

VicSport

Independent Taskforce Report

The Cost of Delivering Sport in Victoria

March 2001

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Executive Summary

i) Introduction

On August 21, 2000, the Victorian Minister for Sport and Recreation, the Honourable Justin Madden announced the creation of a Taskforce charged with investigating the Cost of Delivering Sport and Recreation to the Victorian Community. The Taskforce was asked to review the impact of items including insurance and legal costs, water charges and local government pricing policies on sporting organisations.

ii) Insurance

The impact of rising insurance costs is a major factor affecting the cost of delivering sport. Increasing insurance costs faced by organisations responsible for the delivery of sport is having a significant impact on their viability.

Public Liability, Directors and Officers Liability, Professional Indemnity and Personal Accident and Injury premiums have all increased in recent years, by a figure far in excess of the C.P.I. Whilst costs are rising adequate cover is becoming increasingly difficult to obtain.

iii) Legal Issues

The consistent message emanating from the public meetings and workshops outlined the difficulties faced by organisations when trying to attract people to administer and officiate sport at a community level. While the reasons for this are many and varied, an often-repeated explanation had the role of a volunteer as one becoming more complicated by the need to operate in what is an increasingly complex legal environment.

Where legal issues have arisen, community organisations expressed a desire to see an efficient, effective method for dispute resolution, minimising the need for expensive legal action. There was also a demand for a simplified explanation of those issues currently affecting sporting organisations. Many groups felt they did not have the expertise to properly handle legal matters and the costs involved in obtaining professional legal advice were prohibitive.

iv) Water Charges

The impact of water charges on community sporting organisations has varied significantly across the state.

For most using turf facilities, the imposition of water charges on a user pays system involves an annual cost typically between \$4000-6000. This burden has required sporting organisations to reassess their water usage and maintenance practices and has certainly affected their expendable income.

v) Club Administration and Compliance with Statutory Regulations

Expectations on clubs are increasing, as is the level of knowledge needed to satisfy an expanding range of administrative requirements. These can be attributed to the shift from a community group ethos to one now resembling a small business.

vi) Pricing Policies

The impact of pricing policies as prescribed by Local and State Governments is ambiguous. While there is an undoubted increase in costs passed on to sporting organisations when compared with the days of “peppercorn rentals” offered to traditional sports, the direct impact of these increases on the viability of community sporting organisations is less clear.

For many organisations, dissatisfaction stems from the inconsistencies associated with either a lack of clear policy or through a comparison with similar groups residing in another municipality.

vii) General Observations

There is a major concern among regional and rural communities that the likelihood of junior athletes receiving expert advice and joining representative teams is limited due to the cost in time and money of participating in training and information sessions held in metropolitan Melbourne.

viii) Summary

The environment within which sport and recreation services are delivered has changed significantly in recent years. The time commitments expected of those responsible for delivering sport have increased while many of the associated costs have also risen significantly. These changes have occurred at a time when traditional methods of fundraising are less effective and local sponsors are more difficult to attract as they seek greater demographic value for their contributions.

The cost of delivering sport to Victorians is not merely a financial concern. Victorians have long provided these services as part of a lifestyle valuing physical activity and the social benefits associated with sport and recreation. As the demands on those delivering sport increase, the support offered to them by the participants and their network of family and friends is decreasing.

The financial impact of insurance, water charges, statutory requirements and legal costs ranges from significant to devastating. Sporting and recreational organisations are seen to have a responsibility to the broader community as a service provider, however they are also required to operate as a small business might. While some community organisations have embraced a professional approach, others have been forced to severely reduce the services offered in order to survive.

ix) Summary of Recommendations

Insurance

1. Government research and initiate a sports industry insurance scheme addressing Personal Accident and Injury Insurance. The Scheme could be administered by insurance industry professionals on a management fee basis.
2. Government immediately research the Public liability insurance requirements of third party community hirers of public courts, halls, playing fields and such with the intent, if viable, of setting up a scheme offering blanket cover.
3. Undertake an audit of existing insurance policies purchased by State Sporting Associations on behalf of their members in order to ascertain whether the level of cover is adequate in terms of both price and extent of cover.
4. Develop effective risk management strategies to be used by community sporting organisations incorporating “SmartPlay”. This includes the education of community sporting organisations about the obligations they have to their members and the public where risk is concerned.
5. In line with this scheme, develop “plain English” policies, understandable to all parties.

Legal Issues

1. Request the Attorney General’s department to investigate Volunteer Protection Legislation. In this, The International Year of the Volunteer, the Taskforce notes that volunteer protection and its benefits extend beyond the boundaries of sport.
2. A comprehensive Sports Law website should be funded and established by State Government to ensure ongoing education covering legal matters relevant to all community sporting organisations be readily available.
3. VicSport in conjunction with the Australia New Zealand Sports Law Association, research and implement an Alternative Dispute Resolution process, available to community and state sporting organisations.

Water Issues

1. Dedicate Government funds over a period of five years to support ground rehabilitation and the construction of improved turf facilities with a priority on water minimisation. Consideration should also be given to the development of efficient water re-use schemes.
2. Call on water authorities and local government to offer incentives to encourage efficient use of water by community sporting organisations.
3. Ensure that every eligible sporting organisation is aware of the rebate currently made available to not-for-profit groups.

4. Encourage water authorities and LGAs to recognise broader general community use when allocating direct water costs to sporting bodies.
5. Ensure that water charging policies for sport and recreation adopted by water authorities are consistent.
6. As part of effective water management, encourage municipalities to investigate alternative surfaces to turf.

Club Administration and Compliance with Statutory Regulations

1. Government provide resourcing to develop a practical online system of advice, education and support for community sporting organisations in conjunction with State Sporting Associations.
2. Encourage and support the development of an “Administrative Support Hub” to assist with corporate governance matters. Seek Government funding to initiate a pilot study.
3. Promote a club administration structure which ensures a division of responsibilities between corporate governance and participant-based management.
4. The State Government subsidise the sport-specific education process for volunteer administrators, coaches and officials.
5. Promote de-centralisation of the education process. Encourage greater involvement of State Sporting Associations at a regional and rural level in conjunction with existing bodies.
6. Review and streamline the delivery of educational assistance to clubs in Victoria.

Pricing Policy

1. Ensure Local Government Authorities and sporting organisations are advised of “Leading Practice” in sport-related pricing policies.
2. Educate community organisations on the roles and relationships they have with Federal, State and Local Government.
3. Formalise cross-border discussions between councils to optimise use of venues and facilities.
4. Government initiate a fund for refurbishment of existing facilities and a requirement be placed on LGA's to have a rolling "Capital improvement" budget.

General Observations

1. Develop a Sports Foundation funded by tax-deductible donations. Earnings of the foundation would be available for distribution among junior athletes as part of a development programme.

1. Introduction

The purpose of this study is to consider and recommend options to reduce the costs faced by sports clubs and associations in delivering participation in sport and recreation to the Victorian community.

The Minister for Sport, Recreation and Youth Affairs drew together a Taskforce representing industry and community groups with a direct involvement in the delivery of sport. The role of the Taskforce was to collect and disseminate information obtained through consultation with the grass roots sporting community.

The Terms of Reference for the study are as follows:

- i) To consider the cost of delivering participation in sport and recreation with a view to recommending to the Government how best to implement policy to reduce these costs while improving the level of service offered.
- ii) To investigate and report on the following matters:
 - User-pays charges, including local government;
 - Cost of utility services, eg. water;
 - Other government services, eg. police;
 - Insurance costs and risk management; and
 - Other identified costs, eg. GST compliance.
- iii) Provide recommendations on new policies, strategies and/or formulas for implementation that the Taskforce deems may be necessary to contain the increase in costs while enhancing the provision of sport and recreation services for the community.

Sport and recreation have long been an integral part of the Victorian lifestyle. Central to this has been an extensive network of community-based organisations, largely administered by volunteers, dedicated to the provision of sporting and recreational activities.

The structure of grass roots sport in Victoria is admired across Australia and internationally and is still capable of providing active lifestyles and developing elite sportspeople for the international stage. Local sport and recreation is, however, under great strain and there is a realisation that social and demographic changes are demanding more from its volunteer workforce.

A key element in the delivery of sport and recreation is the cost. The financial burden facing community organisations is increasing dramatically. Added to this is the indirect cost, in time, of providing sport to the community. As volunteers administer most

community organisations, the cost in time and money of training and educating these individuals is often prohibitive and is not always recognised as an essential item.

Many organisations are torn between developing their knowledge base, understanding their organisational responsibilities and finding the money needed to keep participants active. They face a situation where access to grants and funding requires well-developed business and networking skills while traditional sources of sponsorship are increasingly more difficult to find.

Each of these factors only complicates administration of community organisations now facing a new tax system, water charges based on consumption, structured facility charges, stricter food and beverage handling regulations and incorporation requirements. Volunteer administrations and Committees of Management are expected to perform in a more professional manner.

While administrative matters become more complex, costs such as insurance become more expensive. Community sporting organisations can be seen to have a general objective including provision of safe, accessible activities to existing and future participants. This responsibility brings with it a need to offer appropriate protection for the participants and administrators. Insurance provides part of this protection and as a compulsory item in a tenancy agreement or as part of state affiliation agreements, organisations have little option but to pay the market rate.

This document seeks to identify the costs associated with delivering sport and recreation to Victorians and address the issues through a series of recommendations designed to reduce costs directly. It also offers support and assistance to those administering sport, thus ensuring physical activity retains its high priority in the Victorian community.

The Taskforce collected a great deal of information regarding those matters identified in the terms of reference and has identified many issues throughout the report. It has, however, made the distinction between those items required to deliver sport and those items directly associated with event management such as police and ambulance services.

Similarly, while club affiliation fees with State Sporting Associations (SSA) were recognised as costs during the consultation period, the Taskforce did not recognise the costs as significant. Rather they represent a level of obligation SSAs have to their members.

The Taskforce also noted the complexity of issues affecting indoor sporting facilities as compared with outdoor facilities. As management of indoor facilities is usually outsourced, the terms under which the venue is utilised, are dictated by the public's willingness to pay for the service. Thus the facilities are largely self-regulated.

(For the purpose of this report, the term “sport(ing) organisation(s)” refers to clubs, leagues and associations directly connected to the delivery of sport. Where a State Sporting Association is referred to it is referenced as such.)

Please Note: As a point of reference, the Taskforce would like to differentiate between strictly amateur organisations and those sporting organisations paying players for their services. The vast majority of sport in Victoria is played for competition's sake and for the health benefits associated with physical activity. The Taskforce has found it difficult to reconcile local organisations paying players significant proportions of the annual expenditure with those providing sport for sport's sake.

Where this paper makes reference to "community organisations" it can be understood that these groups do not spend more than 25% of the budget (officially or unofficially) on the payment of players and coaches.

2.0 Background to Study

Physical activity has long been known to have a positive influence on the physical and mental health of the population. (Surgeon General, 1996, Heart Foundation, 2000) The positive effects of physical activity on illness including heart disease, stroke and mental conditions such as depression give added significance to promoting sport and recreation and providing a framework supporting a more active Victoria. (Department of Human Services, 2000)

In general, maintaining an active lifestyle can benefit health by:

- Improving quality of life.
- Reducing the risk of dying prematurely.
- Promoting psychological wellbeing.
- Decreasing feelings of depression and anxiety.
- Helping to build and maintain healthy bones, muscles and joints.
- Helping with weight management.
- Assisting in increasing HDL cholesterol and decreasing triglycerides.
- Decreasing the risk of colon cancer.
- Lowering blood pressure in people with hypertension (high blood pressure) and reducing the risk of developing high blood pressure.
- Aiding in the control and prevention of diabetes - non insulin dependent diabetes mellitus (NIDDM).
- Decreasing the risk of dying from coronary heart disease. (Physical Activity and Health: a report of the Surgeon General, 1996).

(Department of Human Services, 2000)

While many of the above issues have long been recognised within Victoria, central to the adoption of healthy lifestyle activity is the provision of sporting and recreational outlets to service this need.

In 1996 the Confederation of Australian Sport (CAS) commissioned a report on the economic impact of sport and discovered that for a 5% increase in the number of Australians participating in organised sport, the net consumption benefit nationally was \$866 million (1996 dollars). Given the Government investment required to service this increased participation equated to \$148 million (1996 dollars), the benefit to funding ratio stands at almost 6:1 (CAS, 1998). These figures recognise the financial contributions required to service the needs of the community, however they clearly show the net benefit of increased physical activity to be enormous.

While sport and recreation has long been an expected part of a Victorian's childhood, the benefits are more far reaching than a winning score or improved performance. Children who are physically active are more likely to benefit from a health perspective, through improved self-esteem, better motor skills and an increased capacity to learn (Pate et al, 1995, Bunker et al, 1997). The challenge facing sport and recreation providers is to

enhance the provision of sport and recreation to meet the needs of children and their parents to ensure their continued participation.

The manner in which this service is provided can vary significantly and is not solely based around the availability of football fields and walking tracks. At a time when, nationally, working hours are longer than ever before for young and old members of the community alike (ABS, 1999) physical activity rates in Victoria have reduced from 58.2% to 54.7% in the year 1999-2000 (ABS, 2000). If general rates of physical activity are to be increased in the face of the trend apparent in working habits, Victorians will need to be offered more by those entrusted with the delivery and provision of sport and recreation.

For Victoria to maximise the benefits associated with increased physical activity, the present structure must not only be maintained, but also improved upon. The delivery of sport within the traditional structure must be further developed to better accommodate those pursuing a more active lifestyle. Where traditional sporting structures have disintegrated the impact can be devastating for the community, particularly in small and rural populations (Driscoll and Wood, 1999). Similarly, the VicHealth Mental Health Awareness program has identified the importance to the community of the continued delivery of sport and recreation to small populations.

While traditional sporting and recreational environments may not be able to accommodate the needs of the community, there are many positive examples of a community adapting itself to the most suitable physical activity (Driscoll and Wood, 1999). Such a dynamic approach to physical activity can lead from an organised, competitive sport to an activity regarded as a recreational pursuit. While the delivery of such services may differ, the benefits apply equally to both the community's physical health and social cohesion.

