage appropriate visitor behaviour with respect to hazards posed by activities and by natural, cultural and developed environments..

Objective 3:

Develop and apply efficient procedures for visitor risk management.

4. What Is Visitor Risk Management?

4.1 A Definition of Risk Management

Risk Management is the systematic identification, analysis and control of the broad range of risks which threaten an organisation or its ability to achieve its objectives. It involves defining answers to the following three questions:

- **Risk Assessment - What can go wrong?**

  ie. identifying major adverse contingency situations, measuring their potential effect and then defining that potential in terms of frequency, severity and variability from the expected.

- **Risk Control - What can we do about it?**

  ie. developing, implementing and monitoring policies, procedures and mechanisms for responding to contingency situations. This is the heart of the risk management program.

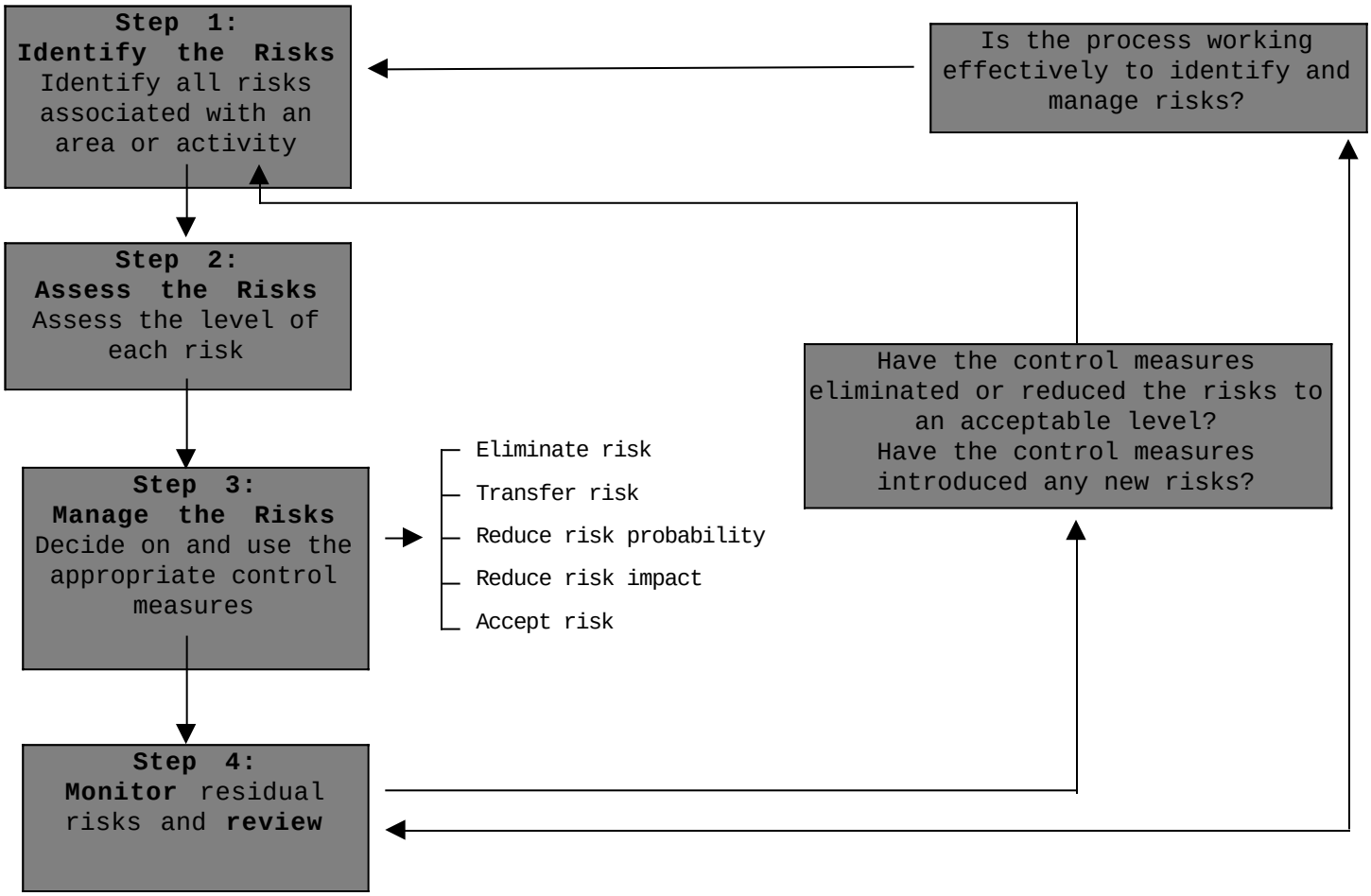
- **Risk Financing - How do we pay for it?**

