
OUTDOOR NEWS

THE JOURNAL OF THE OUTDOOR EDUCATORS ASSOCIATION
OF SOUTH AUSTRALIA

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Overdue Memberships

Nerilee Flint

Treasurer OEASA

Thank you to the people and organizations who have been prompt with the payment of membership fees, it makes it so much more time efficient for me to process memberships in large chunks! The new system of posting members an individualised invoice certainly made a difference to the promptness of fee payment. Hopefully it made it simple for members as well.

This year we have made the change to calendar year membership instead of May through to June so you were asked to pay a reduced fee to take you through to the end of December. Some people read the invoice incorrectly and paid too much, paying the annual fee rather than the altered fee – the excess will be deducted from your 2003 membership.

Unfortunately there are still a number of overdue memberships – you will know this by looking at the address label. If you are an individual member you need to pay \$29 to retain your membership. If you are a corporate/organization/school membership you need to pay \$32. If payment is not received by the next mailout we will assume that you wish to rescind your membership and you will be removed from the database

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Editorial

OEASA Certificate Presentation Dinner June 14

‘A good night had by all’ was the general consensus of the Certificate Presentation dinner held in cooperation with Bushwalking Leadership, Canoe SA: Education and other leadership training organizations. The Hackney Hotel proved to be a popular venue for this sort of function.

Due to the conference coming next year and the need for ‘seed money’ to allow us to pay a convenor, we were unable to sponsor student award winners this year. Many still were able to attend to remind us of the future of outdoor education and outdoor recreation in SA.

OEASA would like to thank those that supported the event with donations of goods and services to be auctioned. We are thankful of your continued support.

- Paddy Pallin
- Scout Outdoor Centre
- Outdoor Adventure Skills
- Perception Kayaks Australia
- Young Marine Services
- Mountain Designs
- Adelaide Canoe Works

The auction again proved very successful, with auctioneer David Stuart again providing the high point of the evening with his unique banter. As a result of donations made to OEASA, a levy applied to non student/unemployed attendees we were able to record a net profit of \$1555.50 for the evening. Many thanks to Nerilee Flint for doing the bulk of the organization and to Paddy Pallin for processing the tickets. There were many other contributors to the evening and we appreciate your efforts. It was great to see old and new faces there.

The Outdoor Educators Association of South Australia Aims:

1. To promote the development of Outdoor Education in South Australia;
2. To represent Outdoor Educators on issues and matters concerning the use of the outdoors;
3. To maintain the professional development of personnel working in the area of Outdoor Education;
4. To maintain, support and develop the role of Outdoor Educators in South Australia;
5. To promote the professional interchange of information between members and other related organisations through conferences, meetings, seminars and publications;
6. To promote a philosophy of environmental awareness, preservation, conservation and positive attitudes towards the use of the outdoor environment;
7. To act in an advisory capacity to community, government and non government agencies.

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OEASA

AGM

Wednesday

September 11

Education Development
Centre

18 Milner Rd Hindmarsh

5.30-7.30

Agenda:

Election of Officers

Financial Report

National OE conference

Any Other Business

All Welcome

This Edition of OEASA News:

Editor: Scott Polley

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University of South Australia

Contributors:

- Kate Eastoe
- Carl Schiller
- Andrew Boyle
- Rob Hogan
- Jon Quay
- Tim Topham
- James Neill
- Nerilee Flint
- Alistair McArthur
- Andrew Cope
- Brett Standford
- Mike Meredith

Legally Speaking...

Contributor: Kate Eastoe

Kate Eastoe is a commercial lawyer with the firm Cowley Hearne Lawyers in North Sydney, NSW. Kate specialises in intellectual property, event management and sports law, and is also a Director of ANZSLA - the sports law association.

The ANZSLA website (www.anzsla.com.au) often displays sports matters before the courts, and at the moment includes a link to the decision of the Supreme Court of Victoria regarding the wrestling coach (\$5.7 million in damages for negligence). There is also a recent decision in NSW where a man was awarded \$4 million in damages after becoming a paraplegic from diving into a sandbank on Bondi Beach.

The relevance of these cases to the article below is that an effective waiver can prevent parties from being held liable for negligence. Earlier this year (on 18 April 2002) the NSW Court of Appeal held that a parachutist, who was told she would never walk again, was to lose the \$1.1 million in damages which had been awarded to her in an earlier decision. The Court of Appeal could find no fault with the actions of the Byron Bay Skydiving Centre. Damages were originally awarded for the Skydiving Centre's misleading or deceptive conduct in that the parachutist was misled about the conditions for jumping and undertook the jump on the basis of those misrepresentations.

Both the NSW District Court and the NSW Court of Appeal appear to have held that the waiver form, which the Skydiving Centre required prospective parachutists to sign, was both valid and effective. The lawyer for the insurance company stated, 'You have to ask yourself – unless one of the parties behaves grossly negligently, why should anyone, after they've signed a waiver form, suggest they be eligible for compensation?' (Sydney Morning Herald 19.4.02, p.6) This statement should be qualified by saying that waiver forms must be properly drafted and meet the principles of contract law in order to be effective. Further, the amendments to the Trade Practices Act 1974 (Cth) (see page 6) will clarify methods of limiting your liability using waiver forms.

WAIVERS OF LIABILITY AND PROVISION OF INDEMNITY

HOW AND WHY THEY WORK

There has been an increase in waiver forms with phrases like "I acknowledge that by participating in this activity I could

die". That is all well and good for a game of chess, but even with such bold statements, it does not guarantee that you have a valid waiver of liability form.

A properly worded waiver (or release) of liability can prove to be an effective defence to a negligence claim. In a valid and enforceable waiver, the participant waives or releases any future right to make a claim for negligence against you - the provider of a sport or recreation service - in exchange for an opportunity to participate.

An indemnity is a promise to make good a loss which one person has suffered in consequence of an act or default of another. It is all well and good to obtain an indemnity from a participant – but think about it – the promise to cover the costs suffered by you is only as good as the depth of the pockets of the indemnifier. It may be impractical to conduct an asset check on each participant, but at least consider obtaining a second indemnity from the company that brings the participants to you, as the case may be.

A waiver can only cover negligent conduct. You will often see the phrase 'Except for that which cannot be excluded at law'... This phrase refers to breaches of legislation (which cannot be contracted out of) but also to acts of gross negligence. If the negligent act was so gross to be beyond that foreshadowed in the risks presented to the participant – if the negligent act amounts to wilful or wanton misconduct, the waiver will more than likely be ineffective.

Since waivers are essentially contracts, the principles of contract law apply. In cases where a waiver is used as a defence, the court will first be asked to rule on the validity of the contract. If the contract is ruled valid, then the proceedings will not proceed as the court has determined that the plaintiff signed a valid contract which waives the right to sue. From an organisation's perspective, one day in court arguing the validity of a waiver is far better than spending months in court defending an action of negligence.

There are two stages in implementing an effective waiver and indemnity program. The first is the development of an effective waiver form.

Development of an effective waiver form

For waivers to be valid, they must conform to several guidelines and requirements imposed by the courts. In developing an effective release document, the two key areas are content and design/format.

a. Content

The following principles are required to form an enforceable contract:

Offer

An offer must be made to the participant – “if you pay me \$X I will take you bush walking”. It is better that the offer is in writing so the parties are certain of the terms of the offer (both parties need to agree to the same thing). A written document also makes it easier to prove what the terms were. Therefore, it is advisable to clearly identify the terms so as to avoid ambiguity, and to include all of the terms that are important.

Obviously, if a term states ‘I accept and acknowledge that risks are involved’, the participant can only acknowledge and accept such risks if:

the participant knew of the facts constituting the danger that gives rise to the risks;

the participant appreciates the danger inherent in the factual situation; and

the participant freely and willingly agrees to encounter the danger – a participant must be in a position to choose freely, there must be an absence of any feeling of constraint, so that nothing interferes with the freedom of will.

A suggestion has been to place (separate) tick boxes on a form requiring that the participant expressly agrees that the participant understands the reason for the danger, understands the risks involved and the possible ramifications, has had the opportunity to ask questions, and freely and willingly agrees to encounter the danger.

Acceptance

The participant must accept the offer. If there is negotiation, the first offer (made above) is not accepted, and it must be made clear that the terms and conditions of the contract apply to the offer that is accepted.

Consideration

There must be valuable consideration for there to be an enforceable agreement. Consideration can be payment of a fee or receipt of some benefit, right or interest (eg annual membership fee, provision of the service).

Intention to create a legally binding relationship

The parties must intend to be bound by the terms and conditions of the relationship. Again, having a written agreement assists proof of this element.

Capacity

A contracting party must be over 18 years of age, as it is most often deemed that for a party to understand the terms of a

contract. This obviously poses problems for minor participants. A parent or guardian of the minor can sign the waiver and indemnity, but whilst the effect of the indemnity is the same, the parent only waives his or her right to make a claim against the organisation. A parent cannot waive the rights of a child, and a child is entitled to sue for many years after the act of negligence occurred. [Note – in the ‘Answers to Legal Questions’ section I have set out the periods of time allowed by each State and Territory for minors to make a claim].

