



## Submission to the Joint Standing Committee on Corporations and Financial Services

### Inquiry into the Small Business Insurance Market

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## 1. Introduction and Purpose

Outdoors NSW & ACT (ONSWACT) welcomes the opportunity to contribute to the Joint Standing Committee's inquiry into the small business insurance market. We represent a broad cross-section of outdoor recreation, outdoor education, adventure tourism and outdoor therapy providers—most of whom are small or micro-businesses operating on tight margins, often in regional and remote areas.

Public Liability (PL) insurance is not optional for our industry. It is a prerequisite for operating on public land, contracting with schools, councils and government agencies, and for maintaining community trust. However, the availability, affordability and appropriateness of PL insurance has become one of the most significant **perceived** barriers to business viability, workforce participation and service delivery across the outdoor industry.

This submission draws on ONSWACT's long-standing engagement with insurers, brokers, regulators and operators, and is informed by our industry-led risk-management initiatives presented to governments, insurers and underwriters since 2020.

*Please note this submission does not enter into a discussion about other insurance products and discusses PL insurance only.*

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## 2. The Problem: A Market That Prices Risk Without Recognising Risk Management

From 2020 onwards, many outdoor businesses experienced:

- Insurers withdrawing entirely from outdoor and adventure activity classes
- Policies cancelled due to inactivity during COVID-19 shutdowns
- Inconsistent underwriting decisions for identical activities, as many insurers did not use industry standards as guidance



- Limited knowledge of industry standards, qualifications and accreditation
- Escalating premiums and excesses with no corresponding reduction in risk exposure
- Media fear mongering about insurance availability

For many operators, this was not the result of deteriorating safety performance, but rather a commercial retreat by insurers from perceived complexity and reputational risk.

A central flaw in the current market is that risk is often treated as an immutable characteristic of the activity, rather than something that can be actively managed, mitigated and evidenced by the business. This results in blunt underwriting outcomes that penalize best-practice operators and discourage continuous improvement.

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### 3. Industry-Led Reform: Taking Responsibility for Risk

In response, the outdoor industry has not called for cheaper insurance. Instead, we have taken responsibility for improving how risk is understood, managed and demonstrated.

Through national collaboration, the industry has invested in:

- Clear articulation of best practice expectations, utilizing our industry-led Australian Adventurous Activity Standard and associated Good Practice Guides;
- Education programs that build operator capability in risk management, our very own Activity Safe Education Program;
- Mechanisms that allow businesses to evidence compliance and maturity; and
- Stronger partnerships with specialist brokers and insurers who understand outdoor activities.

This approach recognises an important truth: **insurers insure risk, but industries create it, manage it and mitigate it.**

ONSWACT is concerned that some submissions to this inquiry—particularly those reflecting legacy insurance narratives such as market failure, unaffordability and unavailability of insurance—continue to frame small businesses as passive victims of market forces or imply that affordability can only be addressed through insurer-led solutions or mutual solutions.

The outdoor industry experience shows that **markets stabilise when responsibility is shared**—not when risk is fully delegated to insurers and government is positioned as the sole circuit-breaker.



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#### 4. Case Study: Activity Safe – An Industry-Designed Risk Framework

The *Activity Safe* framework was developed by the Outdoors NSW & ACT as a structured response to insurer withdrawal and inconsistent underwriting. It provides a graduated pathway:

1. **Activity Safe (Foundation):** Basic understanding of risk management and industry best practice
2. **Activity Safe Education Program:** Detailed education across all areas of operational, safety and governance risk
3. **Activity Safe Accreditation (pending the outcome of the AAAS Review June 2026 and possible funding available):** A program that will provide independent verification that a business has embedded best practice risk management systems

Crucially, Activity Safe does not replace existing accreditation or standards systems. It overlays and complements them, translating complex standards, qualifications and guidelines into insurer-relevant evidence.

Where insurers and brokers have engaged with this model, outcomes have included:

- Improved insurer confidence
- More informed underwriting conversations
- Reduced reliance on exclusions
- A shift from activity-based to operator-based risk assessment

This demonstrates that **better insurance outcomes are achievable when risk is shared and understood, rather than simply transferred.**

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#### 5. Solutions: The Role of Brokers and the Insurance Supply Chain

Poor insurance outcomes are most common where the businesses risks and its mitigations have not been adequately communicated between businesses and insurers.

Our experience shows that insurance outcomes improve markedly when:

- Brokers are embedded as strategic partners, not transactional intermediaries



- The supply chain between operator and underwriter is shortened, where they working collaboratively to understand and mitigate risk in a transparent manner
- Brokers and insurers have industry skills and knowledge or invest in understanding the sector they insure

Conversely, poor outcomes are most common where underwriting decisions are made without sector knowledge, site context or understanding of operational controls.

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## 6. The Unresolved Structural Issue: Tort Law and Excessive Cover Requirements

Despite industry-led reform, two systemic barriers remain outside the control of small businesses:

### 6.1 Public Liability Limits Far Exceed International Norms

In Australia, **\$20 million public liability cover has become the de facto standard requirement**, driven largely by land managers, government contracts and risk-averse procurement policies—not by evidence of loss experience.

By comparison: - Many comparable international jurisdictions operate with materially lower standard limits - Higher limits have not been shown to correlate with improved safety outcomes - The cost of these limits is borne entirely by small businesses, regardless of turnover or exposure.

The result is over-insurance that inflates premiums without delivering proportional community benefit.