This study is intended to determine what assistance, if any, is required by those responsible for the delivery of community sport and recreation to Victorians. Volunteers in sport and recreation provide the equivalent of more than 104 million hours in Australia each year (ABS, 1997) and are required to continually adapt themselves to changing expectations and demands from government and society.

The range of demands placed on community-based clubs is vast, however observing changes in State and Federal legislation begins to identify the issues to have altered the way in which community organisations are administered:

- Re-structuring of Local Government;
- Implementation of Compulsory Competitive Tendering;
- Privatisation of Electrical Suppliers;
- Privatisation of Gas Suppliers;
- Corporatisation of Water Authorities;
- The Goods and Services Tax; and
- Introduction of gaming machines.

While none of these items is solely responsible for the administrative difficulties facing community sporting organisations, collectively they have impacted on the roles of volunteers and altered the broader social environment in which they operate. Associated with most of these issues is an element of cost. For some organisations it may be a basic financial cost while for all there is a cost in time and effort.

Not for profit sporting organisations, as providers of a community service, have a responsibility to service the members at a standard expected by the public. The dynamic environment of the past ten years has seen these expectations alter significantly and has directly impacted on the provision of sporting and recreational activities.

Physical activity, whether through organised sport or recreational pursuits has been an integral part of Victorian life for many years. To ensure it retains its place in our community it must be seen as safe and accessible. It requires a high level of input from volunteers, each of whom seeks little more than an element of recognition and satisfaction from their efforts yet contributes greatly to the fabric of Victorian society.

Support and understanding of issues as they relate to participation in sport and recreation is an investment that is returned through health – both physical and mental – education, and the environment and through an improved community spirit. In recent years, while sport and recreation in Victoria has altered significantly in the manner it is delivered, the associated benefits have been proven to be far reaching and extend well beyond the confines of the physical activity.

3.0 Methodology

3.1 Project Launch

Hon. Justin Madden, Minister for Sport, Recreation and Youth Affairs, launched the Taskforce on August 21, 2000

Taskforce members were announced as:

Mr Jack Reilly – VicSport (Chairman)
Mr Michael Cahill – Sport and Recreation Victoria
Ms Toni McCormack – Vicwater (formerly Victorian Water Industry Association)
Ms Lisa Comben – Deacons Lawyers
Mr Nigel Branson – IEA Insurance Brokers
Mr Glenn Patterson – Colac-Otway Shire
Ms Janice Lane – City of Darebin
Mr Sharon Ruyg – Sports Assemblies Victoria

VicSport acted as secretariat to the Taskforce utilising Julie Sarll (CEO) and Justin Hanrahan (Project Officer).

3.2 Submissions

Calls for public submissions were published in The Melbourne Herald-Sun, 34 free delivered metropolitan newspapers and 71 free delivered newspapers throughout country Victoria.

In response to these advertisements, the Taskforce received 36 written submissions and undertook 6 telephone interviews.

A list of individuals and organisations to have contributed written responses can be found in Appendix I.

3.3 Workshop and Public Forums

Throughout October and November 2000 the Taskforce hosted a statewide series of workshops and public forums designed to invite responses from members of the Victorian sporting public (public forums) and those involved directly in the administration and delivery of community sport and recreation (workshops).

The workshops and public forums were held in the following locations:

Date	Municipality	Location	Workshop	Public Forum
19 th Oct	Yarra City Council	Richmond	✓	✓
23 rd Oct	Casey City Council	Narre Warren	✓	✓
25 th Oct	Wellington Shire Council	Sale		✓
26 th Oct	Latrobe Shire Council	Traralgon	✓	✓
30 th Oct	Whittlesea City Council	Sth Morang	✓	✓
2 nd Nov	Greater Geelong City Council	Geelong	✓	✓
8 th Nov	Frankston City Council	Frankston	✓	✓
13 th Nov	Ballarat City Council	Ballarat	✓	✓
14 th Nov	Horsham Rural City Council	Horsham		✓
15 th Nov	Mildura Rural City Council	Mildura	✓	✓
20 th Nov	Wyndham City Council	Werribee	✓	✓
21 st Nov	Wodonga Rural City Council	Wodonga	✓	
22 nd Nov	Greater Shepparton City Council	Shepparton	✓	✓
27 th Nov	Manningham City Council	Doncaster	✓	✓
29 th Nov	Moonee Valley City Council	Moonee Ponds	✓	✓
5 th Dec	Greater Bendigo City Council	Bendigo	✓	✓

A list of attendees can be found in Appendix II.

3.4 Interim Findings

In early December 2000 the Taskforce prepared a document entitled “Interim Findings into the Cost of Delivering Sport and Recreation to Victorians”.

This report presented the views and perceptions gained during the consultative process.

The major issues identified in this report were:

- New and rising charges ie rates, water, electricity
- Insurance premium costs
- The cost in both time and money of compliance in a range of areas, both legal and administrative eg. GST
- Diverse management capabilities of sporting bodies, government departments, of facilities and the business of sport
- An underlying confusion amongst clubs and associations about the framework in which they operate

The Taskforce then distributed this paper to more than 100 individuals inviting comment. General discussion was strong however formal responses were minimal.

3.5 Validation Workshops

In January and February 2001, three validation workshops were held with a view to addressing the issues raised following publication of the Interim Findings. Included were validation workshops involving invited guests from:

- The legal industry,
- State Sporting Associations, and
- Local Government and the Water Industry.

During the validation process the major issues and recommendations for solutions were developed for the final report.

3.6 Final Report

Presentation of final report to the Director, Sport and Recreation Victoria—March 2001.

4 Areas of investigation

4.1 Insurance

4.6.1 Background

Insurance is an essential item for all sporting organisations aiming to protect individuals, clubs and associations from damages and expenses incurred across a range of occurrences. This can take many forms including personal accident and injury insurance, public liability insurance and directors' and officers' liability insurance.

While each category of insurance impacts upon sports differently, all have a role to play in ensuring personal and financial protection for participants and administrators active in organised sport and recreational activities. Comprehensive insurance is a necessity for those involved in sport, however the Taskforce has been made well aware of the rapid increase in cost to the policyholder and, in many cases, the inherent difficulty in obtaining suitable cover.

The most common forms of insurance relating to community sporting organisations are:

- Public Liability Insurance;
- Personal Accident and Injury Insurance;
- Directors' and Officers' Liability; and
- Professional Indemnity.

As it currently stands, most organisations offering sporting and recreational pursuits are required to have **Public liability insurance** as part of their tenancy agreement with the relevant Local Government Authority (LGA). The sum insured for has typically been \$5M, however this figure is now being revised in most areas to stand at \$10M for general public liability. This form of insurance covers the organisation for any incident attributable to the facility or event should it occur during any session (game or training) authorised by the policyholder.

Personal Accident and Injury Insurance covers, in a broad sense, any costs arising from an injury incurred during participation in an event covered under the organisation's policy. A policy of this nature may vary significantly in content and breadth of cover depending on premiums paid and the context in which the incident occurs. Such a policy may cover, but is not limited to, medical and rehabilitation expenses, loss of income and hospitalisation.

Accident and Injury Insurance will commonly have a large number of exclusions outlined within the policy and is likely to operate on a "no-fault" basis. For most sporting and recreational participants, accident and injury insurance is the form of insurance most likely to be claimed against. It is also the form of insurance the Taskforce found to be most varied and complicated across the sporting community.

Directors' and Officers' Liability is a third form of insurance intended to cover costs associated with damages arising from a “wrongful act” – excluding criminal behaviour – on the part of the directors. A wrongful act may be regarded as “an error, misstatement, misleading statement, act, omission, neglect or breach of duty by an insured person in his insured capacity”. (Corbett, 1995) Similarly, **Professional Indemnity** covers an individual whose expertise is used in a given area and insures them for actions taken while fulfilling this duty.

Each of these forms of insurance is regarded as a necessity for sporting and recreational organisations, however the cost of insuring against the likelihood of incidents occurring is reaching such a point that organisations are being forced to rethink the level of cover purchased.

4.6.2 Identification of issues

It would appear that National Competition Policy is having the adverse effect to what was intended in the provision of adequate insurance cover for those providing sporting and recreational pursuits. The numbers of companies willing to provide suitable insurance is dwindling and premiums are escalating out of control. (see Corangamite case study).

In each category of insurance mentioned above, it was made clear to the Taskforce that the premiums payable for the same level of cover have been increasing dramatically and show no signs of slowing.

The rate of increase does not appear limited to a particular sport or activity, instead it appears to be consistent across most sports and at all levels of cover. This observation made by those delivering sport has been confirmed to the Taskforce by its insurance industry representative and reflects a reservation maintained by many underwriters that insuring sporting activities “does not make good business”.

**Case Study: Corangamite Shire Council
Letter to the Hon.J.Madden 6/3/2001**

Corangamite Shire Council is part of the "Civic Mutual Plus (CMP)" local government self insurance scheme which provides public liability coverage for Council controlled activities. Understandably, this scheme does not cover third party community based activities. For this reason and in response to the need to reduce the administrative and financial impact on community groups/committees of management, this Council in 1999 undertook to fund a scheme which provides coverage for third party hirers of approximately 70 community halls and recreation reserves within the Shire.

On 26th February, Council received notification from our insurance broker that Council's policy, which expires on 1st March will not be renewed under existing terms. The renewal terms have taken us by surprise.

The broker has indicated that the insurance underwriter will not renew the policy under the existing terms. More of a concern and greater impact is the current premium costing \$11,428.90 will increase by a factor of ten to approximately \$110,000.

Through the same underwriter, we believe that five other Victorian Councils had similar blanket cover arrangements for community facilities within their municipalities and a further 2000 (approx.) committees on crown land throughout Victoria are single policies holders. All we believe are in a similar position to us. Of the six Councils involved in this scheme, the broker indicated none have made a claim.

Such a statement can be partly attributed to a general perception that sport does not have a good record at minimising risks that are central to the activity. The notion of “what happens on the field, stays on the field” has for some time, been enough to satisfy administrators that there is little need for risk identification and management in sport and that much of what occurs is “part of the game” and as such requires little or no action.

Such an approach, while still prevalent at some club levels, is no longer the case across the board. Despite this, many sporting organisations suffer from the lack of action from those members adopting a traditional approach to sports administration. Strategies to reduce the number of claims against a policy have not yet been embraced by all organisations and those to have taken these measures do not feel they benefit as might otherwise be expected as insurers usually take a “sport-wide” approach to premium setting.

As a result, many individuals and organisations made the observation to the Taskforce that premiums can rise significantly regardless of the organisation’s, sometimes excellent, claims history – a fact that leaves local sporting organisations disillusioned and at a loss when it comes to solutions.

This anomaly has been referred to by members of the insurance industry as the number of Incurred But Not Reported (IBNR) claims. IBNR claims relate to incidents that have already occurred, but where claims against the policy have not yet been made. As it stands, claimants may utilise the seven year statute of limitations which entitles them to a period of seven years within which time a claim may still be made against a policy.

Anecdotally there appears to be a significant increase in legal activity in sport in Victoria. General trends in Australia suggest litigation occurring between individuals and organisations has decreased slightly (Australian. Financial Review, p4, 19/02/1999). However, the insurance industry has determined that the number of claims not yet lodged but likely to occur in the near future, is significant and must be allowed for when calculating a premium.

With this complex situation impacting on the premiums payable by insured parties, there is a perception that little can be done to halt the increases and among community organisations there remains a high degree of confusion surrounding policies and the associated benefits of risk management.

With most sports administrators managing a fragile membership base constantly seeking new activities and challenges, the imposition of new or increased fees on their members is usually strongly avoided. Many of the increasing costs, including insurance premiums, are therefore borne by the organisation until such time when it is no longer viable for them to do so.

While this is an admirable trait among sports administrators, such costs cannot be constantly covered by the organisation. In the case of insurance, such a scenario presents two options: (1) pass on the new costs to the members via increased fees or (2) reduce the

level of cover and, therefore premiums offered, in order to keep fees at a manageable level.

While it is common for sporting organisations to bear these additional costs, failure to pass them on to members directly will often force a reduction in cover as the organisation tries to maintain its operating budget. Financial members may remain unaware of these decisions until such time when a claim is lodged against the policy and the item is discovered to be no longer covered or not covered to the same extent. As sporting organisations can be seen as service providers, the loss of such a service may be as unacceptable as the continual imposition of increased membership fees.

In most cases this scenario relates to personal accident and injury insurance and the associated level of cover. There were also examples brought to the Taskforce's attention where directors' and officers' liability has been compromised in order to maintain the financial viability of the organisation.

Linked to the observation that insurance premiums for sporting organisations are increasing at a rate far beyond CPI is the fact there are fewer insurers prepared to underwrite sport and sporting organisations. This is particularly true of public liability insurers.

For various reasons there is now little competition in the provision of sport's insurance. While sporting organisations can do little to reverse this problem, they suffer directly as there is less competition in the market for their business and fewer opportunities for them to actively seek the best possible arrangement in terms of both cover and price.

Similarly, the ability to obtain a new insurance policy appears severely restricted as some insurance companies are not prepared to write new policies, particularly public liability. It should be noted, however, that some of these companies have indicated to sporting clubs that they are quite prepared to maintain any existing policies.

The concern surrounding the availability of Public Liability Insurance has been accentuated by the recent request by Local Governments for tenants of sports facilities to insure for \$10M instead of the previous sum of \$5M – a reflection of the cautious nature of insurers in this market. This has required a large number of clubs and associations to seek new policies, thus providing an opportunity for insurers to restate the services they provide.

A regional indoor aquatic facility recently put out its insurance policy for tender (as is standard practice).

The response from the market was poor, with only two bids received, the cheapest of which represented an increase of 45% on the last policy.

The facility was left with no option but to accept the 45% increase.

...public meeting, Sale

In some instances, State Sporting Associations (SSA) have traditionally included public liability insurance as part of their blanket cover on behalf of their member clubs. They

now face the situation where some Local Government Authorities are refusing to acknowledge this as an acceptable level of cover as required by tenancy agreement. The clubs are then faced with having to purchase cover in a diminishing market, without the buying power of their association. This is despite the willingness of the SSA to maintain the clubs' cover under their existing policy.

In addition to the changing nature of the insurance industry as it relates to sport and recreation, the consultation phase of the study clearly identified the complex nature of insurance and how this impacts on an industry largely administered by volunteers.