Despite the ultimate unenforceability of a release or other document, many organisations have the minor sign the document. Even if the minor’s release is later found to be invalid, the document itself can constitute a written warning and may be important evidence that the child was informed of, and assumed the risks prior to engaging in the activity. Alternatively, a child can sign a document providing information about the activities and risks, but with no waiver and indemnity – an agreement to participate.

Waiver/Release

The waiver/release must be carefully drafted. It must be specific and not self contradictory, and it must also cover all the aspects possible to ensure the organisation is properly protected.

Indemnity

Again, careful drafting is needed to ensure the indemnity is effective for all that is intended.

b. Design/Format

There is no point in having the content if clear and unambiguous wording is not used, and the overall readability is not achieved by using inappropriate type and font sizes. A form should be clearly marked as a waiver/release of liability, and the importance of each term and condition specified.

Ultimately, a waiver document should be reviewed by your legal adviser.

2. Implementation of procedures

The second stage in implementing an effective waiver and indemnity program is the implementation of procedures. You may have the best waiver form in the world from a technical point of view, but failure to administer the release properly may make it unenforceable in court. There are a number of

guidelines to consider, but the key elements of effective waiver implementation are:

Giving participants advance notice of the requirement to sign a waiver, and then having the participant sign the waiver prior to the commencement of any part of the activity (including transport there if transport is included – ie otherwise there may be no free choice);

Clearly indicating to the participants exactly what it is they are signing; and

Having the waiver signed in front of a witness.

Unfair Contracts can be overruled

In NSW the Contracts Review Act 1980 (NSW) provides that if a court finds a contract or a provision of a contract to be unjust (unconscionable, harsh or oppressive), then the court can refuse to enforce all or part of the contract, or it may vary all or part of the contract as it sees fit.

Some of the factors are:

Inequality of bargaining power;

Capacity for negotiation of terms;

Whether the conditions were unreasonably difficult to comply with or not reasonably necessary;

Whether the parties had independent legal advice; or

Whether undue influence, pressure or unfair tactics were used.

These factors often occur in standard mass produced contracts. Even though waiver forms cannot usually be negotiated, providing the participant with an opportunity to make an informed choice will decrease the chance of the contract formed being unconscionable, harsh or oppressive.

4. Voluntary assumption of risk

I have added a paragraph to explain the significance (or lack of) voluntary assumption of risk in a waiver form. This is only necessary when the waiver form is held to be unenforceable. It is not an absolute defence, but it can go to establishing that the participant was aware of the risks involved in the activity. This defence can be satisfied by establishing the 3 elements set out in 'offer' section above. It will obviously be unnecessary to rely on this defence if the provider has exercised reasonable care – but that's a whole other article.

Many thanks to Kate for allowing us to print this article.

Victorian Adventure Activities Protection Bill

Given the propositions before the South Australian Parliament regarding limiting the liability of those conducting adventurous activities it is worthwhile gaining snapshots of what is happening in other states. The irony of the politician's last name is not lost on you, I hope!

Contributor: Alistair McArthur, 21/5/02

On Wednesday 15th May 2002 there was a second reading of the ADVENTURE ACTIVITIES PROTECTION BILL in the Legislative Council of the Parliament of Victoria. This bill will be of considerable interest to outdoor activity providers.

Quote The Honourable Bill Forwood, Leader of the Opposition (Council) Email: bill.forwood@parliament.vic.gov.au; Internet <http://www.billforwood.com>; Templestowe Province, 93 Upper Heidelberg Rd, Ivanhoe 3079 (P.O. BOX 199, IVANHOE 3079) Ph 9497-4300 Facs 9497-4096

"There is a crisis in adventure activities and in adventure tourism in Victoria; a crisis which threatens the livelihood of people, towns and regions; a crisis which has already seen previously successful businesses close, jobs lost and lives shattered"

Transcript of his speech (3 pages) available: <http://www.parliament.vic.gov.au/hans.html>

COPY OF THE BILL: (9 pages) see Parliament of Victoria Bills Autumn 2002; <http://www.dms.dpc.vic.gov.au/pdocs/bills/>

EXTRACT FROM THE BILL:

Initiated in Council 14 May 2002 by the Hon. W. Forwood

A BILL to provide for the approval of operators of certain adventure activities, to restrict the circumstances in which damages may be recovered in respect of the injury or death of a participant in certain adventure activities and for other purposes.

Adventure Activities Protection Act 2002

The Parliament of Victoria enacts as follows:

PART 1--PRELIMINARY

1. Purpose

The purpose of this Act is to regulate the compensation of persons who die or suffer injury arising out of, or in the course of, their voluntary participation in adventure activities which by their nature involve inherent risk of injury to participants, particularly where the physical or environmental challenge or the element of risk form part of the participant's enjoyment of the activity.

2. Commencement: This Act comes into operation on 1 July 2002.

Alistair McArthur

Commonwealth Amendments to Trade Practices Act

The following was posted by Andrew Cope to the Outdoor Education List Server on 27/6/02. Author: Jenny Lambert, Lecturer Sport & Outdoor Recreation / Faculty of Education, Monash University, Gippsland

The Minister for Revenue and Assistant Treasurer, Senator Helen Coonan, announced today that legislation to allow individuals to assume their own risk when undertaking risky activities will be introduced in to the Parliament today. Senator Coonan said the Commonwealth had agreed to make these amendments to the Trade Practices Act at the last Ministerial Meeting on Public Liability Insurance at the end of May.

"As discussed at the May meeting, the Commonwealth will be making changes to the Trade Practices Act so that individuals are able to waive their right to sue when undertaking risky recreational activities.

"Although the vast bulk of the law reform required to stabilise insurance premiums must be undertaken in State and Territory jurisdictions, amending the Trade Practices Act is a concrete step that the Commonwealth is able to take. These measures will assist operators of businesses such as adventure tourism and sports, who are currently prevented from relying on waivers."

Senator Coonan said in allowing people to voluntarily waive their right to sue, it was important to achieve a balance between protecting consumers and allowing them to take responsibility for themselves. The amendments will still allow injured consumers to sue if they are the victims of gross negligence on the part of the operator.

"Operators of adventure tourism and sport businesses must still take the necessary precautions to run safe and responsible businesses," Senator Coonan said.

The amendments to the Trade Practices Act follow two successful meetings on the issue of public liability insurance and the Commonwealth's introduction of legislation to encourage the use of structured settlements to pay negligence claims instead of one-off lump sums.

"The steep insurance premium rises currently being experienced by many businesses, community groups and not for profit organisations are an issue that needs to be tackled by all levels of Government in Australia," Senator Coonan said.

"The Commonwealth is doing its part but all States and Territories must also take responsible action to reform their own laws to reduce the cost of negligence claims and take some of the pressure off insurance premiums."

Towards a Global community for Outdoor and Experiential Learning

Submitted by James Neill

Over the past few years, a number of initiatives have been made to bring together those with an interest in outdoor and/or experiential learning from around the world. These have taken various forms: networks, organisations, websites, email lists, databases, conferences etc. Recently a discussion started about this on OUTRES, which is an active international email list normally concerned with research in outdoor learning & education. Rather than continue with the discussion in isolation, it is proposed to hold a discussion beginning on January 15th 2002. The discussion will start with a posting explaining a recent proposal that has been discussed by a number of organisations: the International Consortium on Experiential Learning (ICEL), the US-based Association for Experiential Education (AEE), and the UK-based Institute for Outdoor Learning (IOL). Other proposals will be welcome, as will information about what already exists. Interested people (whether connected with any organisation or not) are invited to join the OUTRES list for the duration of the discussion. To join the list, go to <http://www.jiscmail.ac.uk/cgi-bin/wa.exe?SUBED1=outres&A=1> or simply go to <http://www.jiscmail.ac.uk> and search for OUTRES. Although English is the normal language of the list, postings in other major languages will be welcome, and list members will be invited to offer translations. All are encouraged to join the debate, and list regulars are requested to help to provide a safe space for newcomers to join the debate. Please forward this message to other interested parties."

I would be pleased to receive (offlist if appropriate) any suggestions

Steve Lenartowicz

steve@lenartowicz.freemove.co.uk

Legal Liability and Private Providers:

A Discussion

The following discussion took place on the Outdoor Education List Server recently. It is reprinted here to support the previous reports on limitation of legal liability, reminding us that any amendments to bills do not diminish our responsibility.

From Tim Topham, 26/6/02

Greetings all!