  ie. the provision of funds to meet contingencies as they occur so as to maintain the fiscal health of, and public confidence in, the organisation.

These guidelines focus on the assessment and control processes used in the management of risks to visitors of CALM managed lands and waters.

- **Overview Of The Visitor Risk Management Program**

Visitor risk management can be broken down into four basic stages, as follows:-



Risk management is really nothing new. Many risk management activities are already being carried out in districts, though perhaps as part of a more ad-hoc system. These guidelines are simply designed to provide a more formal and standardised approach to visitor risk management throughout the Department.

Risk management should not be viewed as an imposition, but as an opportunity which will enable risks to be managed more effectively and efficiently.

5.Reasons For A Visitor Risk Management Program

5.1 Relevant Legislation

Besides a genuine concern for visitor safety, CALM is legally bound by the Occupier's Liability Act No. 52 of 1985 to manage the risk of injury and misadventure to visitors of CALM managed lands and waters.

Under the Act, the occupier (CALM) owes a duty of care to visitors of the estate it manages to investigate and identify any potential dangers that may cause injury, death or damage to persons or property and to take steps to eliminate or reduce (to an acceptable level) those dangers.

5.1.1 Duty of Care Considerations

In determining whether the land occupier has discharged its duty of care, the courts take into account seven factors:

- the gravity and likelihood of the probable injury;
- the circumstances of entry on to the premises;
- the nature of the premises;
- the knowledge which the occupier of the premises has or ought to have of the likelihood of persons or property being on the premises;
- the ability of the person entering the premises to appreciate the danger;
- the age of the person entering the premises; and
- the burden on the occupier of eliminating the danger or protecting the person entering the premises from the danger as compared to the risk of the danger to the person.

It is essential to note that recent court decisions have placed quite an onerous duty on managers to eliminate or reduce (to an acceptable level) all potential risks. The current situation is such that, if it is found that a risk was foreseeable, then the land manager is likely to be found at least partially liable by the courts if an accident occurs.

The key benefit of the visitor risk management program is that risks which may have been previously unrecognised, underestimated or taken for granted will be given appropriate consideration. Therefore, when properly employed, the system will help to ensure CALM's duty of care has been fulfilled and that CALM managers have exercised due diligence.

5.1.2 Due Diligence

CALM aims to meet the needs of the public for access to natural environments by providing quality recreational, educational and cultural opportunities in partnership with the community. While recognising that, for many recreational activities, risk and challenge is an integral component of the experience, we have a duty to attempt to anticipate the risk of people being injured and pro-actively manage those risks. We must endeavour to uphold both our moral and legal duty of care to implement those measures that are reasonable and prudent in the circumstances, and which assist us in minimising the incidence of personal injury to visitors on CALM managed lands and waters.

5.2 Factors Increasing CALM's Potential Public Liability

The potential public liability risk faced by CALM has increased over the past few years for several reasons. These include:

- increasing awareness of the natural attractions and facilities managed by CALM leading to increased visitation;
- increasing public mobility (including elderly and people with disabilities) leading to increased visitation;
- increasing size of CALM managed estate;
- increasing prevalence of serious injury;
- public expectation of facing challenges with minimal management or control;
- increasing tendency for injury to lead to litigation.

6. Principles Of Visitor Risk Management

There are four main stages in the risk management program, these are:-

Step 1: Identify the risks.