As premiums increase and financial constraints demand better understanding of the extent of policies, local and state sporting organisations are under greater pressure to fully understand what are, by definition, complex documents. Incumbent committees are not always in the best position to make informed decisions about insurance and the pressures associated with such decision-making were identified as a major deterrent to taking on an administrative role.

A State Sporting Association expressed concern that no one on its board was able to show any knowledge of the insurance policy taken out by the organisation.

This included whether the organisation had directors and officers liability.

Similarly, the process involved in obtaining any payments following an incident is seen to be confusing and time-consuming. Lodging claims in an environment where there is a degree of uncertainty surrounding the extent of the cover only serves to make a successful claim even more difficult to attain.

4.6.3 Impact

The impact of rising insurance costs on sport and recreation organisations is a major factor affecting the cost of delivering sport.

At a time when the ability to generate revenue from outside sources is diminishing and income from membership fees is fickle, any increase in operating costs is significant. In the case of insurance, where premiums may account for more than 25% of total expenditure (see case study below), a 50-100% increase can be a significant burden.

As sports now operate in a competitive market where members (new and old) often have to be actively pursued in order to keep clubs viable, the opportunity to offset the increase in premiums through an increase in membership fees is less and less likely. Many organised sporting clubs and associations are in direct competition with a burgeoning "casual users" market, where individuals are able to participate without having to offer the commitment traditionally required of many seasonal pastimes. By supporting their members and suppressing any increase in fees by bearing the costs themselves, many

organisations are finding the burden of increased premiums is compromising their ability to deliver the services expected of them.

Insurance cover is essential for these organisations if they are to deliver their services to the standard expected by the community. While these expectations have changed significantly in recent years, the reasons for the associated increase in cost need to be addressed at several levels, including:

- The lack of knowledge regarding insurance policies at a community level;
- A reduction in the level of competition in the insurance market; and
- A lack of a coordinated purchasing scheme within and amongst sports.

Each of these issues is having a direct impact on the cost of insurance at a club level and requires a degree of intervention if the cost is to be controlled.

4.6.4 Case Studies

Hoppers Crossing Soccer Club

"Our club finds itself currently renewing its public liability insurance policy. On receiving the new policy the cost had increased from \$1500.00 per year in 2000 to \$3400.00 in 2001 and we find ourselves responding to you.

We contacted our local council and their representative to highlight the increase in policy. After reading the interim findings it is apparent all costs associated with a local sporting club are continuing to rise, and through our insurer we have been told to expect the policy amount to double again next season. Our club only received an offer of a new policy as we were current policyholders and they stated they would not accept any new clubs wishing to insure for public liability cover.

Our club fielded 16 junior teams and 3 Senior teams in 2000, we are incorporated, are registered for the GST, have a restricted liquor license to consume alcohol, run a canteen, and are affiliated with Victorian Soccer Federation. Without sponsorship from local business it would be very expensive for a kid to play. All local sporting clubs now also compete with local schools for the fundraising dollar, traditionally the domain of the local sports club."

The Cohuna Ecacentre

The Cohuna Ecacentre is a multi-purpose venue in the North-East of Victoria that hosts a variety of sports including basketball, badminton, volleyball, netball and hockey. The centre is located on the grounds of the Cohuna Secondary College and was initiated with the support of the Department of Education, Employment and Training (DEET). For many years it has been the hub for indoor sport in Cohuna and surrounding towns.

Until 1995/96 the centre had insurance costs of \$2702 which covered the participant's risk while using the centre. At the same time DEET covered the building insurance and public liability.

In 1997 DEET determined that the centre could not be run on the same terms as were set out in the initial agreement. The effect of this was that Ecacentre management was required to take out the public liability and building insurances at their own cost – expected to be \$6000. The centre has an annual turnover of \$35000 while the insurance premiums represent almost 33% of the centre's total expenditure.

Despite the overwhelming benefits of such a facility to the local community the centre risks closure unless it can be fully funded by the community without requiring the support of DEET.

Given that centre management had to delve into its cash reserves in 2000 to the tune of \$4000 and yet ran at a \$6500 loss for the year, this appears an overwhelming task.

4.6.5 Possible solutions

- Fully identify the extent and type of insurance purchased by State Sporting Associations on behalf of their clubs and members and the associated cost of the cover.

In order to fully understand the extent of insurance policies held by sporting organisations, it is necessary to complete an audit of State Sporting Associations and determine what level of group cover, if any, they provide their members. Within this study, Local Government Authorities need to be assured that any bulk cover purchased by State Sporting Associations meet council requirements.

- More fully investigate the NSW Sports Injury and Insurance Scheme (NSWSIIS).

The NSW State Government initiated the NSWSIIS in 1979 in order to offer benefits to those who suffered permanent disability or death as a result of actions on the playing fields. The Taskforce undertook a review of the Scheme in order to understand the benefits, if any, of a Government administered scheme operating without the restrictions of a profit margin or shareholder expectations.

The Scheme is administered by a board of management and has predetermined premiums and benefits applicable to each of its member sports. Initiated as a response to the increase in serious injuries occurring in the two rugby codes, the Scheme is not intended to deal with claims that would normally be associated with a personal accident and injury policy.

Following the Taskforce's discussions with members of the Victorian sporting community, it has been made apparent that insurance against such injuries is not an issue central to their concerns. Add to this the high cost of administering the Scheme (up to 65% of income derived from premiums) and the Taskforce is doubtful of the suitability of an equivalent scheme in Victoria. A full review can be found in Appendix III.

- Consider legislation concerning volunteer protection.

In 1997, The United States Federal Government enacted legislation protecting volunteers from having damages awarded against them directly.

The US Act is not limited to volunteers involved with sport and recreation and does not protect individuals against gross negligence or criminal acts. Nor does the US Act prevent damages being awarded against an organisation.

Such legislation would impact on Directors and Officers Liability in addition to Professional Indemnity Insurance.

Further information regarding this legislation can be found in the discussion of legal issues.

- Encourage private sector consortium to provide cover on a profit share basis.

Given that sporting organisations are currently required to take out insurance in the private sector, the viability of an industry scheme covering all sports requires further investigation.

The number of policies currently purchased by sporting and recreational organisations is significant and the benefits associated with bringing a majority of these under a scheme managed by industry professionals while channelling a portion of the profits back into sport and recreation may have great advantages over the current situation.

4.6.6 Recommendations

1. Government research and initiate a sports industry insurance scheme addressing Personal Accident and Injury Insurance. The Scheme could be administered by insurance industry professionals on a management fee basis.
2. Government immediately research the Public liability insurance requirements of third party community hirers of public courts, halls, playing fields and such with the intent, if viable, of setting up a scheme offering blanket cover.
3. Undertake an audit of existing insurance policies purchased by State Sporting Associations on behalf of their members in order to ascertain whether the level of cover is adequate in terms of both price and extent of cover.
4. Develop effective risk management strategies to be used by community sporting organisations incorporating “SmartPlay”. This includes the education of community sporting organisations about the obligations they have to their members and the public where risk is concerned.
5. In line with this scheme, develop “plain English” policies, understandable to all parties.

* Please note that the subject of volunteer protection is discussed further in the following chapter.

4.2 *Legal Issues*

4.2.1 Background

The increased presence of the legal industry in sport and recreation has had both positive and negative repercussions.

As a result of the increased involvement of the law in sport, many areas of sport have been brought into line with broader societal values. Assault and general violence within the field of play are no longer tolerated in sport while discrimination and harassment are also being driven from the fields of play, bringing sport more in line with values and laws recognised by Australian society.

Against these positive impacts is the trend for disputes and conflicts to be taken beyond the capacity of the judicial process within a sport's structure and into courts of law - usually a time consuming process coming at a significant cost. This can be partly attributed to a growing level of professionalism at all levels of sport in Victoria. It must be said however, that at a community level the specific number of cases relating to sport and recreation reaching the courts is somewhat unclear.

What is of great concern to those administering sport at a local level is the perception that litigation is the most logical step when confronted by some form of dispute. This perception, legitimate or otherwise, has several effects on sporting and recreational organisations:

- Individuals increasingly see litigation as the obvious step when seeking resolution;
- Insurers see a need to increase premiums in order to protect against an expected rash of claims arising from past or future indiscretions; and
- Volunteer coaches, officials and administrators now see themselves as being vulnerable to legal action in their roles and are electing to absolve themselves from all responsibilities rather than face this threat.

As in other sections of the community, individuals are entitled, by law, to pursue any legal action they see fit. The Taskforce fully supports this Common Law right and in no way seeks to isolate participants, administrators, coaches or officials involved in sport and recreation from the responsibility they have as members of the community. Instead, the Taskforce seeks to challenge the perception that the Courts of Law are the most appropriate place to settle disputes arising from sport and recreation at a community level.

In recent years many of the more recognisable professional or national sporting bodies have had high profile disputes reach the highest courts in Australia. The Taskforce found it a matter of concern that such disputes are now affecting community sport in a similar manner.

The concerns held by the Taskforce relate to the approach adopted by a growing number of individuals and clubs at a community level who appear to replicate the steps taken by those at the elite level.

Given the fragile nature of community sport in Victoria – particularly regional Victoria – communities, let alone individuals, cannot afford to have personal or organisational disputes taken to a level where common sense has given way to formal legal processes. It is this message the individuals consulted by the Taskforce wished to convey.

Rumour and unsubstantiated stories can impact heavily on community sporting organisations where the law is concerned. The mere threat of litigation can be more than enough to drive volunteers from their positions assisting in community sport and there are few current processes seeking to protect them from court action at some point in time.

Insurance is certainly one method by which a club or individual can protect themselves from the financial burden of liquefied damages, however it does not necessarily prevent court action. In addition to this, the detrimental impact of a prolonged court case on an individual, club and or community will often outweigh the satisfaction associated with having adequate financial protection. In many cases, a party seeking damages will actively pursue the most heavily insured party to enhance the prospects of reaching a settlement, thus insured parties can also be seen as a magnet for litigation.

The legal costs associated with administering a sporting organisation explain only part of the impact of increased litigation. For many organisations, the associated loss of willing people from an already limited pool of volunteers and the increasing cost of insurance premiums are more significant threats to the long-term viability of their organisations.

4.2.2 Identification of issues

Information obtained during the consultation period gave a clear indication of the impact litigation and the threat of litigation is having on community sporting organisations.

Volunteers acting in a variety of roles coordinate the majority of sport and recreation services offered within Victoria. Despite an increasing professionalism at a State Sporting Association level, much of the management of sport is left to volunteer coaches, officials and administrators. This core group of volunteers is faced with the responsibility of providing sport in a safe, accessible manner, free of harassment and discrimination.

While these responsibilities only reflect expectations held of a service provider by the broader community, there is growing concern that the volunteers are not well enough briefed in many areas to satisfy these needs.

As expectations rise, so too does the number of legal issues faced by sporting organisations. By identifying the full range of legal issues facing a community organisation there exists a danger that current and potential volunteers may be scared off by the size and scope of such a list. It is, however, necessary to ensure administrators and participants involved in sport and recreation are fully aware of the existence of such issues.

The following list provides a brief summary of areas in which legal issues can arise. A more comprehensive checklist can be found in Appendix IV.

- The relationship with Government
- The relationship with International, National and State Authorities
- Organisational Structure
- Compliance with Legislation, Regulations, By-Laws, Orders, Notices
- Contractual Arrangements
- Protection of Intellectual Property
- Trade Practices Compliance
- Facilities
- Equipment
- Personnel
- Member Protection
- Participation
- Risk Management
- Signage
- Information Management
- Equipment Maintenance and Inspection
- Major Events
- Incident Investigation
- Communication
- Indemnity Documents/Forms
- Alternate Dispute Resolution

Clearly, not all the issues identified relate to all organisations, however, every organisation is confronted by some of these issues in combinations specific to their activity. With this in mind, it is appropriate that a checklist similar to that found in Appendix IV be completed as part of a formal identification process for sporting organisations in an attempt to better understand their legal responsibilities.

Despite the need for volunteers to be aware of their legal responsibilities, there is a danger in carelessly distributing such a list of issues among volunteers and paid staff, alike. While many volunteers fulfil their legal responsibilities without necessarily being aware of their presence, presenting such an exhaustive list is likely to see a large number simply choose to withdraw their services rather than confront the myriad of legal issues associated with volunteerism. Dissemination of such information must be done with great

caution if it is to have the desired, positive effect and not be seen as a deterrent to continued involvement.

The Taskforce was also made aware of the frustration encountered by those delivering sport when decisions made in good faith are taken beyond their jurisdiction and into the court system.

While disputes are certain to arise in sport, as they do in the community, there is some concern surrounding the processes followed when seeking a ruling. Whether the disputes involve decision-making, team selection or sport-specific judicial penalties, there is a general concern regarding the merits associated with taking community sporting matters to court. The Taskforce does not seek to deny individuals or groups a fair hearing or a form of justice, rather, it accepts the observation that the current process may not be the most suitable for community sporting organisations.

4.2.3 Impact

The consistent message emanating from the public meetings and workshops outlined the difficulties faced by organisations when trying to attract people to administer and officiate sport at a community level. While the reasons for this are many and varied, an often-repeated explanation was the complicated nature of operating in a complex legal environment.

The legal implications of “sending a team out to play” are such that most volunteers are either unaware of the extent of the issues or are simply unable to enforce them due to a lack of resources and support. Despite this scenario, it can be rightfully assumed that community sport is administered with a “commonsense approach” which satisfies most, but not all, individuals involved.

Without a thorough understanding of the legal issues associated with sport, ignorance and misinformation threaten the rate of volunteer involvement to the same extent as legal truths. Many stories were circulated explaining the dire consequences arising from volunteers being held legally responsible for poor decisions or incorrect advice, yet many of these examples could not be substantiated. The exaggerated nature of these stories does not, however, make the task of enlisting volunteers any easier, as the mere threat of personal loss is often seen as a sufficient reason to avoid offering one’s services.

4.2.4 Case Studies

A small state sporting association was forced to make a decision involving the eligibility of a player to qualify for finals in the domestic season.