I'm wondering if anyone else has an opinion about where the final duty of care lies when schools outsource camp coordination to an external commercial provider. It is my understanding that regardless of who is hired to run a program, the ultimate responsibility for the safety of students will always lie with the staff member from the school present at the time, or the school employee in charge of the program, regardless of how much or little that person understands about the activities presented. As far as I know, this ultimate responsibility for the students cannot be handballed. If this is true, then one of the main reasons for schools outsourcing programs to commercial providers - that is, to avoid insurance and liability concerns - does not bear fruit.

Have I got it right?

Andrew Brookes, Senior Lecturer at LaTrobe University,

Responds to Tim 27/6/02:

In the Stokes Bay case in SA in 1980 the coroner found that a school could not avoid responsibility by sub contracting a program. Teachers 'tagging along' were implicated.

On the subject of national (or state or international or cosmic) 'standards': Delegating the problem of knowing who to trust or how to run a program to some kind of standard setting body falls into the same basket as delegating the program to an outside body. Although there might be some shifts in liability (for example if the promoters of the standards were incompetent or used deception). I think you will find though that national standards bodies are careful to state in the fine print 'use at own risk'.

Andrew Boyle, Coefficient Adventure Resources also responds to Tim's posting:

Hi Tim,

I am not a solicitor. But the way I believe it works is that when a school employs a commercial provider the premise is normally that they are doing so because the school believes that the commercial provider can provide a better quality program. This includes safety.

If someone is damaged on a program the solicitor will bring a suite against ALL the parties involved. This would include the school, the teacher in charge of the student who was damaged, the commercial provider and the staff member provided by the commercial provider. I don't know what it is called but I think teachers are covered by something which transfers their responsibility to the school (step in here any time if you are a solicitor, barrister, QC etc reading this!). The school does have the final duty of care but they are contracting someone to provide a service which they feel they are not capable of providing to a suitable standard. The school needs to be able to prove that they took every possible avenue to insure that they carried out their duty of care.

I would assume that this would include the school knowing:

- What the operational and emergency procedures of the program provider were:
- What the qualifications of the program providers staff are
- What National standards are in place.

In reality the list is limited to the imagination of the solicitor arguing the case!

In a civil case brought by the damaged person. Their solicitor would file a suite against the parties involved (mentioned above). After that matter was settled the school could then bring a suite against the commercial provider for breach of contract to recover their loss from the claim made by the student. The premise being "we contracted you so this wouldn't happen!"

You are basically screwed if you are the commercial operator because one way or another you will wear the entire cost of the accident!

However all this is irrelevant because the commercial operators insurer never wants the initial matter seeing the court room floor! The insurers solicitors will make an assessment of the strength of the case against their client and will buy off the claimant. Basically the person bringing the suite will be better off financially because they don't have to pay a solicitor to argue a case in court! The insurer wins because a precedent has been avoided.

So what does all the waffle above mean to schools and commercial providers?

In essence, it's not brain surgery! The school has to be sure that the commercial provider can provide what they say they can provide. The provider has to provide it!

How does a school know a commercial provider can provide?

At present they can't! Until a standard of some sort can be agreed upon at a national level the door for litigation is wide open! If a school can't prove that they were using some sort of standard then the plaintiff's solicitor will find one or argue that what the provider did was unreasonable. If a national standard is in place at least you can give your insurers solicitors a fighting chance at defending you or making the plaintiff settle at a reduce figure!

How does a commercial provider prove that they can provide?

They can't! They are in exactly the same boat as the school! Their best can never be justified because there is nothing that has been universally agreed upon to benchmark it against!

To sum it all up:

Both commercial providers and schools are facing massive increases in insurance premiums because we cannot provide standards for what we do outdoors. Standards are not the only answer but they are certainly a start point and they give the ignorant an opportunity to take responsibility for their decision to participate! You can question standards and you can question providers who don't meet standards. It takes a burden off a provider if participants can enter an experience with their eyes wide open and make them more liable for their own actions.

It's great that you raised this issue because this is really the heart of the accreditation debate!

Andrew Boyle

Tim Topham responds:

Thanks Andrew and Andrew for your views...I'm wondering if there is in fact, any lawyers/solicitors on the list, or anyone who has been involved in proceedings of this nature in the past who might be able to shed some more light on these ideas?

Tim

Rob Hogan responds 27/6/02:

No I'm not a solicitor, but having lectured in this area for some years I can provide a bit more detail on the 1980 Stokes Bay case mentioned by Andrew Brookes and some general comments. In the Stokes Bay case a 14 year old girl on a school organized bus tour drowned when the party stopped at a beach to swim and play. At the time the girl went into the water no teachers were present on the beach. At the coronial inquest the solicitor for the state education department presented a submission that the bus driver and the bus company were at fault. She argued that the activity was not a 'school excursion' where teachers did the planning and organization but 'an organised tour by a private company', and it was the bus driver who had suggested the beach was a good one to stop at. The coroner rejected that argument and said; '...in my view a teacher as such cannot totally delegate all responsibility to another person or persons, for albeit a company such as (name deleted) Tours. I think the plain fact of the matter is that the children were under the immediate control or supervision of teachers who were employed by the Education Department. ...Teachers engaged in this type of tour or trip commit themselves to a responsibility.'

It is important to note that this was said in the coroner's court and no civil litigation followed, so no precedent in terms of who was responsible and who pays costs for any damage awarded was set.

I agree with Andrew Boyle's analysis that this is a question that has never been answered in court and that in civil litigation the lawyers for any plaintiff would sue both the school and the contractor. If such an issue ever got to court (and almost always such matters are settled by insurers out of court) I imagine that lawyers for the plaintiff would be looking for both to be found negligent, so that both are liable to pay any damages awarded. They would look closely at the school's decision to contract the service provider, as Andrew Boyle has indicated. Lawyers for the school and its insurers would probably argue that the contractor must bear the responsibility, and those for the contractor that there was no negligence on their part - any losses were the result of 'accident'.

Employees whether they be teachers or instructors/leaders employed by a contractor are mostly protected from financial liability by 'vicarious liability' - employees are responsible for the actions of their employees. However, any employee directly involved will be in the firing line in terms of proving negligence, it's just that they won't personally have to pay their legal costs or any damages awarded against them, although there is provision for that if their actions amount to 'gross' negligence.

So Tim, no clear answers on this one.

JOINT COMMUNIQUE MINISTERIAL MEETING ON PUBLIC LIABILITY

Sent to the Camping Association of South Australia by the Camping Association of Victoria, 30 May 2002. Reprinted with permission of CASA.

Today Commonwealth, State and Territory Ministers and the President of the Australian Local Government Association (the Ministers) met again to continue work on addressing issues associated with the availability and affordability of public liability insurance. The meeting followed on from a highly successful meeting held in March. Ministers noted that a number of jurisdictions had already undertaken a range of initiatives since Ministers last met in March - particularly in the areas of tort law reform, facilitating pooling and group insurance for not-for-profit organisations and the development of risk management guidelines. Some recently announced tort law reform and other measures are shown in Attachment A.

The Ministers made substantial progress on developing consistent national approaches for implementing measures to tackle the problems of rising premiums and reduced availability of public liability insurance.

Ministers met with the Insurance Council of Australia and chief executives of some major insurers and made it clear that there is an expectation that the insurance industry will deliver affordable public liability products to the community on the basis of the reform package being implemented.

Ministers agreed on a package of socially responsible measures aimed at reducing and containing claims costs and increasing the transparency of insurance industry practices through better data collection.

Given the substantive initiatives undertaken by Governments, Ministers called on insurers to respond to the difficulties in the public liability insurance market and participate in developing sustainable and affordable cover for the Australian community.

Role of the ACCC

Ministers agreed that the ACCC's role was crucial to monitoring progress in relation to public liability and general insurance premiums. The ACCC will monitor market

developments and premium prices and the Commonwealth will review the ACCC's involvement (including more formal processes) if it becomes clear that cost savings are being made but not passed through to consumers.

The Commonwealth has asked the ACCC to update its 'Insurance Industry Market Pricing Review' report by July 2002. The Commonwealth will provide the ACCC with a standing brief to continue to update this report on a six monthly basis over the course of the next two years. This ongoing monitoring role will enable an assessment of whether the insurance industry is adjusting premiums to take account of cost savings, and provide the gauge for the effectiveness of measures taken on a national basis to stabilise and contain claims management costs as reflected in public liability premiums.

To ensure increased availability of public liability insurance cover, Ministers also called on the insurance industry to play a proactive role in facilitating group buying and pooling arrangements, especially for community groups.

Volunteers and Not-For-Profit Organisations

A number of jurisdictions, including the Commonwealth, will introduce legislation to protect volunteers from being sued by providing an indemnity from the organisation for which they work. The legislation will be analogous to that enacted in South Australia.

Ministers noted that the rising cost and limited availability of public liability issues is a particular problem for not-for-profit community organisations. Accordingly, they have agreed, as a matter of urgency, to examine the costs and benefits of exempting eligible not-for-profit organisations from common law damages claims for death or personal injury (other than for intentional torts) and develop options as appropriate.

