President's Report

Dave Reeve 7th July 2104

The year past

I always warn prospective volunteers that access work is about as much fun as watching paint dry, this being especially the case for climbers where the excitement of the sport is light years away from that of paperwork and policy documents.

So I will start by thanking those of you who gave up their time to do the boring stuff that helps us out – those of you who attended our quarterly meetings, those of you who attended meetings with QPWS staff, who helped with writing submissions, those of you who cared enough to pick up the rubbish of others, who maintained the tracks and the fixed protection. Your help was much appreciated.

It is hard to measure the impact of our efforts because the outcome is so diffuse. Sometimes it seems that nobody cares, and sometimes that a lot of effort might come to nought. But things look that way, only because we fail to see the bigger picture. We need to see the thing that matters, the thing that all our efforts should be directed towards, which is the engagement of the community with the sense of ownership, the act of adoption if you like, of those pockets of the public estate where we recreate. On this measure we are definitely making progress.

This year has seen the commencement of the roll-out of the Glass House Mountains Outdoor Recreation Initiative by NPRSR, and given that, as a community, we are no longer skulking about in the bushes with hammer-drill in hand, but are at the table, we have been able to add our voice to decisions as this major development unfolds.

One of the things, hitherto impossible, that we have been able to do is to consider climbing opportunities as a whole across the entire Glasshouse Mountains. We have been able to collaborate with QPWS at the time they upgraded the Ngungun track, and to plan for increased newbie climbing at both Flat Battery Wall and Andromeda with the idea that we can pull traffic away from Slider Gully on Tibrogargan, and reduce the pressure to add further single pitch sport routes at the base of the multi-pitch walls. I believe that this sort of 'whole landscape' planning is going to be important to our thinking if the projected traffic levels are to be handled in a sustainable way.

The path ahead

I would like to think that, given our new level of communication with QPWS, and given the levels of funding now being directed toward projects within the National Park system, the path ahead should be rosy. However, to say so would be to ignore the obvious fact that we have three crags within the protected estate that are currently closed to us. Each has its own unique history of earlier climbing activity. Now, if any of these crags had been closed because of a coherent argument that conservation issues outweighed the value-add that recreational climbing might make, I'm sure the climbing community would have accepted such a decision. After all, we have a voluntary ban on

climbing in the Palm Gorge on Mt Greville as precedent in support of this principle. But, as I will explain, such is patently not the case with the closures in question.

Over the past fourteen years, at one time or another, previous administrations have taken the specific action to close, firstly Coonowrin, then Poondahra and finally Flinder's Cave. In each case, the administration asked Coffey Geosciences if the crag presented a risk of rock fall, and given that the only possible answer for any steep rock face has to be yes, they closed the crag under the 'safety to visitors' provision s74.1(a), of the *Nature Conservation (protected areas management) Regulations 2006*. These acts of bureaucratic overreach arose out of the hiatus that existed between the climbing community and the administration at that time. The reasons for the hiatus are of limited importance today, and rather than go down that rabbit hole, I want to concentrate on what these closures mean for us going forward.

Now that QPWS and the climbing community are working together to achieve the common goal of developing such awesome, sustainable, climbing opportunities as the protected estate might offer, it would be reasonable to anticipate that QPWS will lift these historical access restrictions, especially since no one seriously believes the safety issue was ever more than a convenient peg on which to hang a closure notice. However, as I will explain, the process of opening a closed crag causes the bureaucratic apparatus acute indigestion.

Clearly the land manager has to go through a process of demonstrating that a crag once considered unsafe is now safe enough to warrant reopening. To you or me, 'safe enough' would be taken to mean 'as safe as any other crag', or to put it another way, that there is no reason to close this crag as compared to any other on the public estate. The adventurous visitor is happy to assume the risk that comes with the steep terrain; after all, the personal challenge of risk management is one of the major components of the climbing experience. In an ideal world, this would be the end of the matter. Any accidents that occurred from the materialisation of the risks inherent in that natural environment would be put down to misjudgement on the part of the visitor, and would serve as a warning to others of the need to assess their personal safety at all times.

However, in today's litigious society, 'safe enough' is going to end up being subject to legal scrutiny should an accident result in a visitor, or their relatives, suing the State for negligence. One would hope that such scrutiny would be cognizant of the elevated risk profile of most outdoor recreation; the fact that elevated risk is central to the value of the recreation itself, and that it is manifestly impossible for one to partake in such recreation without consciously assuming responsibility for one's own actions. As I say, 'one would hope', but in February of this year the Supreme Court of Queensland set a high bar for the standard of care owed to a young man who was seriously injured diving into L. Wabby. At no point in this judgement was any allowance made for the fact that the young man in question wasn't shopping at his local mall when the accident occurred, but instead was actually engaged in an adventurous outing in a natural setting.

If 'safe enough' is taken to mean 'shopping mall safe' as the Supreme Court would like us to accept, then there is no way any crag on the public estate would survive this test. Given this precedent it is difficult to see how a crag, once closed, ever can be declared 'safe enough' to reopen. This is a chilling conclusion to draw.

It is fair to say that the spectre of public liability, and the chill it has cast on the effective operation of the Nature Conservation Act has not gone unnoticed by policy makers, and last year, the Minister for NPRSR, Steve Dickson, introduced amendments to the NCA that attempt to insulate the executive from such claims. The Law Society protested that the legislature should not be writing excuse notes to allow the executive to duck out of its Common Law obligations, but the Minister persisted and the amendment Bill passed into law in November of last year. It is worth reading the following extract from the Minister's speech for the second reading of the Bill –

The status quo for civil liability on protected areas—that is, a reliance on common law, and some limited provisions in existing legislation—simply does not provide the level of certainty required by park managers as they go about their business of managing parks. The Law Society has emphasised that each situation needs to be considered on its merits which, in their view, is why common law provides a better approach than providing a legislative framework. From a park management perspective this is problematic because it places individual park managers in the position of trying to second guess how claims of negligence will be considered in the courts. For example, trying to anticipate how many warning signs are required at a water hole to ensure that if someone dives in and hurts themselves they will not be found civilly liable. Visitors are attracted to these places because they want to view and experience a natural place. This experience can easily be eroded by a lack of certainty around what is required to avoid a claim of negligence.

The Minister's approach is to free the indigestion currently afflicting the system, and thus is definitely something we want to see happen, but, will the amendment stand up when tested in the Supreme Court? Let's see what happens. I doubt we will be waiting long. As taxpayers, I believe we have a right to see this issue resolved, and if that involves repeated knockbacks by the Supreme Court followed by submissions to the High Court at whatever cost to the public purse, then so be it. The evisceration of outdoor recreation and education is a high price to pay simply because the Supreme Court is unable to differentiate between the assumption of risk by a shopper entering a shopping mall and that of the adventurous visitor entering a wild, natural region.