The board determined the player was ineligible and duly notified the club of this decision. As a result of this decision, the club decided to give a walkover (forfeit the game) in the grand final match. The board of management felt it had made the right decision in not allowing the player to qualify, given the nature of the situation as well as precedent, yet the club refused to accept the decision and did not take part in the grand final.

As a result of the walkover decision, the board determined that the following resolutions would apply to the club:

- A \$1500 fine to be imposed on the club; and
- All 12 players in the team giving the walkover would be suspended for a percentage of the 2001 season including finals.

These resolutions were made under the discipline clause for bringing the game into disrepute.

Both the fine and suspensions were appealed by the club to the association. The members of the association confirmed the fine whilst 5 suspensions (of 12 originally created) were also confirmed.

The club is considering appealing the outcomes via the grievance procedure, however the board believes that this situation is the result of disciplinary action and as such, does not believe it should be dealt with under the model grievance procedures outlined in its constitution.

Following the club's decision to involve a solicitor at the first general meeting to address the original resolutions, the association was then forced to seek their own legal advice. This advice has continued, in most instances in direct response to the club's actions.

The association has currently incurred \$3,500 in legal costs, not including a significant amount of pro bono advice offered. This figure represents 10% of the association's annual budget and the case is yet to be fully resolved.

4.2.5 Possible solutions

- Implement a system of Alternative Dispute Resolution.

Throughout the legal system there are numerous variations of Alternative Dispute Resolution (ADR) already in place. Mediation and arbitration are the two most common forms of ADR and are capable of being adapted further to accommodate disputes arising in sport and recreation.

Mediation involves a third party, the mediator, whose role is to facilitate discussion between disputing parties. The mediator, who may or may not be a lawyer, seeks to enable the two parties to find their own solution. (Jackson and Kyle, 1999)

Arbitration also involves a third party however the process is more formal than mediation and the arbitrator is able to impose a solution on the disputing parties. (Jackson and Kyle, 1999)

With respect to sporting disputes, mediation is the form of ADR favoured in most cases. The mediation process is less confrontational than arbitration and although some relationships may not survive the process (an important factor at a community level) each party is directly involved in the decision making process and it can be enacted speedily.

Remembering mediation requires both parties to have a desire to see the dispute resolved, there needs to be greater education regarding the benefits of mediation as a form of ADR which will then encourage its use. Imposing compulsory mediation on disputing parties has some benefits as a required step in the process although the degree of success is likely to be compromised due to an unwillingness to participate.

Arbitration, like mediation, is widely used throughout the community although the process can be more closely linked to that found in the courts. A binding decision, handed down by the arbitrator will, like a decision handed down by a judge, usually leave one party disappointed. It does, however, allow for an unambiguous finding enforceable by law.

There are two crucial factors in the effective use of ADR:

- i. The speed at which a case is heard and a resolution reached.

Disputes in a sporting or recreational environment are known to escalate exceptionally quickly through rumour and personal allegiances. One of the most significant benefits of ADR is the speed at which it can deal with disputes. A sound framework capable of accommodating cases as they arise, not just when it suits the system, must support utilisation of ADR as a means to ensure hasty resolution of disputes.

ii. The correct choice of mediator or arbitrator.

A poor choice of mediator or arbitrator can destroy the ADR process before it begins. Any screening of mediators should include a reference to the type of dispute to be resolved and efforts must be made in order to ensure the use of the best possible individuals.

Within Victoria there are a number of bodies capable of offering ADR, however the Taskforce sought to investigate the systems currently in place for sport in Victoria and Australia. The model closest to meeting the expectations of the Taskforce is the National Sport Dispute Centre (NSDC).

The Australian Olympic Committee, Australian Sports Commission, Sport Industry Australia and the Australia New Zealand Sports Law Association (ANZSLA) initiated the NSDC in order to hear sport-related disputes. Unfortunately, the NSDC has not been accessible to community organisations due to a lack of promotion and publicity. Limited resources have also resulted in it being linked, for all practical purposes, to Sydney.

Administered by ANZSLA, the NSDC has contact with personnel capable of guiding ADR as it relates to sport. In searching for a body to assist community sport in avoiding the courts, the Taskforce recognises the structure of the NSDC as it stands but is mindful that the level of service provided is not appropriate in its current form.

- Investigate the viability of a Volunteer Protection Act, similar to that invoked by the United States Congress in 1997.

In 1997, the United States Congress passed legislation entitled the Volunteer Protection Act. The Act was designed to protect volunteers from having to pay damages resulting from actions undertaken while fulfilling their volunteer capacities.

The Act does not protect the individual from facing penalties relating to gross negligence or other criminal charges and does not prevent them from being sued. The Act merely provides a disincentive for litigants pursuing individuals who have acted in good faith as volunteers.

Given the high level of insurance purchased by sporting organisations, such an Act would not prevent any litigants from seeking appropriate compensation as only individuals are protected in this instance. In passing this Act, the US Federal Government sought to reassure individuals that their efforts as volunteers are recognised throughout the community. Also that they would be protected in ways not afforded individuals who are paid to provide a service to the community.

The benefits of such legislation include better retention rates of volunteers, improved service afforded to the participants due to increased knowledge of those volunteering and

the potential for a reduction in insurance premiums as the legislation could be seen as a form of risk management, minimising the number of claims lodged.

- Central to a reduction in the number of sporting disputes requiring legal intervention is better education of sporting administrators, officials and participants, both paid and unpaid.

Too many examples have been brought to the Taskforce's attention where ignorance has resulted in a dispute arising or allowed to develop to a point where it required legal intervention.

Sporting organisations often find themselves with substantially altered committees each year and with this change of office bearers there is a significant loss of knowledge. For this reason, training and education programs have proven costly and require ongoing support.

With the advent of the Internet, many forms of information can be delivered on-line immediately and can be easily altered to ensure currency. While noting several well managed education programs currently run by State Sporting Associations, Local Government and Regional Sports Assemblies, the Taskforce sees this method of transmitting information as of great benefit to sporting organisations and will particularly support those in areas more remote or under-serviced by these systems.

4.2.6 Recommendations

1. Request the Attorney General's department to investigate Volunteer Protection Legislation. In this, The International Year of the Volunteer, the Taskforce notes that volunteer protection and its benefits extend beyond the boundaries of sport.
2. A comprehensive Sports Law website should be funded and established by State Government to ensure ongoing education covering legal matters relevant to all community sporting organisations be readily available.
3. VicSport in conjunction with the Australia New Zealand Sports Law Association, research and implement an Alternative Dispute Resolution process, available to community and State Sporting Associations.

4.3 Water usage

4.3.1 Background

A large number of sporting organisations are significant users of water, particularly outdoor sports played on a grass surface. Many organisations are required to cover the full impact of water costs, while others pay less than full cost. The impact of this discrepancy cannot be underestimated. Similarly, the costs associated with watering passive recreation areas may serve as a disincentive for Council to expand areas of public open space under their management.

Prior to corporatisation of water authorities and local government reform, sporting clubs were not generally charged for the water used on their facilities. Water usage was usually attributed to the broader benefits associated with having lush fields available to all members of the community. Over the past decade, clubs have been required to take a degree of responsibility for water charges. In some cases, sporting clubs are directly billed by water authorities, but many facilities are managed by local government, and the costs, or a proportion thereof, are passed on to clubs according to the policy of the particular Council. There is no consistency in policies between Councils.

Price caps and other State Government pricing policies have held down the cost of water for some years, but prices may soon increase to reflect the real costs of supply and to encourage improved water use practices. Even though there is room for better ground irrigation strategies, increased charges will add to the burden of operating costs related to the delivery of community sport.

A State Government rebate scheme provides up to \$260 towards the water and sewerage service charge to assist not-for-profit sporting clubs using outdoor facilities. However this small benefit does not apply to indoor sporting groups, and does not reduce volumetric charges for water usage. It is understood that this rebate has not been widely taken up, possibly through lack of knowledge about the scheme.

While water charges are not imposed on all sporting organisations, the “user-pays” approach, consistent with that imposed on the general population has required the tenants to adopt a more water-wise philosophy, particularly in regional and rural areas. Where management of facilities has been the domain of the user groups, sports have had a relatively poor history of managing their water use intelligently. A positive effect of passing on water charges has been the encouragement of sporting organisations to address their practices and implement water minimisation strategies.

It should be noted that many community organisations are required to consider efficient water management as a crucial component of their maintenance and administration programs. Facilities owned or leased by organisations are required to meet all utility charges, at commercial rates e.g. golf clubs, lawn bowls clubs and tennis clubs. These groups, through necessity, are required to consider efficient water management more

closely than those facilities tenanted by clubs but maintained, to a large degree, by local government.

All issues relating to water usage and related charges are considered more significant in country Victoria. In the consultation period, it was found that the level of awareness was much higher in the regional centres and a more thorough understanding of the value of water to the community was apparent.

The full impact of the national competition pricing policy is yet to be felt on water charges – full cost recovery will have a significant financial impact on many sporting organisations in Victoria.

4.3.2 Identification of issues

Throughout the Melbourne metropolitan area, Local Government Authorities (LGAs) vary significantly in how they deal with water charges and what percentage, if any, is passed on to the tenants. Depending on the municipality, sporting organisations could be charged:

- i. The entire amount;
- ii. A percentage of the amount reflecting the cost recovery policy maintained by the council;
- iii. Water used internally but not water used on turf; or
- iv. Nothing.

In this context, water can be seen as part of the broader pricing policy adopted by the LGAs. However, as a product that was not generally charged for prior to the restructuring of the industry, it is often considered an extraneous item.

The Taskforce found organisations and LGAs in Melbourne appeared not to rate the efficient use of water as a high priority item although groups charged for consumption were well aware of comparable organisations whose charges were met by council.

The value of sport to many rural and regional communities is such that the standard of facilities is a matter of pride and in some instances can bind the town together. Sport and recreational pursuits are often the magnet for visitors and the ultimate social value of these activities is difficult to identify.

In areas where water levels are low and drought conditions are prevalent, the use of water for sporting activities is being met with mixed response from LGAs and water authorities. That sport and recreation is important to the community goes largely un-questioned, however there appears to be an increasing need on the part of sporting organisations to justify the amount of water used (*see over*).

Quambatook, a small town of 275 people in Northern Victoria hosts an annual tennis tournament that attracts hundreds of visitors and acts as the focal point of a festival weekend.

The annual cost of water amounts to \$4000, providing 6 months use of the courts. The courts are on Crown Land and are managed by a Committee of Management. Currently the club receives no support from the council or water authority as the facility is fully maintained by the club.

The tennis club is the focus of sport in the town, however the cost of watering 9 lawn tennis courts is crippling the club.

While the value of the club to the community is recognised, the water authority and council are obliged to consider the merits of maintaining nine lawn courts for less than 300 local residents.

Source: Quambatook Tennis Club,
Grampians Water

Where reserve management committees are currently charged according to consumption a number of sporting organisations regarded this as a lack of commitment to the local community.

Against this claim is the fact that there has been no increase in water charges for a long period of time and that while organisations are required to pay for their water, everything possible is being done to minimise the impact. There are also several instances where Local Governments and water authorities have gone to extraordinary lengths to ensure that sporting activities continue against a background of water restrictions (*see example on following page*).

Currently only 2%-5% of sporting facilities are utilising water re-use plans, a figure that reflects the high capital investment required in most instances.

The health risks associated with water re-use are still being investigated, however there are standard practices already in place which determine when play can take place following watering and what categories of re-used water are suitable for specific purposes. Currently, these factors along with the capital input required are limiting the suitability of re-use strategies although discussions with sporting organisations, water authorities, local government and DNRE indicated a willingness to investigate all available options.

Linked to the recycling of water was a view presented by turf specialists regarding the grasses most suited to Victorian conditions against those currently used. The view was expressed that a more considered approach to grass selection and construction of facilities will dramatically affect the amount of water consumed by turf facilities, though much depended on the availability of an appropriate irrigation system. As with re-use, a significant capital injection was required in order to modernise existing facilities.

A final issue identified during the consultation period involves the education and training of sporting organisations regarding effective water use.

Many organisations felt the level of consultation and support from water authorities had decreased since corporatisation (particularly in regional and rural Victoria) yet the authorities themselves indicated a willingness to assist “not-for-profit” bodies wherever

possible. The water rebate scheme is a case in point here where authorities offer support through a rebate, yet only a small percentage of organisations have taken up the offer.

Similarly, the water authorities indicated a conundrum they face because a net reduction in cost is offset by an inability to service their customers in a manner befitting their needs. (This is also relevant where capital investment is required.)

4.3.3 Case Study

In December 1999, Barwon Water announced that Stage 2 water restrictions would be implemented in the Geelong area. This meant, amongst other regulations, that sporting grounds could not be watered.

Leading up to the commencement of the 2000 football season, concerns were raised regarding the readiness of the grounds for play. Club insurers were also threatening to pull their insurance coverage for players if games were scheduled on these grounds. The concern was mainly due to the hardness of the grounds from the impact of a long dry spell and the water restrictions.

Given the football leagues within the City of Greater Geelong cover some 46 clubs with well over 1000 participants, the impact of the cancellation of a football season would be immense.

In consultation with the 3 football leagues and Barwon Water, Council developed a program which would water 10 priority grounds across the City with re-use water. The program, which ran for approximately 5 weeks, involved carting water sourced from two main sites. The Black Rock program involved carting treated effluent water from the Black Rock Treatment Plant – this water was provided by Barwon Water for no cost as a community service. The Transwest program involved carting rainwater collected in a sand quarry – this water was purchased from Transwest by Council.

A smaller re-use program was also developed, by collecting the water from the flushing of water mains. This water was again supplied at no cost by Barwon Water.

The water was applied to the grounds using spray systems behind the tankers. Each ground received 2 applications per week, representing over 100,000 litres of water on each ground, each week.

This 5 week program cost Council approximately \$100,000. The majority of the costs were in the hire of tankers and drivers.

The outcomes of this program were significant. The football season went ahead as scheduled, allowing participation by over 1000 players. The watering of the grounds had a softening effect to the previously rock hard grounds. Both club and Council insurers were more comfortable with the season proceeding and maintained their insurance coverage with these parties.

4.3.4 Impact

The impact of water charges on community sporting organisations has varied significantly across the state.

For most sporting organisations using turf facilities, the imposition of water charges on a user pays system involves an annual cost typically between \$4000-\$6000. This burden has required sporting organisations to reassess their water usage and maintenance practices and has certainly affected their expendable income.