Law Reform

Notwithstanding substantial progress, Ministers agreed that further reform was necessary. Ministers agreed that reform proposals should satisfy one or more of the following objectives:

- * Cost reduction;
- * Cost containment;
- * Increasing certainty and predicability of costs of claims for insurers which, based on evidence presented by the Insurance Council of Australia, is critical to containing premium increases in the short to medium term; and
- * Managing community expectations about personal responsibility and assumption of risk.

Tort Law Reform

Ministers are committed to achieving a range of targeted and broad based reforms designed to contain the costs of claims and to deliver predictability for the pricing of insurance products.

Ministers noted that, based on expert advice provided to the meeting, rising claims costs were a particular problem in New South Wales but that all jurisdictions had experienced increases in claims costs above growth in average weekly earnings.

Ministers noted that New South Wales and Queensland had recently announced their intention to introduce broad ranging tort law reforms. Western Australia has also announced in principle support for a range of measures as part of the national approach. Progress by States in these areas is set out in Attachment A.

Waivers for risky activities

The Commonwealth will legislate to allow self assumption of risk for people who choose to participate in inherently risky activities such as adventure tourism and sports, subject to preserving adequate protection for consumers in the Trade Practices Act.

The States committed to introducing mirror legislation where required.

Review of law of negligence

Unpredictability in the interpretation of the law of negligence is a factor driving up premiums.

The Commonwealth, States and Territories have agreed to jointly appoint an expert panel of three eminent persons to examine the law of negligence, including its interactions with the Trade Practices Act 1974. The review will also consider the liability of public authorities and joint and several liability. The panel will report by August 2002 after consultation with the Standing Committee of Attorneys-General. Terms of Reference for the Review and appointment of the panel will be announced shortly following agreement between governments.

Compensation

Ministers agreed that all States and Territories would examine the desirability of aligning damages under common law more closely with statutory third party insurance awards for other personal injury claims.

The range of measures to be considered in each jurisdiction, if

not already done so, includes:

- * Bringing general damages awards and economic loss into line with caps and thresholds available in each jurisdiction's statutory schemes;
- * Pre-judgement interest on damages awards, where it exists, to be set at the 10 year Commonwealth bond rate;
- * The discount rate for damages to be set by statute at 5%, unless a higher rate already applies;
- * Limits to be placed on the circumstances and amount of damages for gratuitous attendant care;
- * Set the statute of limitations period at 3 years for all personal injury claims with provisions to protect minors. Western Australia has commenced a separate and comprehensive review of its limitations legislation; and
- * Prohibit the recovery of damages if the injured person was engaged in a criminal activity and providing that the taking of recreational drugs (including alcohol) is taken into account as contributory negligence.

Structured settlements

Ministers noted that Commonwealth legislation for structured settlements is scheduled to be introduced next week.

Structured settlements allow compensation payments to more closely match the settlement against the claimant's ongoing needs. The State Ministers have agreed to sponsor legislation to remove the barriers to structured settlements as an alternative to lump sum payouts.

Legal system reforms

Ministers noted that although tort law reform is a key element in stabilising and reducing claims costs, improvements to the procedures by which the legal system assesses and determines claims would also deliver significant cost savings.

Handling of claims

The Commonwealth, States and Territories have each, for their respective courts' jurisdictions, agreed to examine ways to improve procedures to encourage resolution of claims without resort to litigation including:

- * Pre-litigation exchange of evidence whereby the notice of claim will be supported by experts' reports on liability, causation and quantum of damages;
- * Compulsory conferencing prior to the commencement of proceedings, and parties possibly being required to exchange offers of settlement at or shortly after that conference;
- * Changes to legal cost rules to encourage the above initiatives by the reintroduction of a scale of costs, which is set out by the court for the various activities involved in bringing a case to trial.

Ministers expect the legal profession and insurers to contribute to the development and implementation of these measures.

Advertising by legal practitioners

Ministers also noted a perception that advertising of personal injury legal services, including through 'no-win, no-fee' arrangements, could encourage inappropriate social expectations about assumption of risk and personal responsibility. Ministers agreed that limits on advertising and legal fees would be considered on an individual jurisdictional basis.

Data collection

Ministers agreed that the lack of comprehensive data on claims costs was a significant constraint in the appropriate pricing of premiums by the insurance industry for not-for-profit, adventure tourism and sporting groups. The paucity of data is also inhibiting the development of insurance products suitable for these sectors.

The Commonwealth has agreed to use the Financial Sector (Collection of Data) Act 2001 and require all authorised insurers operating in Australia to submit claims data to the Australian Prudential Regulation Authority (APRA) for analysis and publication. Consultations to develop a consistent methodology will begin shortly.

The States and Territories also agreed to contribute similar claims data from State insurers and local government insurance mutuals to assist in the understanding of public liability insurance.

Ministers also agreed on the need for a nationally consistent methodology for courts statistics and asked the Standing Committee of Attorneys-General to consider this as a high priority.

Benchmarking study of claims processing

Ministers agreed that the Productivity Commission be asked to benchmark Australian insurers' claims management practices against world standards and report by December 2002.

Risk management

Recognising that better risk management would provide long term benefits through fewer injuries and hence, claims. Ministers endorsed proposals already underway to develop guidelines for not-for-profit community, sports and charity groups. The Commonwealth indicated that it was prepared to take a leadership role where required.

Role of insurers

Ministers' agreed that this package of reforms will over the long term deliver consistency and predictability. However, they will not address short term availability and affordability issues. Ministers therefore called on the insurance industry to respond promptly and constructively to the issues facing particular groups in obtaining public liability cover and rising premiums.

Ministers agreed to consult over coming months on particular issues affecting not-for-profit organisations, adventure tourism and sporting groups.

ATTACHMENT A

Information re other states is available please ring Cary at CASA if you need it.

SOUTH AUSTRALIA

South Australia has enacted legislation to protect volunteers to government and incorporated bodies from liability for claims and has provision under its Workers' Compensation legislation to provide cover to prescribed groups of volunteers.

It already has in place pre-litigation procedures which provide opportunities for settlement of claims in an economical way. In the risk management area, it is conducting risk awareness raising and advisory sessions for tourism groups and will soon be providing similar services for volunteer and community groups.

Many community groups in South Australia have for a number of years purchased public liability insurance through arrangements managed by Local Government Risk Services. The South Australian government is working with the South Australian Local Government Association to broaden these arrangements to cover more community groups.

The South Australia Government will urgently consider a wide range of reforms as recommended, in particular a cap on payouts, self-assumption of risk ie: a waiver, no damages for those injured while engaged in a criminal activity or while under the influence of drugs (including alcohol). South Australia also supports a review of the law of negligence.

Australian Local Government Association

Local Government has an important role in delivering support services that underpin the 'grass roots' effectiveness of legislative measures to be implemented by federal, state and territory governments. Local Government will examine options to facilitate group purchasing schemes for not-for-profit and community organisations. Local Government will also work collaboratively with state and territory governments to significantly improve risk management skills in the community, not-for-profit and small business sectors. Local Government will consider options for the provision of risk management accreditation services to relevant community organisations, not-for-profit groups and small business, in concert with other spheres of government.

A Letter from the Tropics...

Matt Randell, OEASA awardee, committee member for 5 years, has recently moved to Groote Eylandt in the Northern Territory to take up a position as recreation officer. He writes to OEASA members the following: (edited)

Things are going well up here in the NT. I have settled into a house on stilts with big balconies! Great for sitting out on the mild evenings, sipping coconut milk and munching on fresh fish and mudcrabs. Hard job, but some one has to do it! We are planning for an open day at the 'Rec Shed' next Friday. Free BBQ, basketball games, footy games, spear throwing competition, disco, that sort of thing. I have two off-siders working with me: Wayne and Bryan, plus a few other helpers who pop in from time to time. At the moment just getting the Rec shed cleaned up. Lots of vandalism has occurred over the past 6 months, with no Recreation Officer around.

Have been to two funerals since I've been here (2 weeks). This is a community in mourning. The ceremony for the first funeral lasted over a week. A mix of Yolngu (mainland) and Groote Eylandt traditions, dancing, smoking ceremonies, chanting and didgeridoo. The second funeral was mostly Groote traditions. The community comes to a standstill during funerals and it is not appropriate to run events during this time, hence the delay in starting regular activities at the Rec Shed.