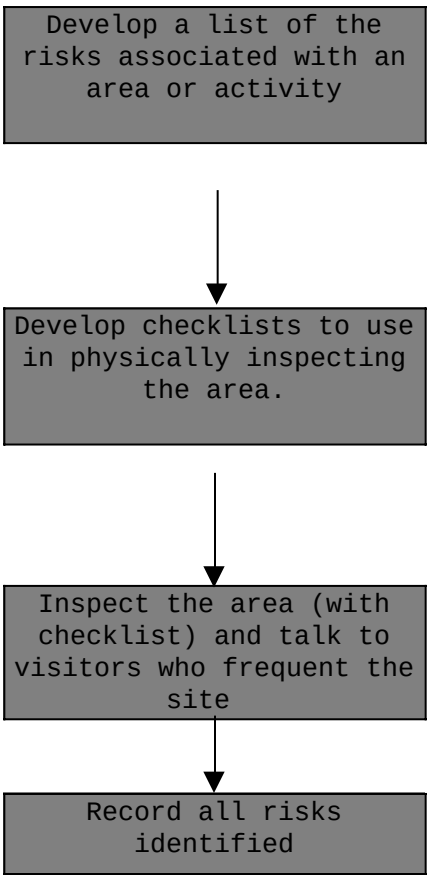
Step 2: Assess the risks.

Step 3: Determine what control measures to take.

Step 4: Review, apply and monitor control measures.

a) The Risk Identification Process

6.1.1 An Overview of the Risk Identification Process



Sources of Information:

- **past risk assessment reports**
- **incident reports for area**
- **CALM employees working in area**
- **visitors to area**
- **relevant reports or articles**

6.1.2 Procedures for Conducting Risk Identification

6.1.2a Identify the risks.

6.1.2b Identify the form the risk takes or the way it manifests.

6.1.2c There are a number of methods that can be used to identify the risks in an area. The type of area will determine the method selected. A combination of methods may give the most complete results. Methods of identifying risks include:-

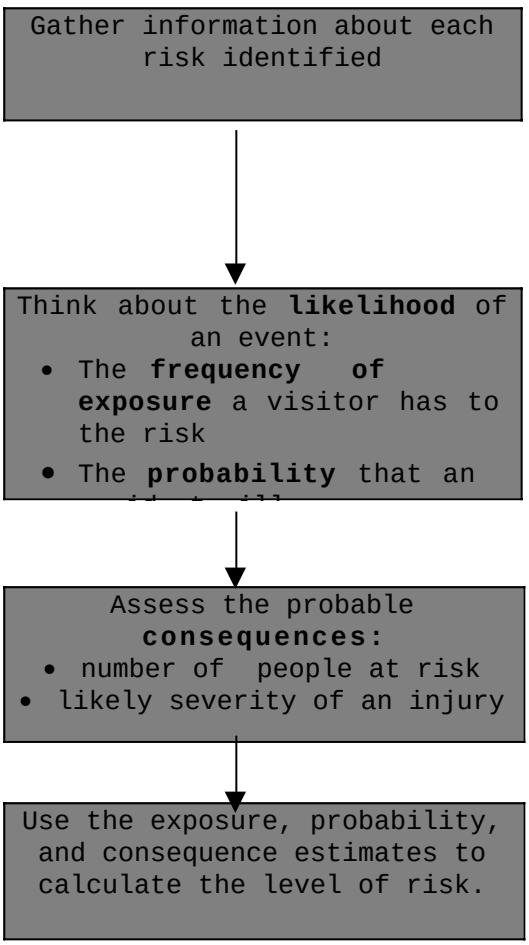
- walk through survey of the area;
- consulting with employees who regularly work in the area, eg. rangers, maintenance workers. This is an easy and effective means of identifying risks;
- consulting with visitors who regularly frequent the site. Regular visitors will often be aware of potential risks and may provide a different view point from CALM employees;
- consulting with external consultants/specialists when appropriate eg. for a rock stability survey.
- reviewing 'near miss' incident, accident, injury or previous risk reports relating to an area;
- reviewing existing relevant reports or articles (eg interstate agency risk reports).