The introduction of consumption charges has also affected the pricing policies of local government authorities and the range of policies in place indicates the delicate nature of these relatively new charges. The value of outdoor facilities to the general community is such that the tenants are far from the sole beneficiaries of a well-irrigated site and yet councils appear to accept this community obligation in degrees.

In country Victoria, water use and the associated costs are more significant issues than in Melbourne and are often regarded as a community issues rather than a simple cost issue. Water in many parts of Victoria is scarce and efficient water management is an ongoing concern for all.

Sporting organisations are an active part of the community and the impact of water charges on those responsible for the provision of sport is an additional burden when factored into the leadership roles fulfilled by these community groups. For many in country Victoria, the costs associated with water consumption and minimisation present problems that are currently less well understood or experienced in metropolitan Melbourne.

4.3.5 Possible solutions

- Establish schemes to ensure efficient water use.

Efficient water use is a practice currently promoted by all relevant bodies. For sport and recreation organisations, a further education program is required to inform individuals and groups of the best available practices.

There is a significant difference in the best practices for home use and sporting facilities with few involved in sport fully aware of the options available to them. These options include water re-use, effective use of irrigation systems and the use of the most appropriate grasses.

- Provide funding for recycled water to be used on grounds.

Where water re-use is a viable option, capital investment should be made more readily available in order to maximise the benefits.

- Investigate funding sources to improve turf management systems.

The available knowledge surrounding intelligent irrigation systems and the use of appropriate grasses is not being used to its limits by councils, sporting organisations and DNRE Committees of Management.

If water minimisation is a core interest of these groups, the “best available practices” should be investigated and utilised wherever possible.

- Water Authorities, as a community service, to provide advice to clubs free of charge on methods of efficient water use.

Initiate the water use education process by drawing on the knowledge of water authorities and encourage the authorities to provide this service free of charge as a community service.

- Encourage sports to take up the water rebate scheme currently on offer.

Every eligible organisation should avail themselves of the rebate currently made available to not-for-profit community groups.

4.3.6 Recommendations

1. Dedicate Government funds over a period of five years to support ground rehabilitation and the construction of improved turf facilities with a priority on water minimisation. Consideration should also be given to the development of efficient water re-use schemes.
2. Call on water authorities and local government to offer incentives to encourage efficient use of water by community sporting organisations.
3. Ensure that every eligible sporting organisation is aware of the rebate currently made available to not-for-profit groups.
4. Encourage water authorities and LGAs to recognise broader general community use when allocating direct water costs to sporting bodies.

5. Ensure that water charging policies for sport and recreation adopted by water authorities are consistent.
6. As part of effective water management, encourage municipalities to investigate alternative surfaces to turf.

4.4 Club Administration and compliance with statutory regulations

4.4.1 Background

Sporting organisations have developed significantly over the past decade, with many taking on a form more usually associated with small businesses. Such a development has occurred for a number of reasons, including:

- Higher public expectations regarding the standard of facilities, services, programs, food and beverages;
- Occupational health and safety criteria as applied to sporting and recreational activities;
- The need to meet funding criteria requested by Federal, State and Local Governments;
- Increased payments made to players and officials; and
- The introduction of gaming legislation.

These developments have come at a time when the vast majority of community based clubs are administered by volunteers and only a few sports would contemplate paying players or coaches.

While most “business-like” decisions made by community sporting organisations have been undertaken with a view to increase revenue opportunities directly (e.g. government funding, profit from gaming) or indirectly (e.g. increased members, sponsors), the associated demands placed on the volunteer administrators are significantly increased.

Recent years have seen a number of government and non-government organisations implement strategies that have imposed additional workloads and, in some cases, costs on community sporting organisations. They include:

- The Goods and Services Tax (GST)
- WorkCover
- Incorporation requirements
- Food and beverage handling legislation
- Accreditation of coaches, trainers and officials
- Gaming room legislation
- Compliance with corporate reporting obligations

Most of the abovementioned examples have had a very positive effect on the sporting community as they have been responsible for bringing sport into line with expectations held for other service providers. From an administrative perspective, however, each has

required volunteer committees to develop new skills appropriate to the associated tasks and places a new emphasis on maintaining currency of operation.

By achieving the objectives asked of them by government and non-government bodies alike, community sporting organisations in Victoria are now more effectively managed than in the past. However, as these bodies become more like small businesses in theory and practice, the impact on their volunteer administrations should not be ignored.

While hard working groups of volunteers continue to deliver an exceptional array of sporting and recreational pursuits to Victorians, the additional complexities facing these administrations add to the burden in both time and money facing community sporting organisations.

4.4.2 Identification of issues

During the consultation period, the Taskforce was repeatedly told of the additional burdens facing those delivering community sport and recreation when compared to the past.

As volunteer-run bodies, sporting organisations are required to follow most of the practices undertaken by small businesses. In meeting these requirements, sporting organisations are finding it difficult to bear the associated costs, whether they be dollar costs or costs in time and personnel.

Some of the issues identified earlier have forced organisations to take on professional advice or assistance and have thus had a direct impact on the operational costs. These include the GST, adherence to gaming legislation, coaching accreditation and compliance with food and beverage handling.

In addition to these direct costs is the cost in time and personnel required to meet the expectations of other bodies. More effort is now required of committees and other volunteers before participants can undertake their chosen activity. Where once an organisation existed merely to provide a physical outlet for their members, the administration of an incorporated body now occupies much of their time.

With each of these new tasks comes the need for a depth of knowledge not previously required at this level of administration. The traditional role of a volunteer treasurer, for example, has been changed dramatically since the introduction of the GST and where clubs have been required to register for the tax, the workload (and knowledge base) has increased beyond reasonable expectations. For this reason alone, a significant number of organisations indicated a genuine fear of not being able to attract new treasurers in the future.

Similarly, compliance with new food and drink handling procedures is an enormous cost to small clubs who rely heavily on the revenue generated by canteen sales. Junior sporting activities have long revolved around the provision of food and drink to participants and spectators alike. Now, after having improved the range of selections available over recent years for health purposes, they have to reassess what products they are able to sell under the new regulations and what the associated costs of compliance might be.

The vast majority of respondents indicated a clear understanding of why such measures as the food and beverage legislation had been enacted, though most felt it was an additional level of governance they were incapable of accommodating without greater support. Beyond the education and training components, modification of kitchen facilities is a significant capital cost facing not only local organisations but also Local Government Authorities.

While meeting with members of the sporting community, it was made apparent to the Taskforce that the people concerned did not hold entirely negative views regarding the imposition of new rules and regulations. Most, for example, were supportive of the need for accredited coaches and officials (particularly at a junior level) and there was strong support for police checks on coaches, but all recognised the costs were being borne by the individuals or clubs and this would ultimately impact on the willingness of people to undertake such responsibilities.

The costs, in time and money, for regional Victorians are increased further where the necessary services are provided only in Melbourne. The commitment to their sporting organisations was made apparent to the Taskforce when it was told of the excellent response to GST workshops throughout the state in early 2000. Country Victorians are clearly prepared to commit large amounts of time to their local sporting organisation, however many groups noted that this is not reason enough to expect their volunteers to cover additional costs such as travel and accommodation.

A regular observation here was the lack of support offered to local organisations by many State Sporting Associations (SSAs). Regional and rural sporting organisations (as well as

Gaming rooms...

The impact of gaming machines on sporting clubs has been dramatic. Throughout a number of regional centres the Taskforce was told of how the presence of poker machines in Social Clubs has resulted in a complete shift in the operations of sports clubs.

Where once the Social Club existed to add community value to the sporting club, now many sporting clubs see themselves "propping up" the Social Club. The costs associated with maintaining the gaming rooms to the required standard are often such that the revenue expected to flow back to the sporting club has not materialised.

This observation was not universal, however, much like the payment of players and coaches, there is divided opinion regarding the ultimate benefit to the participants and the community in general.

Though gaming rooms are an optional fixture within a sporting club, their impact cannot be ignored and it is unclear how future changes will impact on sporting organisations.

some metropolitan ones) spoke often about the difficulty involved in obtaining information and assistance from their Melbourne-based peak bodies.

As many organisations are required to deal with issues particular to their sport, there is not always appropriate local knowledge capable of being shared amongst like sports. Many community organisations identified this as a role for their respective SSA and were disappointed at the lack of support and guidance offered.

Educational services have been offered by a range of organisations, including:

- Sport & Recreation Victoria;
- VicSport;
- State Sporting Associations;
- Local Government authorities;
- Regional Sports Assemblies;
- Health promotion agencies; and
- Private providers.

The role of SSAs in delivering these services to its members has been poorly resourced and as a consequence, partly augmented by other agencies meeting the need.

With the impact of information technology, consideration should be given to better coordination of delivery and a greater role for the SSAs, particularly in regional Victoria.

Government funding has long been essential for any major capital and program developments in the sport and recreation industry and the expectations expressed throughout the consultation period gave no indication this was soon to change. In addition to capital works, there also appeared to be greater emphasis on the need for funds supporting local initiatives and projects.

A clear message coming from those involved in the delivery of sport and recreation was the complexity involved in accessing these funds. While most were happy to have these funds made available to their organisation, many appeared to lack the resources and knowledge required to successfully apply for Government funds. An array of skills including business plan development, long term budgeting, organisational strategic planning and networking is required of community organisations when seeking government support – much of which is beyond the capabilities of the core group of volunteers managing the weekly sporting activities of their organisation.

In addition to the application procedures, there were concerns about the accessibility of funding programs available to community organisations. Many groups felt they were not encouraged to apply and that the efforts required in determining which funding, if any, they were entitled to were a barrier to their involvement.

Government funding programs are even more significant when one considers that most organisations are faced with a reduction in financial support from “local” industry as centralisation of operations has occurred.

The delivery of sport in Victoria places a high demand on volunteers and the passion for their sport and organisation was evident among the groups and individuals met by the Taskforce during the consultation period. At the same time, almost all, identified the increasing difficulty associated with delivering sport to the standard reasonably expected by their members, their associations and the various levels of Government.

4.4.3 Impact

Many of the organisations spoken to identified a growing reluctance on the part of participants to become involved in the administration of a community organisation. As was pointed out to the Taskforce, this is not a new problem and is unlikely to be resolved easily. The changing environment within which sporting clubs operate is however, compounding matters.

The challenge accepted by volunteers as they seek to provide sport and recreation to their community appears to be hindered by the need to comply with administrative issues. The expectations on clubs are increasing as is the level of knowledge needed to satisfy an expanding range of organisational requirements.

Clubs are turning to other agencies for support including Local Governments and Regional Sports Assemblies for administrative support. This does not, however, reduce the time required for a particular task, nor does it directly compensate for an understandable lack of basic knowledge of some issues e.g. GST. Many sporting organisations are fortunate enough to have a volunteer with knowledge of accounting, law or local government, however a reliance on these individuals can be both counter-productive and short-lived.

Government grants and funding programs are becoming more of an operational necessity for many community organisations. An apparent decrease in the level of support from traditional supporters of community sport, along with a shift away from traditional fundraising activities, has placed added responsibility on those bodies delivering sport and recreation.

While Government funding is available in many areas, accessibility to these funds is the key issue among community organisations. The level of knowledge required to prepare a successful submission is significant and the workload is such that unsuccessful applications are likely to affect the level of involvement in the future.

While these views were expressed on a number of occasions, it was also pointed out that grants and funding are available and a number of organisations appeared to have a successful record in accessing these monies. This suggests well-planned, pro-active

organisations should be supported in their efforts and encouraged to further develop their administration. However this does not reflect the provision of sport and recreation as a community service benefiting the broader community when an under-resourced organisation is limited in its development due to their inability to prepare successful applications.

There are numerous case studies identifying best-practices across a range of administrative issues throughout Victoria and yet many organisations remain uninformed. This can be attributed to a lack of communication, particularly between governments, State Sporting Associations and community organisations throughout Victoria.

A general observation prefacing much of the feedback received by the Taskforce indicated a desire to serve sport and the community as the prime reason for their involvement. Administrators, coaches and officials consistently apply themselves in order to see the continued delivery of safe, accessible sport to their respective communities.

While many of the respondents to the Taskforce identified their willingness to continue with their work in order to see the club or its members benefit, all identified the increased expectations placed on administrators, officials and coaches. Throughout the consultation period the Taskforce identified an apparent shift in the balance from administering the activity to administering the organisation.

4.4.4 Possible solutions

- Decentralise training and education of coaches and officials.
- Provide ongoing administrative and training support for clubs.

Develop support networks for sporting organisations in specific fields, vital to the effective management of an incorporated body.

- Review of risk management policies and strategies.

Adopt a “*prevention is better than cure*” approach to matters including safety and insurance. The management of insurance policies appears to be a costly burden on poorly administered organisations while effective risk management strategies are still uncommon.

- Investigate the improved use of IT solutions.

Provide real-time, current support for clubs and individuals in conjunction with State Sporting Associations.

- Encourage and support the development of administrative hubs for clubs to provide training services in:
 - business planning
 - accounting
 - funding applications
 - statutory requirements
 - volunteer management and training

4.4.5 Recommendations

1. Government provide resourcing to develop a practical online system of advice, education and support for community sporting organisations in conjunction with State Sporting Associations.
2. Encourage and support the development of an “Administrative Support Hub” to assist with corporate governance matters. Obtain Government funding to initiate a pilot study.
3. Promote a club administration structure which ensures a division of responsibilities between corporate governance and participant-based management.
4. The State Government subsidise the sport-specific education process for volunteer administrators, coaches and officials.
5. Promote de-centralisation of the education process. Encourage greater involvement of State Sporting Associations at a regional and rural level in conjunction with existing bodies.
6. Review and streamline the delivery of educational assistance to clubs in Victoria.

4.5 Pricing policies

4.5.1 Background

The vast majority of sporting and recreational facilities in Victoria are on land owned and managed (directly or via contractors) by Local Government or the Department of Natural Resources and Environment (DNRE). In addition, private businesses operate facilities, the vast majority of which are indoor centres.

Prior to the corporatisation of local government, many tenants on council owned land were often charged a “peppercorn rental” which did not reflect the cost involved in delivering and maintaining the facilities. Tenants were seen to form part of the broader community and the services they offered were regarded as a contribution to the municipality.