### 6.2 Tort Law Settings Continue to Distort Risk Pricing

Australia's tort environment remains a critical driver of insurer conservatism. Even where claims are rare, the **severity risk** associated with litigation, legal costs and precedent-driven settlements disproportionately impacts sectors like outdoor recreation.

While industry has demonstrated its willingness to lift standards and reduce incidents, **tort reform has not kept pace**, leaving insurers to price for legal uncertainty rather than operational reality.

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## 7. Commentary on Current Submissions and Market Narratives

ONSWACT is concerned that some submissions to this inquiry—particularly those reflecting legacy insurance narratives—continue to frame small businesses as passive victims of market forces or imply that affordability can only be addressed through insurer-led solutions.

This rhetoric: - Does not reflect contemporary risk management practice - Ignores evidence of successful industry-led reform - Reinforces adversarial rather than collaborative models

The outdoor industry experience shows that **markets stabilise when responsibility is shared**—not when risk is fully delegated to insurers and government is positioned as the sole circuit-breaker.

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## 8. What Government Can Do

Government has a critical enabling role to play:

1. **Examine tort law settings** that drive disproportionate liability exposure for small businesses
2. **Review public liability limit requirements** embedded in government contracts and land-use licenses (this should be a possible outcome of Number 1.)
3. **Support recognition of industry-led risk frameworks** in procurement and land management policies
4. **Encourage insurer engagement with risk-mature sectors**, rather than blanket exclusions
5. **Improve data transparency**, including claims frequency and severity by sector
6. **Fund continual innovation** for industry insurance sustainability, such as improved accreditation and accountability programs.

These actions would not weaken consumer protection. Instead, they would strengthen it by supporting viable, well-insured operators who actively manage risk.



## 9. Conclusion

The outdoor industry demonstrates that better insurance outcomes are possible when businesses take ownership of risk and insurers are willing to recognise it. However, industry leadership alone cannot overcome structural distortions created by excessive liability limits and outdated tort settings.

This inquiry presents an opportunity to move beyond the rhetoric of crisis and toward a mature, evidence-based insurance market—one that supports small business viability, community access and public safety in equal measure.

ONSWACT welcomes further engagement with the Committee and would be pleased to provide additional evidence or appear at hearings if helpful.

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**Lori Modde**

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Outdoors NSW & ACT



## ATTACHMENT A

### International Comparison Brief

#### Public Liability Insurance Limits – Outdoor & Adventure Activities

##### Purpose

This brief provides a high-level international comparison of public liability (PL) insurance limits commonly applied to outdoor recreation, adventure tourism and guided activity providers. It is intended to contextualise Australian settings for policymakers and highlight how current domestic requirements compare with international norms.

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##### Overview

Australia has developed an informal but entrenched expectation that **\$20 million public liability insurance** is required for businesses operating in outdoor and adventure activity contexts—particularly where activities occur on public land or involve government contracting.

Internationally, comparable jurisdictions typically:

- Apply **lower standard liability limits**, and/or
- Use **tiered or risk-based approaches** aligned to activity type, participant numbers and exposure

There is limited evidence that higher mandatory limits correlate with improved safety outcomes.

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#### Indicative International Comparisons

##### United Kingdom

- Typical public liability requirements for outdoor activity providers range from **£5 million to £10 million**.
- Many national governing bodies and land managers accept **£5 million** as standard, with higher limits applied only to higher-risk or large-scale activities.
- Strong reliance is placed on operator competence, instructor qualifications and recognised safety management systems.

**Approximate AUD equivalent:** ~\$9–18 million



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## New Zealand

- Public liability insurance is **not universally mandated** at high limits.
- Outdoor operators commonly carry cover in the range of **NZD \$2–10 million**, depending on activity and contractual requirements.
- New Zealand’s accident compensation framework (ACC) significantly reduces personal injury litigation exposure, shifting focus toward prevention rather than liability severity.

**Approximate AUD equivalent:** ~\$2–9 million

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## Canada

- Liability limits for adventure tourism and outdoor recreation operators typically range from **CAD \$2–5 million**.
- Higher limits may apply for specific high-risk activities or commercial concessions, but are not universally imposed.
- Risk management standards and operator experience play a significant role in underwriting.

**Approximate AUD equivalent:** ~\$2–6 million

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## United States

- Liability requirements vary by state, land manager and activity.
- Many operators carry **USD \$1–5 million** in general liability cover.
- Higher limits are often layered through excess policies rather than imposed as a single base requirement.

**Approximate AUD equivalent:** ~\$1.5–7.5 million

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## Key Observations

- Australia’s **\$20 million de facto standard** sits at the **upper extreme** of international practice.



- Comparable jurisdictions rely more heavily on:
  - Operator competence and accreditation
  - Risk-based differentiation
  - Layered insurance structures
- Higher limits do not inherently reduce incidents or improve participant safety.

Instead, safety outcomes are most strongly linked to:

- Quality of risk management systems
- Staff training and supervision
- Incident prevention and learning culture

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### Policy Implications for Australia

Australia's current approach places disproportionate cost pressure on small businesses without clear evidence of public benefit. The international experience suggests that:

- **Lower or tiered liability limits**, combined with robust risk management requirements, can deliver effective protection
- Government procurement and land-use policies play a decisive role in normalising excessive limits
- Tort and litigation settings materially influence insurer behaviour and limit inflation

Revisiting default PL limits—particularly for low-claim, risk-mature sectors—would better align Australia with international practice while maintaining community safety.