6.2 The Risk Assessment Process

Once a risk has been identified, an assessment should be carried out in order to

determine the extent of the risk.

6.2.1 An Overview of the Risk Assessment Process



Sources of Information:

- **past risk assessment reports**
- **incident reports for area**
- **CALM staff working in area**
- **visitors to area**
- **relevant reports or articles**

Frequency of Exposure: a measure of the likelihood of an event in a given time ranging from occasional to continuous.

Probability: the likelihood of an event occurring ranging from practically impossible to almost certain.
Likelihood: a measurement of the probability of an event combined with the frequency of exposure.
Consequence: the outcome of an event if it were to occur.

6.2.2 Procedures for Conducting Risk Assessment

6.2.2a The Risk Assessment Calculator (see following example) is one effective method that can be used to calculate the level of risk. The Risk Assessment Calculator is intended to be used as a rapid guide for identifying risk levels.

6.2.2b The methods outlined for identifying risks (6.1.1c) can also be used to determine each of the elements in the risk calculator ie. frequency of exposure, probability and possible consequences.

6.2.2c To use the Risk Assessment Calculator:

i) select the appropriate point on the **probability** scale;
ii) drawing a line, connect the point on the **probability** scale with the appropriate point on the **exposure** scale;
iii) extend the line so that it intersects with the **tie line**;
iv) draw the line to the appropriate point on the **possible consequences** scale;
v) extend the line to the **risk score** scale.

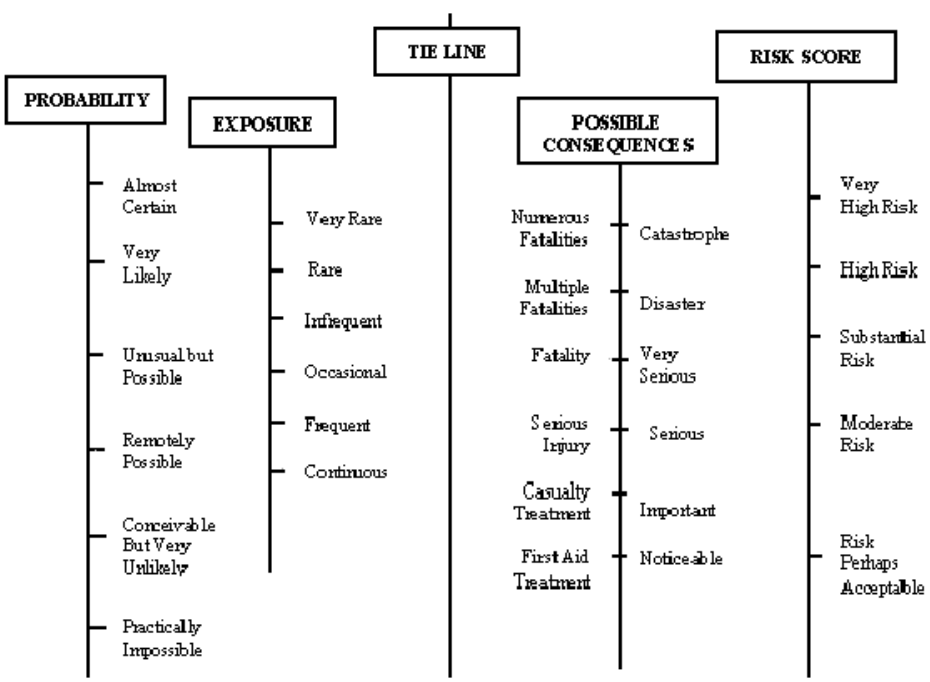
6.2.2d The risk score obtained can be used to help determine whether a level of risk is acceptable or not. However, the risk score should only be used as a basis for making a reasonable judgement about risk. It should be interpreted with caution, as it has certain limitations, for instance, it is not possible to describe or predict complex human behaviour by numerical means.