Many of the expectations maintained by community organisations reflect on past practices and habits of both the general public and the various levels of Government. While these practices have been central to the development of sport in Victoria, there are many factors outside sport impacting on the traditional provision of sport. A significant proportion of these have affected the cost of delivering sport. They include:

- The impact of Compulsory Competitive Tendering (CCT) and the recent shift towards a “Best Value” approach at the Local Government level. This has meant organisations once seen as service providers to the community are now asked to contribute financially towards the delivery of sport. While CCT is no longer the preferred option, most organisations still feel its impact at some level. Most sporting bodies fell victim to a huge one-off increase in costs due to CCT. This has not been reviewed.
- Increased competition for Government grants and funding between an expanding number of recreational and sporting pursuits.
- A higher demand for facilities catering for females, ageing members of the community and people with disabilities.
- Competition from alternative sporting and recreational pursuits.

Each of these issues has forced traditional providers of sport and recreation to address their existing practices. Dynamic organisations capable of developing in tune with their target market have been better able to meet these needs while those more resistant to change have found delivery of their product more difficult.

National Competition Policy has ensured that Local Government is held totally accountable for the management of its facilities. The benefits of sporting and recreational

facilities are significant to council's ratepayers. However specific use of these venues by tenants now requires more clearly defined policy and accountability requirements mean departments must isolate costs and manage assets to maximum effect.

As leaseholders on land owned by State or Local government, sporting clubs typically enter into a tenancy agreement with the owners. The agreement will outline the cost passed onto the club in return for a level of service provided by the lessor. These services may include maintenance, cleaning, provision of public amenities, and general improvements and capital works. (See Case Study)

A large proportion of sport and recreation facilities utilised in Victoria take the form of outdoor, grass playing fields that can be accessed by the general public. As a result, council and government take the overall rate of use by the tenant into consideration when applying a fee. In many cases, the tenant will use the facility for activities specific to their sport for little more than 20% of the time. For the remaining time the facility is available for public use. With this in mind, the costs recovered by charging the tenants is kept to a level appropriate to the usage rate.

Following restructuring of local government boundaries in the 1990s, Victoria now has 78 municipalities with very little similarity in pricing policy. The variables involved in price setting and the priority given to sport and recreation within the region each have a direct impact on the cost passed on to the tenants.

Some of these variables include:

- Water and sewerage
- Gas and electricity
- Cleaning (disposal of rubbish)
- General facility maintenance
- Car park maintenance
- Pavilion development
- Number of junior teams
- Presence of a liquor licence
- Seasonal or annual usage
- Capacity to hire the facility to other users
- Club contribution to community
- Presence of a kiosk facility
- Level of access to general public
- Club contribution towards maintenance

Viewing this list, it is possible to more clearly understand the number of combinations available to the body setting the pricing policy and the variety of issues each tenant must contend with when accepting their share of responsibility for the facility.

4.5.2 Identification of issues

The consultation period highlighted two factors to have had a significant impact on the expectations maintained by community sporting organisations with respect to council and government pricing policies:

- 1) The majority of respondents have many years of experience in the provision of community sport and have clear recollections of the system prior to Local Government restructuring.
- 2) Sporting competitions are not typically confined to council boundaries and, as such, organisations are well aware of the terms under which organisations in different municipalities operate.

Community sporting organisations are well aware of the vagaries of council and government pricing policies and identified this lack of consistency as a genuine concern. The lack of consistency is not confined to pricing policies, but also to the condition of facilities and the level of investment in sport and recreation by the respective government body. As pricing policies can vary significantly across municipal borders there was significant dissatisfaction among sporting organisations with respect to the level of support offered.

Bodies managing facilities face the reality that sporting and recreational organisations place a significant demand on council and government services and there is a cost associated with the provision of this service. While organised sport is important to LGAs, a growing interest in passive open space (e.g. bike trails, skate parks and walking tracks) has become more central to a broader strategic plan also incorporating aquatic centres and other leisure pursuits.

As organised sporting activities have specific demands regarding maintenance and sport-only use of facilities, a level of cost recovery is deemed fair and reasonable by the relevant government bodies.

Where the sporting facilities are on DNRE land there are two methods of management available.

The first sees the tenants report directly to the Department while staff in regional offices handle all issues relating to the provision of sport and recreation. Alternatively, a Committee of Management, possibly managed by Local Government, oversees the facility. These Committees of Management include representatives of the various tenants groups and it is this structure which oversees the majority of DNRE owned sites.

There was a degree of concern shown by tenant groups operating under these conditions. It was argued that the DNRE had passed on much of the responsibility to Local

Government. Furthermore the Department was now further removed from the tenants and had absolved itself from “civic responsibility”. A similar view was offered by a number of water authorities in regional areas.

Where indoor facilities were concerned there was a commonly held view that the more popular sports and activities utilising the venues were a key component in the subsidising of less well-supported activities. Similarly, the charging of admission for spectators is subsidising participants while discouraging a sector of the community i.e. parents of young children, from attending and furthering their involvement in the activity.

Similarly, the Taskforce observed anecdotal evidence that as a proportionally higher percentage of females used indoor facilities (particularly for recreational purposes) and as most venues operate on a pay-per-visit system, these users were burdened with a cost not confronting all users of outdoor facilities. The rate of female users of indoor facilities is confirmed by Australian Bureau of Statistics figures. (ABS, 2000)

4.5.3 Impact

The impact of pricing policies as prescribed by Local and State Governments is ambiguous. While there is an undoubted increase in costs passed on to sporting organisations when compared to the days of the “peppercorn rentals” offered to traditional sports, the direct impact of these increases on the viability of community sporting organisations is less clear.

For many organisations, dissatisfaction stems from the inconsistencies associated with either a lack of clear policy or through a comparison with similar groups residing in another municipality. By introducing a clearly defined policy, LGAs are in a position to settle doubts over perceptions of preferential treatment and advanced discussions between LGAs provide an opportunity to identify best practice and address some of the apparent inconsistencies.

In terms of cost, the majority of organisations have had to deal with significant increases in recent years. Such an observation must also be reflected as a measure of value. The majority of community sporting organisations remain well looked after by those bodies responsible for the management of the facility. However, they seek more consistency in policy making and many expressed a desire to be consulted further about the maintenance programs for their venues – an option not offered during the period governed by Compulsory Competitive Tendering.

Where tenants feel their facility is not maintained to a suitable standard (which may vary significantly across a range of venues and uses) the resultant effect is seen to reflect a drop in the level of service and can quickly alter the perception of what is deemed “good value” by the tenants.

Although not tied to a bottom line figure, the inconsistencies across pricing policies have a strong impact on the perceptions held by community organisations regarding the

commitment to sport made by the facility managers. The consultation period highlighted a number of cases where a group had arrived feeling aggrieved, only to find their situation to be significantly better than that of another sport or one from another municipality. Where these inconsistencies occurred it was often seen to reflect the position sport and recreation held within Council as each municipality afforded sport a level of support that reflected its relevance to the community. This is reflected in the number of LGAs without a formal pricing policy for sporting facilities.

The table on the following page highlights a number of key variables contained within formal pricing policies obtained by the Taskforce. While each Council may have different views on how to best handle each item, there is a need for agreement on what items are deemed relevant to the process.

While the information obtained has been taken directly from formal pricing policies prepared by Local Government, research into the subject found there to be a significant proportion of Councils with no formal policy in place. A number of Councils noted that policies are currently being developed, although many of these were the first attempt at formalising the pricing structure. This observation suggests while formal pricing policies are still relatively new to Local Government, they are recognised as a vital component of an effective sport and recreation strategy.

The advantages of following the implementation of a formal policy, include:

- Consistency across a range of user groups.
- Clearly defined responsibilities of both Council and tenant.
- The provision of incentives for tenants to improve representation of minority groups.
- An opportunity to clearly explain the rationale for the policy adopted by an LGA.

(Refer pricing policy model page 54).

The table does not clearly identify or resolve the issue of closed facilities. Venues that are maintained exclusively by the tenant club and are closed for public use are not commonly represented in formal pricing policies. This appears to distinguish the role sports such as tennis, lawn bowls, croquet have in the provision of sport within a community from those utilising public facilities. This is not to suggest that LGAs are not closely involved in facilitating the delivery of these sports, rather that they are less clear in publicly defining conditions and costs of use.

While such facilities are not addressed in formal policies, the preparation of turf cricket wickets – of no benefit to those outside the game, and therefore defined as closed facilities – are typically considered part of the pricing policy and their maintenance, whether by Council or tenant, is often identified in the policy. Such discrepancies need to be addressed during the preparation of formal pricing policies.

4.5.4 Case Studies

Sample Local Government pricing policies

Item	LGA	Council A	Council B	Council C	Council D	Council E
Cost Recovery		25%	20%	15%	15%	20%
Grading System		No	Yes 5 levels in Winter 6 levels in Summer	Yes 4 levels	Yes 3 levels	No
Discounts		Juniors – 25% Women – 50% People with disabilities – 10%	Schools – No charge Juniors only – 50% Masters only – 50% Sports new to Council – 50% for first year Special cases considered	Maximum for juniors – 33%	Juniors – 30% Small clubs – 50%	No bar facilities – 15% No kiosk – 5% No player payments – 15% No Admission charges – 5% No clubrooms – 5% Less than 3yo – 5% Juniors = 25-49% of total members - 10% Juniors = 50-74% of total members - 15% Juniors = 75-100% of total members - 20%
Offset for capital contributions		10% of capital contributions	Full depreciation for 20 years	N/A	N/A	Between 5-15% depending on reduction of maintenance costs to Council
Maintenance – LGA responsibility		Mowing of ground and surrounds Irrigation maintenance Fence repairs Car park maintenance Herbicide spraying Oval maintenance Top dressing, oversowing etc.	Winter maintenance: \$500 - \$7,000pa Summer maintenance \$500 - \$12,500pa Including – (depending on grading of oval) Mowing, Aeration, Top dressing, Grading & Irrigation maintenance	N/A	N/A	2-3 week mowing Sweeping Top dressing Hand mowing Watering Plumbing Public toilet cleaning Supervision & safety inspections
Maintenance – Tenant responsibility		Line marking Opening & locking of gates Monitoring of watering schedule Rubbish removal	N/A	N/A	N/A	Clean up after events, line marking, extra mowing, turf wicket maintenance Opening & closing of gates
Pavilion costs to clubs (responsibility)		Charged separately. Water, electricity, fixtures & fittings	Charged separately. Water, electricity, fixtures & fittings	Charged separately. Water, electricity, fixtures & fittings	N/A	Cleaning. Night lighting with tokens
Seasonal adjustments		Winter – 60% of total costs Summer – 40% of summer costs	Summer/Winter/Annual Charges reflect maintenance costs	N/A	N/A	Summer/winter tenants. Charges remain constant

Please note: N/A indicates information was not available within the written policy.

4.5.5 Possible solutions

- Investigate how support can be given to councils to upgrade grass-based playing fields with a view to minimising water use.

Where upgrading of turf facilities is needed local government is often hindered by the capital investment required. As the benefits of a reduction in water use are so great, more effort must be made to resource the required capital capable of reducing the impact of water charges and benefiting the environment.

- Encourage cross-border discussions between councils to ensure optimum use of facilities and the development of more efficient facility management.

4.5.6 Recommendations

1. Ensure Local Government Authorities and sporting organisations are advised of “Leading Practice” in sport-related pricing policies.

Formal Policies should:

- Identify the degree to which a facility is a community asset.
 - Assess the facility quality.
 - Address the suitability of discounts to specific user groups.
 - Recognise any contributions made by tenants towards capital improvements.
 - Clearly identify maintenance responsibilities.
 - Distinguish between pavilion and ground charges.
 - Clearly denote where Public Liability Insurance responsibilities lie.
2. Educate community organisations on the roles and relationships they have with Federal, State and Local Government.
 3. Formalise cross-border discussions between councils to optimise use of venues and facilities.
 4. Government initiate a fund for refurbishment of existing facilities and a requirement be placed on LGA's to have a rolling "Capital improvement" budget.

4.6 General Observations

Throughout the discussion period, the Taskforce was confronted with a range of issues that are clearly having some impact on the sporting community yet were beyond the terms of reference of this study.

Elite sport through its Government funding programmes and corporate sponsorship is thriving and paying athletes disproportionately. However community or grass roots sport is struggling. This scenario cannot be allowed to continue as tomorrow's elite athlete is today's grass roots participant.

There is a major concern among regional and rural communities that the likelihood of junior athletes receiving expert advice and joining representative teams is limited due to the cost in time and money of participating in training and information sessions held in metropolitan Melbourne. Mid-week sessions are almost impossible for athletes to attend while the cost associated with a weekend trip to Melbourne to participate is an expense not all families can cover.

A similar situation arises for athletes in all locations when selected in a representative team chosen to travel interstate. The positive impact of representing a region or state can be telling both individually and within the peer group and should be encouraged wherever possible.

Recent changes to the Country Action Program should see such concerns dissipate, however there are logistical issues directly affecting the selection process that are currently proving a hindrance to many individuals.

This issue enters the category of “Cost of Participation...” rather than “Cost of Delivery...” and yet should be closely monitored as the two are directly linked when increased participation rates are the ultimate goal.

Though touched on through the report, there was a general concern surrounding the positioning of indoor sports within the community framework and the associated costs to the users. As distinct from outdoor facilities, particularly grassed venues open to the public, indoor facilities, while still heavily subsidised, are required to act within the National Competition Guidelines and are operated with a more commercial objective.

Given the abundance of recreational activities accommodated by indoor facilities, there is a difficulty in measuring their impact against those sports utilising outdoor facilities only. Tenants at outdoor venues are typically incorporated bodies whose members pay annual fees entitling them to vote and have an active say in the progress and development of the organisation. Casual and annual users of indoor facilities are required to pay subscriptions for the privilege but are not afforded the same level of input regarding venue management and associated costs.

While the Taskforce heard much about the differences between indoor and outdoor sport and recreation facilities, as indoor facilities are generally managed as commercial operations it is difficult to have direct comparisons. The flexibility with which LGAs can structure outdoor pricing policies is not available for indoor facilities and the cost of delivering sporting services at these venues is a more complex item.