My dog, Kira the Crazy Kelpie X, is doing well. She got me worried last week when she jumped off the ute at 5am on a very foggy morning while we were driving out to go fishing (yes I can get up at this time when I need too, and it was a Sunday!). We didn't know she had jumped off, the other dogs in the back (2 Boxers) didn't seem to care too much. The white boxer, Boof, is deaf anyway and probably didn't even notice. It took 5 hrs to find my dog, some 20km down the road. I was worried she may have landed under the boat we were towing. Dumb dog! She survived with only a grazed chin and covered from head to tow in red dirt. We caught some fish that day which made up for it. The fillets I cut of the Queenie fish were bigger than any fish I have ever caught. I'm yet to cook up the coral trout we caught. Instead, today I cooked up some dugong steak (sea-cow). Not bad, think I'll make a stir-fry out of it! This week we are going fishing for sea-turtle for the community BBQ. Apparently my gear and car has finally arrived on the barge, minus one side mirror, and a couple of broken plates. TV not working yet cause my house doesn't have an antenna. Hope to change this situation soon. I have a mango tree, lime tree, five-corner fruits (what are these called?), and a few coconut palms in my yard. I found the coconuts are a sleep aide. At 3am when that bloody dog down the street is barking in front of my house, I throw a coconut at it and go back to sleep. Ingenious huh? Every now and then every dog in the community (at least 900) start howling at some ungodly hour of the morning. Unfortunately I don't have enough coconuts.

Cheers, Matt. *My new work email is: matthewrandell.acgc@bigpond.com*

Sustainable Living Project

Hi there,

I am writing on behalf of the Sustainable Living Project (SLP)- the national environmental education and innovation program for Australian secondary schools run out of the Faculty of the Built Environment at the University of New South Wales.

As you may be aware, one of the key forums of the SLP is the annual AGL Sustainable Living Competition which offers over \$30,000 in prizes to schools and students for their work on a range of environmental projects. The Competition is free and open to students in all Key Learning Areas (Yrs 7-12)- with entries closing October 25th.

Over the past few months we have worked closely with AGL to produce an exciting new CD-ROM, which outlines the competition, provides information on sustainability issues in general, and profiles some of the amazing environmental innovations generated by students.

If you would like to receive a free copy of the CDrom, please contact me with your address details. We would love to send one out to you.

Thousands of students are currently undertaking environmental projects as part of the competition and associated SLP, and we are keen to attract even more schools and students in 2002. If you know of schools, teachers or students working on environmental topics, or have any relevant promotional opportunities through your organisation, we would appreciate it if you would pass on the details about the SLP and the potential benefits of being involved.

This year, as well as the usual pool of great prizes up for grabs in the AGL Sustainable Living Competition (eg computer/music equipment, environmental technologies from Interbath, Skydome Skylight Systems, UNSW Bookshop vouchers and cash prizes etc) Pacific Solar is contributing a photovoltaic and education pack for the school of this year's winning project.

Additional information, environmental resources and links can be found on our website: www.sustainableliving.com.au

Your continued support and interest is appreciated.

Warm regards,

Ellise Barkley

Sustainable Living Project Coordinator

<http://www.sustainableliving.com.au/>

SOLARCH- Centre for a Sustainable Built Environment

ph: 02 9385 4834; fax: 02 9385 6735

The Faculty of the Built Environment

The University of New South Wales

Sydney 2052 NSW Australia

Professional Development Opportunities: Aboriginal Education Unit

Ngarrindjeri workshop at Camp Coorong

Weekend of 3rd - 4th August 2002

Learn from Ngarrindjeri people about their history and culture. With support from DETE Aboriginal education personnel, begin to plan a practical unit of work including art using symbols. Learn Ngarrindjeri weaving and identify plant uses for food and medicine. PD Certificates provided. Partners and children welcome. Cost Adults \$80, Partners \$80, Children (under 7) \$40, Children/students (7-18) \$60.

To register, contact Adele Pring 8343 6528 or email Pring.Adele@saugov.sa.gov.au

Cheques or money orders are payable to SASOSE Council, PO Box 54, Prospect Hill 5201. Places will be reserved upon full payment. Sponsored by SASOSE (Studies of Society and Environment) Council, CEASA and Aboriginal Education, DETE.

Barnarla field trip: Aboriginal history of the Whyalla/Iron Knob region

Tuesday 1st to Friday 4th October 2002 (1st week holidays)

Travel to Port Augusta, Whyalla and Iron Knob (or meet us there) and stay for three nights at the Lighthouse Cottages at Point Lowly. All inclusive cost of \$285.00 covers transport, accommodation and meals. Meet a range of Barnarla people, visit a range of cultural and historic sites, including some associated with the Seven Sisters Dreaming. PD Certificates provided.

For information, contact Elio Auciello, tel: 8343 6564 or April Wilson, tel: 8343 6523 or email Auciello.Elio@saugov.sa.gov.au or Wilson.April@saugov.sa.gov.au. Cheques or money orders are payable to SASOSE Council, PO Box 54, Prospect Hill 5201. Places will be reserved upon receipt of payment. Sponsored by SASOSE (Studies of Society and Environment) Council, CEASA and Aboriginal Education, DETE.

Adnyamathanha yarta nakuntha

(looking at the Flinders Ranges)

Sunday 6th - Friday 11th October 2002 (2nd week holidays)

Travel to the Flinders Ranges to learn about Adnyamathanha history and culture, all inclusive cost of \$360 for bus travel, meals, accommodation and a copy of curriculum document *The Adnyamathanha people: Aboriginal people of the northern Flinders Ranges*. Meet a range of Adnyamathanha people, visit a range of cultural sites associated with rock art, Dreaming stories, beauty and history. PD Certificates provided.

To register, contact Adele Pring 8343 6528 or email Pring.Adele@saugov.sa.gov.au

Cheques or money orders are payable to SASOSE Council, PO Box 54, Prospect Hill 5201. Places will be reserved upon receipt of \$50 deposit. Sponsored by SASOSE (Studies of Society and Environment) Council, CEASA and Aboriginal Education, DETE.

Ngarrindjeri cultural field trip

January 6th - 10th 2003

Escape the hot weather in Adelaide, stay in comfortable dormitory accommodation (4 beds max. per room) and learn from Ngarrindjeri people about their history and culture. Travel the length of the Coorong, learn about bush foods and medicine, environmental changes over time, connections between Dreaming stories and actual places from Kingston SE to Victor Harbor. Taste a range of indigenous fruits ripe only at this time of year.

Cost of \$360.00 includes bus travel, meals, accommodation and copies of two Ngarrindjeri books (worth \$103.50). PD Certificates provided.

To register contact Adele Pring, tel 8343 6528, fax 8343 6515, email Pring.Adele@saugov.sa.gov.au

Cheques or money orders are payable to SASOSE Council, PO Box 54, Prospect Hill 5201. Places will be reserved upon receipt of \$50 deposit. Sponsored by SASOSE (Studies of Society and Environment) Council, CEASA and Aboriginal Education, DETE.

Professional Development Opportunities (continued)

Advanced Outdoor First Aid Certificate Course

BCS Adventure Services is contracting Red Cross to conduct the Advanced Outdoor First Aid Certificate Course in January 2003.

The course content includes:

MODULE 1	PRACTICAL FIRST AID AND DECISION MAKING	
MODULE 2	Assessment of medical complaints	
MODULE 3	Medical Problems	
MODULE 4	Shock	Minor problems
	Bleeding - internal and external	Soft tissue injury
	Wound management	Senior First Aid revision
	First aid kits	Senior First Aid theory paper
MODULE 5	Head injury	Chest injury
	Eye emergencies	Abdominal injury
	Spinal injury	
MODULE 6	Fractures	
	Cardiopulmonary Resuscitation Assessment	
MODULE 7	Casualty handling exercises:	
MODULE 8	Casualty simulation exercises - small groups	
MODULE 9	Casualty simulation exercises - complex situation with short distance carries	
MODULE 10	Advanced Outdoor First Aid examination paper	
	Review and Evaluation	
FIELD EXERCISES	Modules 7-10 may be conducted as field exercises, when the casualty handling exercises and simulations may be carried out in an outdoor setting using only the materials which would normally be available to any participant in an outdoor activity.	

Time requirements are: 6 X 3-HOUR MODULES AND 2-DAY FIELD EXERCISES

Approximate Cost is: \$200

Contact:

Nicola Trenorden

Manager

BCS Adventure Services

29 Selby Street

Adelaide SA 5000

Ph 82313762

Fax 84106232

adventure.serv@sabaptist.asn.au

Outdoor Education Research & Evaluation Centre

From James Neill, University of New Hampshire

Editor, Australian Journal of Outdoor Education

Updates from the OE Research & Evaluation Center, at the University of New Hampshire, focus on new content on the web, publications, and other notable Outdoor Education philosophy, theory, research, and evaluation-related events.

Go to <http://www.unh.edu/outdoor-education/update1August2002.html> for more details.