Risk Management Form

1. Identify the Risk
a) Describe the risk:
b) Form the risk takes:

2. Assess the Risk
a) Probability of risk resulting in injury:
a) Number of people exposed:
a) Duration of exposure:
a) Possible consequences:
a) Risk Assessment Calculator indicates:

a) Risk score calculated:



3. Determine What Control Measures to Take
a) Short term/immediate control measures:
b) Long term control measures:

4. Review Apply and Monitor Control Measures

a) Review the possible control measures:

(i) Will the control measures introduce a new risk(s)?[Yes/No]

If no, continue.

If yes, undertake the risk management procedure again for each new risk.

(ii) Are the revised control measures effective? (ie. no new risks) [Yes/No]

If yes, continue.

If no, undertake the risk management procedure again for each new risk.

Note: All paperwork assessing the additional risks potentially created by the suggested control measures should be attached to this document.

b) Short term/immediate control measures finally applied:
Long term control measures finally applied:

c) Monitor the control measure:

(i) Does the control measure continue to be effective? [Yes/No]

If yes continue to monitor.

If no, re-do the risk management procedure again.

Employee Details
Report prepared by:
Position:
Region/District:
Employee Signature:
Date:

3. Determine What Control Measures To Take

Using the results of the risk assessment, determine what control measures, or what action to take, in order to eliminate or reduce the risks.

6.3.1 Risk Management Options

6.3.1a Eliminate the Risk - eg. felling a tree leaning over a car park, closing access to a site, banning an activity in an area. Environmental qualities and visitor enjoyment should be taken into consideration when applying this option.

6.3.1b Transferring some of the Risk - eg. provide the public with information that both encourages safe behaviour and allows an informed decision to be made about the risk, set up warning signs (see specifications set out in the CALM Signs Manual), seek indemnity from the user.

6.3.1c Reduce the Risk Probability - eg. only allow access under supervision, upgrading structural strength of a facility (Gloucester Tree). Environmental qualities and visitor enjoyment should be taken into consideration when applying this option.

6.3.1d Reduce the Risk Impact - eg. limiting or controlling access, removing objects that might exacerbate injuries in the event of an accident such as a tree on a sharp curve. Environmental qualities and visitor enjoyment should be taken into consideration when applying this option.

6.3.1e Accept the Risk - this option is valid only if the risk is deemed to be within acceptable limits ie. low or negligible risk.

6.3.2 Selecting Appropriate Control Measures

Control measures may be divided into short term/immediate control measures and long term control measures. The following guidelines should be followed to ensure appropriate measures are instituted for the calculated risk level:

6.3.2a Very High Risk (VHR):

i) For high visitor use areas, immediately close area/activity to public, barricade/fence, and install 'Danger' signs. For remote areas, signposting a danger warning may be sufficient.
ii) Detailed assessment and management planning required at senior levels.
iii) Obtain expert advice when necessary, for example when assessing the stability of a cliff face.
iv) Eliminate or reduce the risk (probability and/or impact) to an acceptable level as soon as possible and as a matter of high priority.
v) Ensure information on closure or modifications is incorporated in any existing literature (or other information source) promoting the area.

6.3.2b High Risk (HR):

i) As for rating above.

6.3.2c Substantial Risk (SR):

i) Attention of senior staff required.
ii) Public access/activity may be permitted.
iii) Install signs warning of risks in area where these are considered necessary.
iv) Obtain expert advise when necessary, for example when assessing the stability of a cliff face.

6.3.2d Moderate Risk (MR):

i) All activities and most facilities may be permitted. Proposals for major buildings or developments must be subject to independent and professional assessment.
ii) Install signs warning of risks in area where these are considered necessary.
iii) Management responsibility for area/facility must be specified.

6.3.2e Acceptable Risk (AR):

i) No action is likely to be required. Manage by routine procedures.
ii) All environmentally appropriate public/recreational activities may be permitted.
iii) Area promoted to the public and high visitor numbers encouraged, providing environmental qualities are not jeopardised.

Please note these measures are designed to act as general guidelines only. All options must be evaluated based on the specific characteristics of the risk. The cost of implementing the option must be balanced against the benefits derived from it.