The Taskforce sees the management of indoor facilities managed by commercial operators as an issue beyond the terms of reference of this paper and suggests that further study is done to identify this particular environment.

4.6.1 Recommendations

1. Develop a Sports Foundation consisting of tax-deductible donations from:
 - Elite athletes with a view to returning the contributions at the conclusion of their career as part of a debenture scheme.
 - The corporate sector.

The money would be distributed among junior athletes as part of a development program.

5.0 Conclusion

The environment within which sport and recreation services are delivered has changed significantly in recent years. The time commitments expected of those responsible for delivering sport have increased while many of the associated costs have risen significantly. These changes have occurred at a time when traditional methods of fundraising are less effective and local sponsors are more difficult to attract as they seek greater demographic value for their contributions.

Reflecting these increasing costs and decreasing sources of revenue is a greater dependence on all levels of government. At a basic level, this dependence may be represented by a desire to see more accessible grants and government funding, however it can be extended to include administrative support, business planning and the development of volunteer skills, each of which identifies administrative concerns held by community sporting organisations.

The cost of delivering sport to Victorians is not merely a financial concern. Victorians have long provided these services as part of a lifestyle valuing physical activity and the social and health benefits associated with sport and recreation. As the demands on those delivering sport increase, the support offered to them by the participants and their network of family and friends is decreasing.

Fundraising has, in many instances, been replaced by a fundraising levy – thus releasing the local community from any responsibility to assist the organisation in their own time. Similarly, parents of juniors are often rostered into volunteer duties several weekends each season, thus absolving them from any obligation on the remaining days. Each of these examples represents a shift in support offered to a community sporting organisation.

The financial impact of insurance, water charges, statutory requirements and legal costs ranges from significant to devastating. Sporting and recreational organisations are seen to have a responsibility to the broader community as a service provider, however they are also required to operate as a small business might. While some organisations have managed to prosper during this transition, many have been forced to reassess the service they offer. While some have embraced a professional approach, far removed from their community roots, others have been forced to severely reduce the services offered in order to survive.

National and state sporting administrations, as well as each level of government must accept some responsibility for the shift in support from grass roots sport to elite sport. Only with their assistance can local organisations address the costs associated with the delivery of sport and recreation as they seek confirmation that the service they provide is supported and valued as something more than a source of elite sportspeople of the future.

6.0 Acknowledgements

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Sport and Recreation Victoria
Yarra City Council
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Shire of Wellington
Latrobe City Council
Shire of Whittlesea
Greater Geelong City Council
Frankston City Council
Ballarat City Council
Horsham Rural City Council
Mildura Rural City Council
Wyndham City Council
Wodonga Rural City Council
Greater Shepparton City Council
Manningham City Council
Moonee Valley City Council
Greater Bendigo City Council
Melbourne City Council
Sports Assemblies Victoria
Sports Focus
Central Gippsland Sports Assembly
North East Sports Assembly
Central Highlands Sports Assembly
East Gippsland Sports Assembly
Mallee Sports Assembly
ValleySport
Wimmera Regional Sports Assembly
YMCA Victorian Branch
Victorian Little Athletics Association
Football Victoria
Netball Victoria
Triathlon Victoria
Victorian Cricket Association
Shona Casey
Bob Nicholson
Bob Jones
Cath Black
Ricky Bell
Gerry Glennen
Brendan Gosstray

Derek Humphery-Smith
Jackie Solakovski
Chris Baker
John O'Callaghan
Tim Frampton
Kathy Tessier
Rod Hughes
Nigel Branson
Lisa Hasker
Mick Daniher
John Harris
Deane Welsh
Judy Hudson
Julia Lawrence
Kate Palmer
Cr Gordon Cameron
Cr John Gray
Dale Stewart
Hayden Opie
Rex Hollioake

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8.0 Appendices

Appendix I – Written submissions received

Albury Netball Association	Alexandra Football and Netball Club	Athletics Victoria
Australian Golf Course Superintendents Association	Ballarat Cricket Association	Basketball Victoria
Baw Baw Shire Council	Calisthenics Victoria	Central Highlands Water
DEET School/Club Links Program	Greater Geelong City Council	Hoppers Crossing Gymnastics Club
Hoppers Crossing Soccer Club	Insurance Exchange Australia	Kerang Bowling Club
Kialla Park Tennis Club	Mallee Sports Assembly	Mornington Peninsula Triathlon Club
Mr Ivan Howes	Mr Neville Goulding	Mr Roger Fyfe
Ms Dorothy Brown	Ms Lisa Comben	Netball Victoria
North East Regional Sports Assembly	Pioneer Country Quarter Horse Association	Sale Pistol Club
Shepparton Midweek Ladies Tennis Association	South East Water Authority	St Andrews Tennis Club
Victorian Cricket Association	Victorian Orienteering Association	Victorian Soccer Federation
WomenSport and Recreation Victoria	Wonthaggi Cricket Club	YMCA – Victorian Branch

Appendix II – Workshop Attendees

The list of attendees at the workshops is as follows.

Note: Members of the Taskforce attended multiple workshops:

Don Blyth	Athletics Victoria
Brian O’Dwyer	Badminton Victoria
Rachael Golonka	Yarra CC
David Bruce	Yarra CC
Martin Doulton	University of Melbourne
Neville Nash	Calisthenics Victoria
Philip Saikaly	Casey CC
Jim Divine	Casey CC
Steve Hill	Casey CC
Steve McGrath	Casey CC
Ray Nichols	Dandenong District Cricket Association
David Drane	Central Gippsland Sports Assembly
Laurie Paton	Sport and Recreation Victoria
Michael Rowell	Wellington Shire
John Brookes	Central Gippsland Sports Assembly
Grantley Smitzer	Gippsland Water
Cr Lisa Proctor	Latrobe Shire
Kelvin Matthews	East Gippsland Sports Assembly
Mick Meyer	Sport and Recreation Victoria
Cr Gordon Cameron	Mayor – Shire of Wellington
Andrew Whittaker	Victorian Aquatic Industry Council
Euan Laird	Aust. Golf Course Superintendents Assoc.
Dan Freer	Mornington Peninsula Shire
Norm Farmer	Royal Life Saving Association
Judy Hudson	Netball Victoria
Jason Thompson	Leisure Networks
Jill Evans	Leisure Networks
Darren Gray	Colac Otway Shire
Ricky Bell	Greater Geelong CC
Trevor Little	Barwon Water
Paula Clancy	Greater Geelong CC
Sue Gell	Surf Coast Shire
Rob Ewart	Whittlesea CC
Tim Smith	Whittlesea CC
Greg Jones	Calisthenics Victoria
Justin O’Brien	Whittlesea CC
Greg Drake	Whittlesea CC
David Hall	Victorian Cricket Association
Rob Cotter	Wheelchair Sports Victoria

Zoe Spark	Squash Victoria
Les Bee	Officiating Victoria
Carolyn Monod	Moreland CC
Cath Black	Maribyrnong CC
Emma Gray	Moonee Valley CC
Gerard Feain	Moonee Valley CC
Dale Stewart	City of Melbourne
Peter Harford	Yarra Valley Water
Bob Jones	Manningham CC
Bill Davies	Templestowe CC
Lance Sheen	Pool Victoria
Peta Whitford	Victorian Orienteering Association
Michael Halley	Shire of Yarra Ranges
Ken Dowling	Victorian Cricket Association
John Harris	Victorian Cricket Association
Craig Braddy	Eastern Football League
Bev Harby	Royal Victorian Ladies Bowling Assoc.
Kevin O'Byrne	Whitehorse CC
Rosa Miot	Victorian Disabled Sports Advisory Council
Jodie Prior	Mildura RCC
Ray Lyon	Mildura RCC
Nick Alvino	Mildura RCC
Ron Leamon	Lower Murray Water
Keith Quinn	North East Regional Sports Assembly
Mark Florence	Wodonga RCC
John Flower	Wodonga Football Club
Allan Bonita	
Matt Burke	Wodonga Sports and Leisure
Fred Tibersake	Wodonga Baseball
Gary Davies	Wodonga Baseball
Damian Jones	Wodonga Raiders Cricket
Gerg Thomas	Wodonga Swimming
Elaine Hill	Alpine Shire
Brendan Gosstray	Greater Shepparton CC
David Ronaldson	Ballarat CC
Sue Brown	Central Highlands Sports Assembly
Rex Hollioake	Ballarat Cricket Association
Tony Wright	Central Highlands Water
Cr John Barnes	Mayor – Ballarat CC
Russell Lineham	Warrnambool RCC
Trev Greenberger	Southern Grampians Shire
Lenny Jenner	Sport and Recreation Victoria
Di Trotter	Wimmera Regional Sports Assembly
Wendy James	SportsFocus
Wendy Holland-Quayle	Sport and Recreation Victoria
Neville Goulding	Cohuna EcaCentre

Cr Henry Barlow	Mayor – Wyndham CC
Ashley Pittard	Wyndham CC
Zandra Thomas	Calisthenics Victoria

In addition to the workshops, the following individuals were interviewed either during the consultation period or as part of the validation process:

Elizabeth Simmonds – Frankston CC
Deane Welsh – Triathlon Victoria
Lisa Hasker – Victorian Little Athletics Assoc.
Mick Daniher – Football Victoria
Nigel Taylor – Surf Life Saving Victoria
Bob Nicholson – YMCA Victoria
Shona Casey – YMCA Victoria
Cr John Gray – Greater Shepparton CC
Neil Brennan – Central Highlands Water
Bob Cruise – Mallee Sports Assembly
Paul Wyatt – ValleySport
Derek Humphery-Smith – Lander and Rogers Lawyers
Jackie Solakovski – Rigby Cooke Lawyers
John O’Callaghan – Riordans Lawyers
Kathy Tessier – Australia New Zealand Sports Law Association
Tim Frampton – Australia New Zealand Sports Law Association
Chris Baker – University of Ballarat
Rod Hughes – IEA Insurance Brokers
Matthew Kennedy – Victorian Cricket Association
Keith Grainger – Department of Education – Sports Linkages program
Doug Sandiford – Department of Education – Sports Linkages program
Gerry Glennen – Basketball Victoria
John Neylan – Australian Golf Course Superintendents Association

Appendix III – The New South Wales Sporting Injuries Insurance Scheme

Overview

The New South Wales Sports Injury Insurance Scheme (NSWSIIS) was initiated in 1979 following the high number of serious neck and spinal injuries in Rugby League during the 1970s.

The Scheme “...was created to provide a level of compensation to people who were seriously injured in a sporting activity” (NSWSIIS Handbook) and has offered more than \$10.6M in benefits in the twenty years up to and including 1998/99. The Scheme is non-profit and all monies other than administrative costs are directed towards the benefits of the Scheme.

The Scheme covers sporting associations and all athletes registered with these associations are automatically covered by the scheme. Individuals are not required to be named as members of the Scheme, instead the scheme accepts existing registration practices used by the member sports, thus showing an element of “good faith” towards its members regarding the number of registered participants. Should a claim be lodged however, an individual is required to then prove their registration with the member association and the nature of their involvement in activities authorised by the association. The number of participants registered with an association (both adult and non-adult) is required however, as this then determines the premium payable to the Scheme.

One of the key attractions of the Scheme is that participation in the Scheme exempts the sport from the compulsory provisions of the Workers Compensation Act where an athlete would otherwise be deemed to be a “worker” according to the Act. This clause has been tested in court and the exemption was found to hold up, thus offering relief from Workcover premiums.

Amateurs and professionals may be covered when their sport joins the Scheme but any professionals covered must be part of a sport whose membership is largely amateur.

Officials can also be covered by the Scheme through their registration with a member association. Providing they are officiating in an authorised event, they are then covered by the Scheme as would a participant, thus providing an option to registering them as “workers” under the Workcover Act.

Similarly, practice and training sessions are covered by the Scheme providing they meet certain criteria. A training session is required to be authorised by the member association and must involve two (2) or more individuals participating in the Scheme. This offers a number of ambiguous scenarios surrounding what is an “authorised” training session although there are no specific examples available of where this has been challenged.

The Scheme is **not** an insurance scheme. It operates under the Sporting Injuries Act 1978 and has no formal policy document. The Committee managing the Scheme is under instructions to keep the rules of compliance as simple as possible although the Scheme's Handbook indicates that a claimant is required to fill in a minimum of seven (7) pieces of documentation – indicating “simplicity” is a relevant term.

Another element that appears to work against the claimant is the potential delay in awarding benefits to a claimant. The proof required of the Committee regarding the severe nature of an injury or disability prior to the awarding of benefits means that final medical opinion may not be available for some time after the injury. For example, the Scheme Handbook indicates that the full extent of head injuries is not usually known for two years after the accident. The implications of these facts are that the Scheme is not entirely “simple” and that a great deal of emphasis is placed on the claimant, just as would be the case during a claim against a standard insurance policy.

Premiums

The premiums payable to the Scheme by members is, as with an insurance policy, proportional to the inherent risk associated with the sport. The table below provides an indication of the per capita premiums involved.

Table 1

Sport	Adult Premium	Non-adult premium
Motor cycling	\$37.20	\$18.60
Horse racing (amateur)	\$17.20	\$4.30
Rugby League	\$13.20	\$3.30
Australian Rules	\$5.80	\$1.40
Hockey	\$2.90	\$0.70
Soccer	\$2.90	\$0.70
Netball	\$2.90	\$0.70
Cricket	\$1.40	\$0.35
Tennis	\$0.70	\$0.20
Golf	\$0.70	\$0.20

(SIIS Handbook)

Payment of benefits

Lump sum payments are made to any person injured during an authorised sporting activity and suffer death or a permanent disability of a certain kind as outlined in the scheme. The benefits awarded relate directly to the significance of the injury and are clearly outlined in literature provided by the Scheme's administrators. Currently the maximum benefit awarded to an injured person is \$171,000.

As a rule, medical costs will not be paid for by the Scheme unless the committee has requested the medical consultation specifically in order to better understand the extent of

the claimant's injury. A claim will not be processed until the extent of the injury has been assessed and medical opinion has accurately determined the extent of the damage.