NEW CONTENT UPDATE # 2 - August, 2002

1. John Dewey enters the Electronic Age
2. The Latest on the Outcomes of OE and related programs
3. Update on Outdoor Education Journals
4. Outward Bound On-line Resources Continue Moving Into the 21st Century
5. OE History and Future on the Web
6. Challenge vs. Safety - Old but Good
7. "Hero Theory" on the Rise?
8. New Critiques of OE Theory and Program Design
9. ERIC Digests Provide Useful OE Summaries
10. New Resources for Intending Authors
11. New Resources for OE Researchers and Evaluators
12. New OE Internet Resources - Search Tools and Library Guides
13. New Professional Homepages
14. Books are Good - They're Just Hard to Find!
15. New OE Evaluation Reports
16. Other New Articles Added During July

"Be the change you wish to see in the world." - Mahatma Gandhi

Professional Home Page

<http://www.unh.edu/outdoor-education/JamesNeill.htm>

Web Portal for Outdoor & Adventure Education Resources

<http://www.unh.edu/outdoor-education/resources/index.htm>

Outdoor Education Research & Evaluation Center

<http://www.unh.edu/outdoor-education/research.html>

UNH Outdoor Education Program:

<http://www.unh.edu/outdoor-education/index.html>

Australian Outdoor Education Journal:

<http://www.unh.edu/outdoor-education/ajoe/index.htm>

NEW: Receive free email announcements when new outdoor education philosophy, theory, research & evaluation content is uploaded onto the Outdoor Education Research & Evaluation

Center website

...to sign up, send a message to:

oceresearchupdate-subscribe@topica.com

James T. Neill

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New Hampshire Hall, 124 Main Street, Durham, NH 03824,
USA

voice: 603 862 3047; fax: 603 862 0154;

[email: james.neill@unh.edu](mailto:james.neill@unh.edu)

U.S. Camping Tips...

Contributor: Nerilee Flint

When using a public campground, a tuba placed on your picnic table will keep the campsite on either side vacant.

A hot rock placed in your sleeping bag will keep your feet warm. A hot enchilada works almost as well but the cheese sticks between your toes.

The best backpacks are named for national parks or mountain ranges. Steer clear of those named for landfills.

While the Swiss Army Knife has been popular for years, the Swiss Navy Knife has remained largely unheralded. Its single blade functions as a tiny canoe paddle.

Modern rain suits made of fabrics that "breathe" enable campers to stay dry in a downpour. Rain suits that sneeze, cough and belch, however, have been proven to add absolutely nothing to the wilderness experience.

Lint from your navel makes a handy fire starter. Warning--remove lint from navel before applying the match.

You can duplicate the warmth of a down-filled bedroll by climbing into a plastic garbage bag with several geese.

When camping always wear a long sleeved shirt. It gives you something to wipe your nose on.

A potato baked in the coals for one hour makes an excellent side dish. A potato baked in the coals for three hours makes an excellent hockey puck.

The sight of a bald eagle has thrilled campers for generations. The sight of a bald man, however, does absolutely nothing for the eagle.

Day Walk Leadership Course

From Bushwalking Leadership South Australia:

Bushwalking Leadership SA Inc.

73 Wakefield Street,

ADELAIDE 5000

84101414

Interested in leading groups on day walks?

Rod Quintrell is facilitating South Australia's Day Walk Leadership induction course for September 2002. Nationally Accredited and Industry Recognised Qualification.

WHERE? Adelaide Mt. Lofty Ranges

WHEN? 2 weekends accommodated

Session 1: September 7 & 8

Session 2: September 14 & 15

Rod Quintrell 0418 812 125

email: earthadventure@bigpond.com

Day Walking Leadership Course coordinator

Bushwalking Leadership South Australia

8410 12414 (Wednesdays)

University of South Australia

Presents

Assistant Climbing Instructor Skills

A non accredited course.

Develops skills in assisting qualified SAREA instructors

Ideal for:

- Teachers that employ SAREA instructors
- Climbers that would like to assist SAREA instructors
- Youth Leaders that would like to assist SAREA instructors

Dates:

- Saturday October 5 and Sunday October 6

Location:

- Buckaringa Gorge

Cost:

- \$180 for 2 days

What is provided:

- Instruction and use of equipment

What to bring:

- Personal climbing equipment (can be provided), food and camping equipment for the 2 days, notepad and pen.

Outcomes:

- Frameworks for effectiveness as an assistant in a top-rope climbing setting, teaching methods, networking, fun!

What we won't be doing:

- Teaching people how to climb, teaching how to set a top-rope up for the first time, endorsing participants as instructors –contact your local private provider for such services!

How to Book:

- Contact Heather Miller at Port Augusta Aquatic and Outdoor Centre. 8642 2699 or 0408 830191

Bats of the Flinders Ranges

South Australia

Contributor: Carl Schiller

There are a number of bat species that live in the Flinders Ranges. These include the Yellow-Bellied Sheath-Tailed Bat, the White-Striped Mastiff Bat, the Little Mastiff Bat, the Lesser long-Eared Bat, Gould's Wattle Bat, the Chocolate Wattle Bat, the Western Broad-Nosed Bat, the Little Brown Bat, the King River Bat, and the Inland Eptesicus (Reardon & Flavel, 1987). They range in size (forearm length) from 28mm to 80mm and weigh between 3.3g and 60g as mature adults.

All bat species found in the Flinders Ranges are nocturnal, feeding on a variety of insects. The bats awake at dusk and fly around to locate food. They do this by using echolocation. 'Echolocation is achieved by shouting out loud sound pulses (usually at frequencies higher than the human ear can hear) and listening for the echoes that bounce back from the insect or obstacle' (Reardon & Butler, 2001). Different species of bat use different pulse rates and frequencies and it is these differences that aid in identification.

Bats of the Flinders Ranges use a number of roosts, including tree hollows, under loose bark, and sometimes in small caves. Height above ground, proximity to water and cavity size all affect roost location.

Bats can fly between 30-50km (Reardon & Butler, 2001) a night in search of food, using a variety of techniques to feed. Larger or less manoeuvrable bats usually catch insects directly in their mouth. Smaller bats catch their food by 'scooping up the insect in their wing, then manoeuvring the insect to their tail membrane then eat the insect (all this

happens in an instant and scarcely affects the harmony of flight' (Reardon & Butler, 2001).

Different bats forage through different parts of the forest structure, depending on season and insect types.

All species of bats are dependent on trees so in areas of tree removal, numbers fall due to loss of roosting sites.

References

Reardon, T & Butler, G, 2001, 'Bats of the Mount Lofty Ranges, South Australia', Data Sheet, Upper River Torrens Landcare Group Inc.

Reardon, T & Flavel, S, 1987, 'A Guide to Bats of South Australia', South Australian Museum, South Australia.

Bibliography

Churchill, S, 1998, 'Australian Bats', New Holland, Sydney.

Australasian Bat Society Inc.

www.batcall.edu.csu.edu.au/abs/new/

Department of Environment and Heritage – NPWS,

www.sacentral.sa.gov.au/environment/parks/

Carl is studying a minor in outdoor education at University of South Australia as part of his Bachelor of Education (Junior Primary/Primary). This paper was completed as part of a compulsory requirement of the course 'Introduction to Outdoor Education Leadership'. Carl is currently undertaking leadership awards in Bushwalking and Kayaking. He completes his study at the end of this year and hopes to continue his involvement in the field of outdoor education after graduating.

VET in Schools

An Essay by OEASA Committee Member, Brett Stanford.

Introduction

Many commentators of education claim that vocational education and training or VET is emerging as a vital development in the curriculum of the new millennium with its unique set of challenges (Butler 1999 p14 & Tinning et al 2001 p195). The strong push for VET in schools has occurred over the 1990's and beyond due to several mostly political pressures such as: the underpinning political pressures from high youth unemployment rates, only 15% of school leavers entering university, therefore pressure to offer alternative options of further education and training to cater for the 85% of students that don't attend university, a response to deal with decreasing retention rates in the senior high school years, general pushes towards economic rationalist neo-liberal philosophies of education and a need to reinvent Australia as the 'clever country' (Butler 1999 p15, Karpinski & Farmer 2002 p11, Ryan 2002 p1 & Tinning et al 2001 p195). Butler (1999) strongly advocates that the push for VET has been strongly associated with deregulation of the labour market, trends towards globalisation and that the entire VET process has been made subservient to these agendas.

This essay will attempt to examine current practice, explain some of the issues facing VET in school implementation and critically look into the differing approaches and ways forward for the implementation of VET in schools programs. Clearly there is a lot at stake and the planning and implementation process needs to be the best possible to ensure a bright future for students and will maximise their opportunities.

VET history

The concept of VET is nothing new as it has been around in various forms since the 1930's, however the concept of it becoming integrated into the curriculum of schools is a significant new development (Butler 1999 p14, Dixon 2001 p21 & Ryan 2002 p1). Various attempts towards VET have been made over the last 20 years however they have failed to take root at the school level (Butler 1999 p16 & Dixon 2001 p21). VET has seen a remarkable growth rate of the last five years with the National Centre For Vocational Education Research (2000) projecting that in 1998 there were 80,000 secondary students in the VET sector nationally compared to 129,000 nationally in 1999, representing 36% to 40% of year 11 and 12 enrolments. This research also revealed a dramatic increase in the number of secondary schools running VET programs from 1441 in 1997 to 1845 in 1999, the greatest growth being in the non-government sector. Similar statistics can be seen from DETE (2000) where in South Australia in 1997, 2,417 students representing 11% of SACE enrolments were studying in the VET sector increasing to 15,560 students representing 66% of SACE enrolments in 2000.