6.4 Review, Apply And Monitor Control Measures

6.4.1 Review of control measures

Review the proposed control measures to be applied in order to determine:

6.4.1a The potential effectiveness of the control measure, ie. would the risk be controlled if that control measure were applied.

6.4.1b Whether the application of a chosen control measure will introduce new risks.

- One way to conduct an effective review is to re-do steps 1 and 2 of the risk management process (identification and assessment) based on the situation that would exist if the chosen control measure was introduced.

6.4.2 Application of Control Measures

Apply the control measures if the review indicates they would reduce the risk and would not introduce new risks.

6.4.3 Monitor

Monitor the effectiveness of the control measures. The key to an effective monitoring program is **regular assessments** and **stringent documentation** (see Frequency of Inspections and Recording sections).

7. Frequency Of Inspections

The purpose of regular inspections is to detect and manage hazards before members of the public are injured.

The frequency of inspections will vary according to the nature of the attraction or facility in question. For example, a well used picnic site would require more regular inspection than an isolated, unmarked walk track.

A stringently enforced timetable needs to be established to regulate the frequency of inspections for a given area. Where possible, inspections should be accommodated in day-to-day duties.

8. Recording

8.1 Documentation Required

Each stage of the risk management process should be documented. At each stage of the process, documentation needs to include:-

- objectives;
- information sources;
- assumptions;
- options considered; and
- decisions.

8.2 Reasons for Documentation

The reasons for documentation are as follows:-

- to demonstrate the process is conducted properly;
- to provide a record of risks;
- to provide relevant decision makers with a risk management plan for approval and subsequent implementation;
- to provide an accountability mechanism and tool;
- to facilitate continuing monitoring and review;
- to provide an audit trail;
- to share and communicate information.

8.3 Incident Register

All incidents must be reported on official forms and documented because of:-

- the possibility of legal claims - six years can elapse before a liability claim is lodged. You may not remember the incident in six years; and
- the need to use past incidents in risk identification - if the same type of incident were to occur twice without measures being taken, the potential for liability to be imputed would obviously be greatly increased. There is also a question of moral negligence to be considered.

APPENDIX 2 is a standard incident report form.

8.4 Risks Register

All risk assessments must be recorded. Records should include:-

- a comprehensive list of all risks identified;
- date of original assessment and subsequent assessments;
- their risk assessment score;
- action required and taken;
- a map/plan of visitor sites to accurately locate risks;
- particular comments relating to the risks;

APPENDIX 3 is a standard example of a risk report form.

8.5 Risk Treatment Schedule And Action Plan Documents

A risk treatment and action plan documents the management controls to be adopted and should include the following information:

- who has responsibility for the implementation of the plan;
- what resources are to be utilised;
- budget allocation;
- timetable for implementation;
- details of the mechanism and frequency of review and compliance with the action plan.

APPENDIX 4 is a standard example of an action plan report form.

8.6 Monitoring and Audit Documents

Monitoring and audit records should document:

- details of the mechanism and frequency of review of risks and the risk management process as a whole;
- the outcomes of audits and other monitoring procedures;
- details of how review recommendations are followed up and implemented.

Appendix 1: Example of a Risk Assessment

1.1 Identify the Risks

1.1.1 A risk audit is made of a CALM managed camping facility and walk trail located on the bank of a river. To ensure all potential risks present are identified, several methods are used:

- walk through survey of the area with a checklist, including an underwater survey of the river
- consulting with visitors to the site
- consulting with the CALM staff who service the site
- consulting with external consultants/specialists when appropriate
- reviewing history available on site eg. past assessments, incident reports
- reviewing existing reports on similar sites.

1.1.2 Using these methods, several potential risks are identified. One of these is an easily accessible branch overhanging a reasonably shallow point in the river which is clearly being used for a rope swing.

1.1.3 It is identified that the branch is likely to continue to be used as a rope swing; even though the river is considered too shallow at that point for safety.