Benefits Paid by the Scheme

In the 20 years since its inception (1979-99), the Scheme paid out benefits in 376 cases totalling \$10,651,360. These figures represent just under 19 cases per year at an average benefit of \$28,328 per claim. (1998-1999 Annual Report)

Of these claims, rugby league had 58.8% of the total claims representing 61.8% of the total monies paid out in claims. An indication of the significance of Rugby League's claims on the Scheme is detailed in Table 2 below.

Table 2

<u>Year</u>	Rugby League members as % of Scheme	Rugby League - % of total claims	Rugby League - % of total benefits paid by Scheme
1991/92	46	78	79
1992/93	50	68	83
1993/94	45	75	70
1994/95	42	65	67
1995/96	42	63	69
1996/97	45	68	79
1997/98	39	73	70
1998/99	38	72	77

These figures must be balanced by studying the contributions made by Rugby League through premiums paid to the Scheme. Working with the premiums as outlined in *Table 1* and the breakdown of registered members as indicated in the 1998/99 Annual Report we find that **Rugby League contributes 77% of the Scheme's total income derived through premiums**. Thus the number of claims by the sport could be considered reasonable given the significance of its contributions over 20 years.

(Note: the same calculation could not be performed for all years due to the absence of annual, per capita premiums for each year otherwise studied)

Compare this with the next most represented sport, soccer. (*Table 3, following page*)

Table 3

Year	Soccer members as % of Scheme	Soccer % of total claims	Soccer % of total benefits paid by Scheme
1991/92	14	-	-
1992/93	15	-	-
1993/94	23	-	-
1994/95	22	11	3
1995/96	23	21	11
1996/97	24	5	1
1997/98	26	9	24
1998/99	28	11	4

In terms of contributions to the Scheme through premiums in 1998/99, soccer paid approximately 12% of total premiums.

If this figure was proven to be consistent over the past eight years, in all but one of these years soccer could be seen to contribute more heavily in premiums than its members received by way of benefits. In itself, this is not a significant figure given that most policyholders in regular insurance schemes are unlikely to claim benefits equal to their contributions, however, it is of more significance in relation to the scheme when one considers that the number of rugby league claims is consistently realising its contributions year in, year out.

The figures above appear to outline the fact that the Scheme is best utilised by Rugby League, although not necessarily in a disproportionate manner. The Scheme appears to accurately reflect the need for such cover in a high-risk sport such as rugby league, however it is also apparent is that few sports are in a position requiring cover for such severe injuries.

Over the twenty years (to 1999) that the Scheme has been in existence only six sports have made more than five claims against the fund, while the two rugby codes account for 77% of benefits paid – this despite rugby unions low participation rate. (see below)

Given the State Government contributions to the Scheme, it is worth asking whether it would be best to have rugby league take out its own policy against this range of injuries.

Operating and Administration Costs

Without adjusting for CPI, the administrative costs of the fund have increased from \$303,000 in 1992 to \$445,000 in 1999. This represents just over 36% of the income generated by the income from premiums and other contributions.

It is also worth noting that the accumulated funds available to the Scheme have decreased significantly over the same period. See *Table 4*

Table 4

Year	Accumulated Funds (\$M)	Operating Surplus (Deficit) (\$)	State Government Contributions (\$)
1991/92	3.78	35,000	-
1992/93	3.23	(550,000)	-
1993/94	2.68	(446,000)	59,000
1994/95	2.81	122,000	55,000
1995/96	2.54	(266,000)	159,000
1996/97	3.00	459,000	87,000
1997/98	2.06	(940,000)	342,000
1998/99	1.62	(436,000)	551,000

The trend apparent from *Table 4* indicates that the Scheme has run at a considerable loss despite the fact that Government contributions have added more than \$300,000 in each of the past two years. That the State Government has become so heavily involved is significant when one considers the lack of growth in income derived from premiums as described in *Table 5* below.

Table 5

Year	Income from premiums (\$)	General & administrative Expenses (\$)	Admin expenses as a % of income from premiums
1991/92	482,000	303,000	62.8
1992/93	674,000	283,000	41.9
1993/94	636,000	276,000	43.4
1994/95	658,000	314,000	47.7
1995/96	673,000	326,000	48.4
1996/97	701,000	298,000	42.5
1997/98	601,000	362,000	60.2
1998/99	677,000	445,000	65.7

The figures in *Table 5* show that while the administration expenses are increasing consistently, the income derived from premiums has been, for the most part, stagnant over the last seven years. With only a small number of sources of revenue, of which income from premiums is the most significant, the Scheme appears to be finding it difficult to maintain the status quo, let alone increasing the available funds and therefore increasing the ability of the Scheme to be self-financing.

This can be seen clearly in the *Table 4* which indicates that the accumulated funds available to the Scheme has dwindled severely over the period studied. The losses incurred over the nine-year period have reduced the available funds from almost \$3.8M

to \$1.6M which directly affects the second most significant source of income – the income from investment.

Given the vagaries of the investment market, it is reasonable to expect that not all years will be equally as successful in generating returns, however the 1999 figure of \$193,000 is significantly down on the 1992 high of \$741,000 and as this is the only other source of self-generated income (ignoring State Government contributions) should be seen as a concern.

Member statistics

In 1998-99 Rugby League players represented 38% of total of sportspeople covered by the scheme, soccer represented 28% while the remaining 34% of sportspeople involved represented 57 sports.

The 1998/99 Annual Report indicated there were 82,776 participants involved with the Scheme which compares well with the total number playing rugby league of more than 127,000 representing approximately 65% of participants. (2000 figures)

Sports notable in their under representation however include cricket, rugby union and netball. (The figures below are taken from the 1998/99 Annual Report)

Cricket had 17,144 participants covered by the scheme out of approximately 100,000 registered players in the state. The NSWCA explained that involvement in the Scheme is the prerogative of each district association and that as the governing body they do not become directly involved with the Scheme. From this we can see that the vast majority of cricket associations have deemed, for any number of reasons, that the Scheme does not offer their sport much in the way of benefits.

Rugby Union, another large sport in NSW, with more than 55,000 registered players had only 890 participants in the Scheme in 1998-99 representing 0.4% of the total registered with the Scheme. The explanation of this comes from the Australian Rugby Union's requirement that all state associations take insurance cover with their insurer (Gow Gates Insurance) before sending players onto the field.

Similarly, netball had 1497 participants in the Scheme out of approximately 110,000 registered members. This represented only 0.7% of the total in the Scheme and in 20 years netball has received just over \$25,000, or 0.2% of all benefits.

From these figures, it is clear that several of the larger sports have seen fit to avoid the Scheme and this poses a number of problems for the Scheme itself.

While it is reasonable to expect that a sport with a very low risk of serious injury such as golf fails to utilise the Scheme, it is significant that a sport like Rugby Union has looked elsewhere for its cover.

As previously mentioned, the State Rugby Associations have cover as part of a national policy and do not seek duplication of the cover afforded them. However, without the support of rugby and that of cricket and netball, the Scheme is likely to struggle to generate the necessary finances to ensure that it can operate without having to rely on State Government contributions.

Conclusion

By failing to attract interest from large sports other than Rugby League, the Scheme can be seen to be offering only moderate benefits to individuals participating in a minority of sports.

There are also other forms of cover sought by active sportspeople not covered by the Scheme. Personal injury and accident insurance is likely to be an additional requirement expected of most sportspeople and the Scheme, while offering benefits to the participants, does, in no way, protect associations from any liability with respect to injuries caused during sporting activity.

That benefits are awarded to less than 20 cases annually indicates the specific nature of the injuries that have to occur before compensation can be awarded to the individual concerned. In addition, it is not unreasonable to expect that many of these cases would be studied closely with respect to acts of negligence on the part of those providing the sporting activity, and a number of cases where compensation was awarded may have been followed by costly legal action.

While the Scheme aims to offer support through benefits across all sports, it is clear that the Rugby League is the most significant beneficiary of the Scheme. Although the sport has made claims that do little more than reflect its input to the Scheme via premiums, the level of Government contribution does seem unreasonable considering it offered largely to just one sport. There are, no doubt, many sports that would prefer to see the money invested in the Scheme by the State Government distributed more evenly, benefiting all sports.

Finally, despite the impact of a profit margin that would be incurred in the private insurance market, the decision by Rugby Union to seek appropriate cover outside the Scheme indicates that alternatives to this NSW Government administered Scheme are viable. Even allowing for the profit margin sought by private insurers, the Scheme appears to have failed to meet the needs of Rugby and as one could reasonably assume the sport to be a core stakeholder in the Scheme, this is of great concern.

Appendix IV – Checklist of Legal Issues

CHECKLIST OF LEGAL ISSUES

Relationship with Government

- Compliance with funding agreement
- Government owned facilities

Relationship with International, National and State Authorities

- Compliance with international and national standards/rules/regulations
- Recognition and obligations in constitutional documentation

Organisational Structure

- Current legal structure of organisation (company/incorporated association/other)
- Compliance with relevant legislative framework
- Compliance with constitutional documentation
- Compliance with disciplinary mechanisms
- Compliance with dispute resolution mechanisms
- Compliance with reporting and audit requirements

Compliance with Legislation, Regulations, By-Laws, Orders, Notices

(including but not limited to)

- Local Government Act
- Occupational Health and Safety Act
- Local Council By-Laws eg. health
- Planning and other Permits
- Liquor Licensing
- Workcare/Workcover/Superannuation compliance and other Industrial Relations matters
- Occupier's Liability legislation
- Equal Opportunity legislation
- Use of roads/parks/open spaces (if any)
- Taxation (including GST) compliance
- Privacy (Data Protection) legislation
- Director's duties
- Special legislation (if any)

Checklist of Legal Issues cont.**Contractual Arrangements**

- Sponsorship agreements. Is there a sponsorship policy in place?
- Marketing/Advertising agreements
- Ambush marketing (prevention and defensive strategies)
- Key Personnel Employment agreements ie. CEO, managers
- Other Employee agreements
- Agreements with volunteers
- Venue Lease/License agreements
- Venue Joint Use agreements
- Contracts for delivery of specific services eg. drug testing
- Merchandising agreements
- Facility Vendor agreements
- Service Providers eg. cleaning/security
- Licensing and other intellectual property arrangements
- Broadcasting (TV (free to air, pay TV, video), radio, publishing and distribution)
- Services for athletes/competitors
- First aid and medical needs
- Ticketing agency
- Other specialised agreements (if any)

Protection of Intellectual Property

- Protection of logo/mark (trade mark registration)
- Licensing of intellectual property
- Enforcement of intellectual property rights
- Ambush marketing (defences)
- Copyright and disclaimers on publications

Trade Practices Compliance

- Supply of goods and services in accordance with Act
- Conduct not "misleading or deceptive"
- Exclusivity arrangements prohibited

Checklist of Legal Issues cont.**Facilities**

- Suitability for needs
- Compliance with Australian Standards, where applicable, and Safety Codes
- Compliance with national/state/local government standards
- Maintenance, inspection and repair requirements
- Emergency and first aid requirements, access and egress
- Signage, safety barriers
- Adequate lighting/ventilation etc.
- Risk management policy
- Disabled access/facilities
- Adequate public conveniences

Equipment (as applicable)

- Compliance with Australian Standards, where applicable, and safety codes
- Compliance with international/national standards, if applicable
- Maintenance, inspection and repair requirements
- Provision for safe use and storage of equipment

Personnel

- Selection of qualified and suitable personnel
- Training of Managers/Supervisors
- Appointment of responsible officers
- Training of staff and volunteers, as required
- Appointment of agents and consultants

Participation

- Injury
- Registration and insurance requirements
- Selection Issues
- Drug testing issues
- Non-compliance with rules etc.
- Over-use or over-training injuries
- Medical issues
- Harassment, vilification etc.

Checklist of Legal Issues cont.**Member Protection**

- Victimisation
- Harassment
- Abuse or bullying
- Discrimination
- Privacy and confidentiality of information regarding members
- Screening of staff/volunteers

Involvement of other personnel (trainers/umpires/coaches/volunteers etc)

- Inaccurate advice
- Inappropriate decision-making
- Other harmful contribution
- Failure to comply with rules, policies, contractual arrangements
- Inadequate knowledge or training

Risk Management Procedures

- Professional guidance on insurance requirements
- Ensure adequate cover for public liability, professional indemnity, directors and officers liability, competitor injury/accident protection, event cancellation insurance, volunteer coverage, other specific insurance requirements
- Ensure indemnities/disclaimers included in appropriate documentation

Signage

- Should warn of risks - care with scope of information provided
- Town planning and local government requirements
- Compliance with standards (if any)
- Use of pictograms/multilingual signs, not just English
- Placement and maintenance

Information Management

- Ensure adequate storage and processing systems in place
- Any special software developed or used (requires licensing or protection)
- Relevant agreements for website
- Relevant user protocols (email/internet)
- Data security

Checklist of Legal Issues cont.**Major Events (specific issues)**

- Event program (satisfactory programming)
- Media liaison (no misleading and deceptive conduct)
- Accurate timing facilities
- Crowd control contingencies
- Ticketing
- Sports medicine physicians available/rostered/on call
- Emergency services aware, present and/or on standby
- Complaints handling procedures
- Ensuring "low-risk" participation in event - general risk management

Equipment Maintenance and Inspection

- Maintenance to minimum acceptable standards
- Regular inspections and preventative maintenance
- Maintenance as required, and reporting

Incident Investigation (Generally)

- Systems of reporting and recording emergencies/hazards devised and ready to use (perhaps in liaison with insurer)
- Allocation of responsibility to official/s
- Reporting and recording procedure
- Exercise of discretion in accordance with appropriate policies/guidelines

Incident Investigation (Competition Judiciary)

- Appointment of appropriate Tribunal to hear complaints (if necessary)
- Reporting and recording process for complaints
- Hearing and determination by (unbiased) tribunal
- Any appeal procedure?
- Drug testing protocol (specifically)
- Compliance with international/national procedures

Communications (general)

- Designated spokesperson
- Care regarding defamation
- No misleading or deceptive conduct

Checklist of Legal Issues cont.

Indemnity Documents/Forms

- Membership forms drafted to require compliance with rules and regulations
- Tickets contain disclaimers

Alternate Dispute Resolution

- Mediation (including National Sports Dispute Centre)
- Arbitration (including Court of Arbitration for Sport)
- Expert determination