Funding

As mentioned previously, there have been rapid changes that have occurred in the VET sector and also much debate over courses to be added and removed. Many have suggested that a strategic approach to the delivery of VET programs is necessary especially in schools and that this historically has not occurred. Funding has often been given a 'fad' reputation, which critics argue does not allow for long-term sustainable planning and curriculum development (Butler 1999 p17, Dixon 1999 p21, Karpinski & Farmer 2002 p11 & Ryan 2002 p1). The senate inquiry found has also admitted this claiming that "funding for VET in schools is insufficient, irregular and unpredictable" (Karpinski & Farmer 2002 p11).

Definitions and directions in VET

Often VET has been associated with: work education, key competencies, VET in SACE, VET in TAFE, enterprise learning and school based new apprenticeships. However some contemporary theorists argue as to whether this truly constitutes VET (Butler 1999

p20, Karpinski and Farmer 2002 p11 & Ryan 2002 p1). Karpinski and Farmer (2002) argue that these programs can only be vocational training if it has a clear pathway to a particular ongoing job. Further Ryan (2002) argues that VET that has a too narrowly defined definition of training can be of little value

It is further stressed that programs need to instil skills in students to equip them for lifelong learning and the development of good citizens that will enable them to participate in an ever changing world characterised by an increasingly uncertain job market (Butler 1999 p16 & Karpinski & Farmer 2002 p11). It has also been identified that a broad comprehensive education is required not a narrow focus, which can limit opportunities, as in these changing times career changes are common therefore students need to gain transferable skills so they can cope with this (Butler 1999 p16 & Karpinski & Farmer 2002 p11).

Embedding and stand-alone VET

In South Australia two approaches have been made in implementing VET in schools programs. A popular option has been to embed VET modules within the South Australian Certificate of Education (SACE) stage 1 or 2 (Karpinski & Farmer 2002 p11 & Ryan 2002 p7). This requires an increase in the amount of student and teacher work however is seen to be more effective than the alternative, which is, stand alone VET (Karpinski & Farmer 2002 p11 & Ryan 2002 p7). Stand alone VET has seen much unpopularity by school communities as it has no links to SACE and therefore does not help students in completing their SACE. Problems have also been seen that lack of coordination in curriculum can see the students being blamed for not having the initiative to catch up on missed class work while involved in VET programs. Ironically VET has been thrust towards low achieving students yet demands students with high levels of organisational skills to coordinate their involvement in VET programs and their academic studies (Ryan 2002 p8). It has been recommended that more work needs to be carried out in 'marrying' modules within SACE so that dual accreditation with SACE and VET courses can be met (Karpinski & Farmer 2002 p11).

Ryan (2002) identifies with these two directions in curriculum. She supports the integration of VET into mainstream curriculum, which she terms as general education and claims that VET outcomes are better achieved by this method. Under embedded philosophies the world of work is viewed as having its own inherent value in combination with academic studies. This view is supported by industry viewpoints that have criticised that vocational graduates lack the academic knowledge and thinking skills needed in current jobs characterised by constant change. A dual vocational academic pathway can also provide the option to enable students to not go into low status vocational programs (Ryan 2002 p2). Ryan presents a third curriculum option where work in itself is esteemed for its inherent value without links to occupational outcomes. This approach uses strong general education as its vocational preparation. Such a view is supported by research Ryan (2002), which shows the value of learning at and from work not just for vocational skills but for general education also. This is best achieved in a long-term work placement rather than a short-term experience, as students can gain real meaning from such experiences. However, further research has revealed an alarming extent to which experience of real workplaces were provided to students, as only 3% experienced more than 20 days in a workplace environment and 43% of students had no workplace experience at all (Ryan 2002 p5).

VET coordinators and teacher credentials

Research has shown that the most important factor in the implementation in VET in schools is the VET coordinator teacher (Ryan 2002 p6 & Tinning et al 2001 p196). A study by Dixon (2001) showed that the way VET coordinators personally construct the meaning of VET is vital to the success of the program. It was concluded that staff influence was the main barrier for the institutionalisation of VET in schools and that individuals were more influential than internal structures. This research claimed that it was wrong to mandate for educational change in this area and expect teachers to be forced to make the changes and that the answers lie in

providing adequate support structures to let VET coordinators best do their job (Dixon 2001 p23).

Specifically one of the greatest concerns with regard to the attitudes of teachers is that most teachers perceive VET to be less prestigious than academic counterparts and that it is identified and associated with low achieving students. This is a huge misconception and is destructive as it seeks to polarise academic and vocational learning. Emerging evidence is pointing to the need to merge these two at the teacher and educational level if VET is to succeed in schools (Dixon 2001 p24, Ryan 2002 p Tinning et al 2001 p196). Tinning (2001) suggests that the major factor causing the lack of integration between vocational and academic aspects of schools is the lack of experience and training of teachers for this.

As VET programs have grown in enrolments so has the workload expected of VET coordinators and many agree that the current staffing workload arrangements are excessive and unsustainable (Karpinski & Farmer 2002 p11). Often VET coordinators are under pressure to reach targets in enrolments and student achievement. Compounding this problem is the fact that VET coordinator teachers have often been 'poached' by industry particularly in Victoria in the early 1990's due to being offered better pay and conditions (Karpinski & Farmer 2002 p11).

One criticism of the VET process in schools raised by the AEU, Karpinski & Farmer (2002) has been the requirement for teachers to do more courses to access their capability of running the VET courses. It has been common for many teachers to question the need to do this and also question the lack of flexibility to acknowledge teachers already existing skills as being necessary to run VET courses. Many teachers have found that when they do these courses they are merely providing evidence of their current practices (Karpinski & Farmer 2002 p11). Clearly the process must become easier and more understanding of teacher's needs to help VET in schools proceed.

Students at risk

Due to VET being the target of students and schools seen to be at risk, i.e. low socio economic backgrounds, the concept has historically developed this way. The focus of VET has been polarised as being the domain of the under achieving, un-academic students and many commentators see this as being unhealthy to its development (Ryan 2002 p12). Such an attitude can exclude and prejudice very high and low achieving students (Ryan 2002 p11) Some cynics have also seen VET as being used as a way of deal with behaviour management issues in difficult to manage schools, as in sends off the difficult students to do a course and focuses on teaching students that want to learn (Karpinski & Farmer 2002 p11).

Demands on industry

It has been identified that the demand facing industry is significant. The following issues face industry: that it has a limited capacity to absorb more workplace learning, it has a lack of flexibility to offer more placements and that the cost to the businesses is not always returned (Ryan 2002 p6). Further demands such as work place assessors requiring to have a certain level of qualifications and experience specifically with regard to assessment of students compounds the difficulties for industry. Often employers find assessment demanding and rarely are they trained for this (Ryan 2002 p7). As a result there are few strongly supporting employers that are involving themselves (Karpinski & Farmer 2002 p11 & Ryan 2002 p6). Many of the success stories of VET in schools programs can be associated with strong links to local businesses and industry, with strong communication links between both school and industry (Karpinski & Farmer 2002 p9).

Current initiatives

Currently there are some good programs on offer in schools, which seek to improve learning outcomes for students. Under this

environment teachers are able to vary their curriculum, redefine their teaching methodologies and use different assessment tools (Karpinski & Farmer 2002 p11). The benefits of VET in schools programs are significant as they provide a greater relevance to school and learning for students. The students get to experience real world contexts to their learning and in the process the relationship between the school and local industries and wider community is strengthened (Karpinski & Farmer 2002 p11). However it must be stated that not all innovations have been equally valuable and often programs that too narrowly define training become of questionable value to students (Ryan 2002 p1).

Successful implementation has been associated with getting the following issues right: satisfying industry's need for quality and experience of teachers, schools providing adequate facilities, high drop out rates from year 12 VET programs, currently only 11% of students complete VET programs which have tertiary entrance scores, pathways to further training are unclear and the stereotype of VET being the domain of low socio-economic status remains strong (Karpinski & Farmer 2002 p9 & Ryan 2002 p6).

Conclusion

The VET issue presents significant challenges to schools and should be a part of the broader educational reforms required to provide the best possible opportunities for young people. Many significant issues such as: funding, staffing and industry links and benefits have been identified as critical to VET's development in schools. Schools that have taken on these challenges have significantly benefited from this (Ryan 2002 p10). In a climate where student motivation and perceived relevance of education in secondary schools seems to be at an all time low, the benefits of harnessing positive experiences from VET would seem a worthwhile enough reason alone.