1.2 Assess the Risk

1.2.1 Information is gathered on the risk using the methods discussed previously (1.1.1). Using these methods, it is determined that:-

- Approximately 30 people per day could be expected to use the swing (at peak times). However, only 1 person is in danger at any one time.
- The frequency of exposure is <u>continuous</u> (ie. each time the person uses the swing).
- The probability of injury is <u>unusual but possible.</u>
- The probable consequence of an accident is the <u>serious injury of a single person.</u>
- Using the above estimations and the risk assessment calculator, the risk score calculated indicates the hazard should be treated as <u>high risk.</u>

1.3 Determine what Control Measures to Take

1.3.1 Based on the high risk rating obtained, it is decided two short term measures are required immediately to reduce the risk:-

a) remove the branch; and
b) put in place a sign (according to CALM Sign Manual Specifications) at the site explaining to people why the branch was removed and outlining the dangers of uncontrolled rope swings.

1.3.2 In the longer term, it is decided to install another rope swing closer to the camp site where the river is deeper and the swing would be considered safe. To encourage its use in the place of uncontrolled rope swings-

a) a platform will be constructed, and
b) Deep Water sign will be put in place (in accordance with CALM Sign Manual specifications)

1.4 Review, Apply and Monitor Control Measures

1.4.1 A review of the control measures is conducted using the following methods:-

- reviewing existing hazard reports on similar sites
- consulting with employees in charge of servicing similar sites.

1.4.2 Using these methods, it is identified that the control measures create several more risks:-

a) uncontrolled rope swings being put in place at other points on the river;
b) the platform eg. splintering, collapse;

c) the rope swing eg. breaking, fraying;
d) snags beneath swing eg. dead branch washes down river, becomes snagged beneath rope swing; and
e) the signs eg. damage/removal.

1.4.3 These risks, like all risks identified, require a complete assessment.

1.4.4 After a complete assessment is carried out on each of the risks identified previously, it is decided that:-

- Risk (a) can be managed with:
  - i) the permanent introduction of weekly inspections of the area to remove any uncontrolled rope swings and daily inspections during peak periods,
  - i) the permanent placement at the platform of a sign (according CALM Sign Manual Specifications) warning of the dangers of uncontrolled rope swings.
- Risks (b - e) can be controlled with regular monthly inspections and inspections after any large storm event or large water movement and before peak periods (eg. school holidays/public holidays).

1.4.5 Using the review process it is decided that none of the above control measures would cause any additional risks.

1.4.6 The control measures are applied.

1.4.7 The effectiveness of the control measures is monitored using the following methods:-

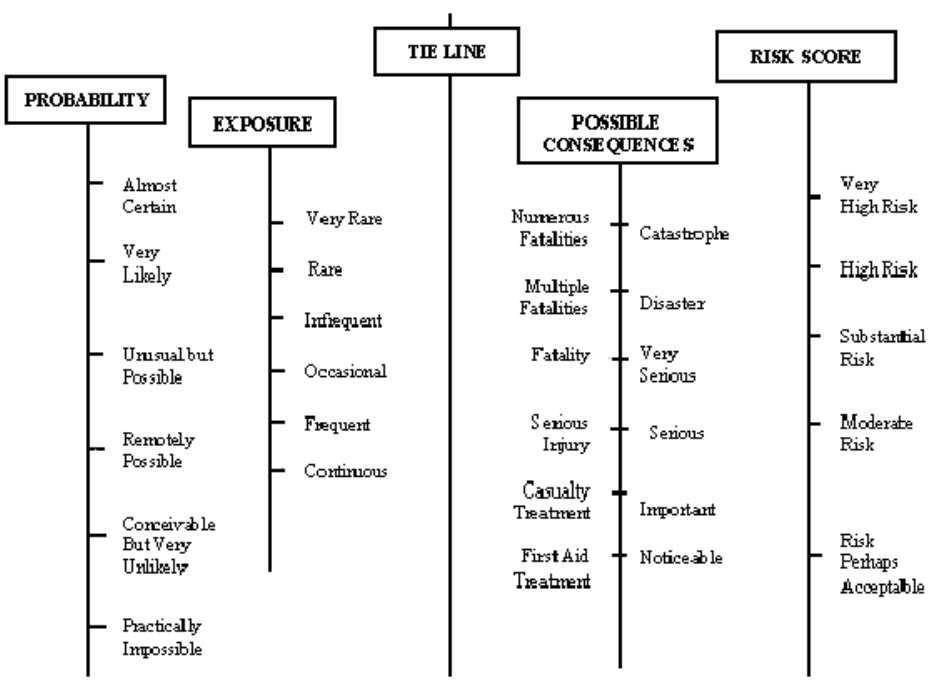
- walk through surveys with a checklist - including underwater survey of the area, conducted regularly (see 1.4.4);
- consulting with visitors to the site;
- consulting with CALM staff responsible for servicing the site;
- reporting and investigating all incidents; and
- maintaining complete records of the entire process.

Risk Management Form

1. Identify the Risk
a) Describe the risk:
b) Form the risk takes:

2. Assess the Risk
a) Probability of risk resulting in injury:
b) Number of people exposed:
c) Duration of exposure:
d) Possible consequences:
e) Risk Assessment Calculator indicates:

f) Risk score calculated:



3. Determine What Control Measures to Take
a) Short term/immediate control measures:
b) Long term control measures:

4. Review Apply and Monitor Control Measures

a) Review the possible control measures:

(i) Will the control measures introduce a new risk(s)?[Yes/No]

If no, continue.

If yes, undertake the risk management procedure again for each new risk.

(ii) Are the revised control measures effective? (ie. no new risks) [Yes/No]

If yes, continue.

If no, undertake the risk management procedure again for each new risk.

Note: All paperwork assessing the additional risks potentially created by the suggested control measures should be attached to this document.

b) Short term/immediate control measures finally applied:
Long term control measures finally applied:

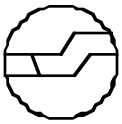
c) Monitor the control measure:

(i) Does the control measure continue to be effective? [Yes/No]

If yes continue to monitor.

If no, re-do the risk management procedure again.

Employee Details
Report prepared by:
Position:
Region/District:
Employee Signature:
Date:



DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT

INCIDENT REPORT FORM

Report of Third Party Personal Injury or Property Damage

Do not under any circumstances discuss or admit responsibility or liability with the other parties or any witness.

Advice the other party that the matter will be referred to SOHQ.

Date of incident: _____/_____/_____ **AM/PM**

Location where the incident occurred:

_____

_____

Third Party details:

Name of injured person or owner of property:

_____

_____

Address:

_____

_____

Phone number: (W)_____(H)_____

CONTINUED OVERPAGE

How did the injury or damage occur:

_____
_____
_____
_____
_____
_____
_____

Details of injury or damage:

_____
_____
_____
_____
_____
_____
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Address and telephone details of any witnesses:

_____
_____
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_____

Details of any action taken by CALM to help minimise and contain any further injury or damage:

_____
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_____

Additional Information:

_____
_____
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_____
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_____
_____
_____
_____

Form Completed By:_____

Signature:_____ Date:
_____/_____/_____

Risk Action Plan Form
a) Location of risk and Reference Number
• **Brief description of problem:**
• **Summary of recommended response and its impact.**
• **Outline of Proposed Actions:** 1. Proposed Actions
2. Resource Requirements
3. Responsibilities
4. Timing
5. Reporting and Monitoring Required
Prepared By:_____ **Date:**_____ **Signature:**_____

Risk Register

Location and Ref. Number	Description of Risk	Probability Rating	Exposure Rating	Possible Consequences	Level of Risk	Risk Priority

Prepared By:_____ **Signature:**_____ **Date:**_____

Reviewed By:_____ **Signature:**_____ **Date:**_____

Risk Treatment Schedule and Plan

Ref. # (list in order of priority)	Risk Management Treatments	Risk Rating after Treatments	Total Cost of Treatments	Person Responsible	Timetable for Implemen-tation	Proposed Monitoring - Post Treatments

Prepared By:_____ **Signature:**_____ **Date:**_____

Reviewed By:_____ **Signature:**_____ **Date:**_____