References

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Adventure Activities

Web Site

http://www.geocities.com/dr_adventure/activitypage.html

Outdoor Committee

Meetings Calendar

August

- Tue 6* 5.30-7.30 Canoe SA: Education Executive
- Wed 7* 5.30-7.00 BLSA TAA Panel 73 Wakefield St
- Wed 14* 5.30-7.00 SAREA AA Panel Kent Town Hotel
- Thu 15* 5.30-7.30 Recreation SA: Outdoor Rec Committee 73 Wakefield St

September

- Tue 3* 5.30-7.30 Canoe SA: Education Executive
- Wed 11* 5.30-7.00 OEASA Annual General Meeting
18 Milner St Hindmarsh
- Thu 19* 5.30-7.30 Recreation SA: Outdoor Rec Committee 73 Wakefield St

October

- Tue 1* 5.30-7.30 Canoe SA: Education Executive
- Wed 9* 5.30-7.00 SAREA AA Panel Kent Town Hotel
- Wed 16* 5.30-7.00 OEASA Committee
18 Milner St Hindmarsh
- Thu 17* 5.30-7.30 Recreation SA: Outdoor Rec Committee 73 Wakefield St

November

- Tue 5* 5.30-7.30 Canoe SA: Education Executive
- Wed 6* 5.30-7.00 BLSA TAA Panel 73 Wakefield St
- Wed 13* 5.30-7.00 OEASA Committee 18 Milner St
Hindmarsh
- Thu 21* 5.30-7.30 Recreation SA: Outdoor Rec Committee 73 Wakefield St

December

- Tue 3* 5.30-7.30 Canoe SA: Education Executive
- Wed 4* 5.30-7.00 SAREA AA Panel Kent Town Hotel

Risky Business

Contributor: John Quay

Just a bit of risk management data for those of you keeping statistics on injuries (sent to me by a friend - I cannot vouch for their authenticity) - please take as meant - lighthearted - although serious for those involved:

Cheers

John Quay

From the Australian Bureau of Statistics

- 3 Australians die each year testing if a 9V battery works on their tongue.
- 142 Australians were injured in 1998 by not removing all the pins from new shirts.
- 58 Australians are injured each year by using sharp knives instead of screwdrivers.
- 31 Australians have died since 1996 by watering their Christmas tree while the fairy lights were plugged in.
- 19 Australians have died in the last 3 years by eating Christmas decorations they believed were chocolate.
- Hospitals reported 4 broken arms last year after cracker pulling incidents.
- 101 Australians since 1997 have had to have broken parts of plastic toys pulled out of the soles of their feet.
- 18 Australians had serious burns in 1998 trying on a new jumper with a lit cigarette in their mouth.
- A massive 543 Australians were admitted to casualty in the last two years after opening bottles of beer with their teeth or eye socket.
- 5 Australians were injured last year in accidents involving out of control Scalextric cars.

?.....and finally:

- 8 Australians cracked their skull in 1997 after falling asleep (passing out) while throwing up into the toilet.

YEP! It is great to be an ozzy!

TOWARD 2003
13TH NATIONAL OUTDOOR EDUCATION
CONFERENCE
CALL FOR PAPERS / PRESENTERS IN:
MIDDLE SCHOOLING - OUTDOOR EDUCATION

Are you interested in the development of adolescents (school years ~ 6 to 9) through use of the outdoors. Do you consider yourself an "Outdoor Educator". Then you should consider presenting at the 13th National Outdoor Education Conference in Adelaide April 13 - 17, 2003.

Middle Schooling covers the years of development from child into young adult, as such it is an important time for students, schools and the community. If you run successful programs, activities or courses with young people then why not share your good practice with others.

Presenting at the conference in Adelaide will give you the opportunity to:

- Develop networks with others,
- Present and showcase your good practice to others,
- Help improve practitioners delivery of suitable outdoor experiences, and
- Have a great time in sunny Adelaide

IT'S NOT TOO LATE - if you are interested see attached information sheet for presenters.

INTERESTED IN MIDDLE SCHOOLING OUTDOOR EXPERIENCES

The National conference will offer opportunities to network with others interested in developing youth through the outdoors.

There will be time to share your experiences, successes and failures with peers.

All you need do is make sure you are there and bring with you information for sharing with others.

If you are interested in Middle Schooling and Outdoor Education and would like to be involved in the conference or forming a interest group leading up to the conference please contact:

Mike Meredith

E-mail mimeredith@esc.net.au

Phone 08 82695693 Hm

08 82826400 Wk

Looking forward to seeing you all in Adelaide, April 2003.

Yours in the Outdoors

Mike Meredith 5/7/02

TOWARD 2003

13TH NATIONAL OUTDOOR EDUCATION CONFERENCE

A CODE OF ETHICS FOR OUTDOOR EDUCATORS

As part of the lead up to the 2003 conference the concept of a code of ethics for Outdoor Educators is being explored.

At the 12th National conference I undertook to further this possibility with the view of presenting any developments at the next national conference.

In the mean time Innes Larkin has commenced a study related to this ideal. As this is something which is of interest to all Outdoor Educators / leaders it would be great to get some input from others in the area.

How would it look, perhaps two parts:

A basic set of “what you should do” for basic practitioners like myself with a brief “how it should look “ component, and

A more detailed discussion of the why and wherefore, with plenty of academic rigor for those so inclined.

Possible headings may include:

1. relationships with students / participants / peers,
2. relationships with landowners (traditional & current),
3. relationships with other land users,
4. relationships with the environment, and
5. issues of means, purposes and ends.

If you have any thoughts on the development of a code of ethics for Outdoor Educators

Please contact – Mike Meredith

E-mail mimeredith@esc.net.au

Phone 08 82695693 Hm

08 82826400 Wk

OR

Innes Larkin ITLarkin@bigpond.com

Looking forward to seeing you all in Adelaide, April 2003.

Yours in the Outdoors

Mike Meredith

5/7/02

Update no. 3:

13th Australian Outdoor Education Conference

Adelaide 14-16 April 2003

Organisation for the National Outdoor Education conference in Adelaide next year continues to progress nicely. A few more pieces of the puzzle are coming together, greatly assisted by Shirley Brown the conference coordinator and an enthusiastic committee.

Call for Papers:

Following a meeting on July 17, 2002, it was decided that an extension of the 'call for papers' should be made until the end of August. This will mean that notification of acceptance of papers will not come until end of September.

All other time lines will remain (as per call for papers outline below).

This amendment should allow those that did not receive the information until late to formulate their abstract in time.

There has been something of a flurry of abstracts over the last 2 weeks. The quality looks to be very high and it is very easy to get excited about the program.

New Conference Dates:

Please note the Conference dates are now 14th-16th April, 2003. A program of pre conference activities has been planned. This also means that Thursday is free for those that want to arrange post conference meetings etc prior to Easter on Friday 18th April. The loss of the final morning was in response to feedback that it might not be very well attended based on previous conferences...

A reminder that Shirley Brown is the Conference Co-ordinator, with the committee responsible for programming issues...and doing whatever Shirley tells us...

Shirley can be contacted on shirlbr@ozemail.com.au if you need to know more about the organisation side of things.

Shirley is about to hit the sponsorship trail to help keep costs manageable. Please advise her if you have any leads that might be worth following up.

Web Access:

There have been a few inquiries regarding web access. At this stage our plan is to place the conference enrolment documents on the Australian Outdoor Education website as they become available. We have chosen to keep things simple and not redevelop any web based information for the moment.

Next OEASA meeting:

The next meeting (OEASA AGM) is scheduled for Wednesday September 11, 5.30 at the Education Development Centre, 18 Milner Rd Hindmarsh.

The Outdoor Educators Association of South Australia and the Australian Outdoor Education Council
present

the 13th National Outdoor Education Conference

Adelaide April 14-16, 2003

Relevance: Making it Happen

Call for Papers (revised)

Registration for conference available November 2002.

The focus of the conference is the application of knowledge, ideas and resolutions.

Abstracts (up to 250 words) due ~~July 15 2002~~ (**now August 30, 2002**) to be sent as in-text email, with subject title "Relevance Conference Abstract" to Nerilee.Flint@unisa.edu.au.

Please indicate the following in your response:

1. Name(s) of presenter(s)
2. Biography of presenter(s) (max 50 words)
3. Title of presentation
4. Target audience
5. Format (choose from):
 - * Keynote Speakers
1 hour (1 place remaining)
 - * Research based presentations
30 minute or 1 hour
 - * Workshops
1 or 1.5 hours
6. Venue requirements (e.g. classroom; outside area; AV equipment)

Applicants of successful submissions will be notified by Sept 15, 2002.

It is expected that presenters will submit completed papers by February 15, 2003. Presenters are expected to meet the cost of attendance at the conference including registration. (Registration for 1 day available).

General inquiries regarding conference:

Scott Polley

OEASA Chairperson

Scott.Polley@unisa.edu.au <mailto:Scott.Polley@unisa.edu.au>