Outdoor Council of Australia

Submission to the Joint Standing Committee on Corporations and Financial Services

Inquiry into the Small Business Insurance Market
A Federal Perspective from the Outdoor Industry
Submitted by: *Outdoor Council of Australia (OCA)*
Contact: *Lori Modde, Chair -* [redacted]

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1. Introduction

The Outdoor Council of Australia (OCA) welcomes the opportunity to contribute to the Joint Standing Committee's inquiry into the small business insurance market.

OCA represents the national interests of Australia's outdoor industry, encompassing outdoor recreation, outdoor education, adventure tourism and therapeutic outdoor services. The majority of businesses operating within this industry are small or micro-enterprises, many based in regional and remote Australia, delivering services that contribute to tourism, health, education, environmental stewardship and community wellbeing.

Public liability insurance is not discretionary for outdoor businesses. It is a prerequisite for operating on public land, contracting with government agencies and schools, accessing licences and leases, and maintaining community trust. However, the availability, affordability and suitability of public liability insurance has become one of the most significant structural barriers to business viability, workforce participation and service continuity across the outdoor industry.

This submission provides a federal-level perspective on the drivers of insurance market dysfunction, the reforms already undertaken by industry, and the systemic issues that cannot be resolved without Commonwealth leadership.

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2. A National Market Failure, Not an Industry Failure

From 2020 onwards, outdoor businesses across all states and territories experienced:

- *Insurers withdrawing entirely from outdoor and adventure activity classes*
- *Policies cancelled due to inactivity during COVID-19 shutdowns*
- *Inconsistent underwriting decisions for identical activities across jurisdictions*
- *Minimal recognition of industry standards, qualifications or accreditation*
- *Rapidly escalating premiums and excesses without corresponding changes in claims experience*

For many operators, these outcomes did not reflect deteriorating safety performance. Instead, they reflected insurer retreat from perceived complexity, reputational risk and legal uncertainty.

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At a national level, the insurance market continues to price risk as an inherent attribute of activities, rather than recognising risk as something that can be actively managed, mitigated and demonstrated by competent operators. This results in blunt underwriting approaches that penalise best-practice businesses, discourage investment in safety systems, and undermine market stability.

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3. Industry Has Already Acted: Risk Ownership and Reform

Contrary to some prevailing narratives, the outdoor industry has not sought reduced insurance costs through deregulation or government subsidy. Instead, industry has taken responsibility for lifting capability, improving transparency and strengthening risk management maturity.

Nationally, industry-led reforms have focused on:

- *Clear articulation of contemporary best-practice expectations*
- *Education programs that build operator capability in safety, governance and risk*
- *Practical mechanisms for businesses to evidence compliance and maturity*
- *Constructive engagement with specialist brokers and insurers that understand outdoor activities*

This approach recognises a fundamental principle: while insurers insure risk, industries create, manage and mitigate it.

The OCA owned Australian Adventurous Activity Standard (AAAS) and associated Good Practice Guides remain as a benchmark for industry good practice in safety, cultural and environmental sustainability. This project was initially funded through government grants to build capacity in industry leadership. The AAAS was released in November 2019 and both the Outdoor Council of Australia and all the State Peak bodies have been educating industry on this tool since 2019. The AAAS is recognised by most public land managers and included as a compliance requirement for commercial permits.

In addition, the 'Understanding and Preventing Led Outdoor Accidents Data System' (U.P.L.O.A.D.S) project has been informing the industry for 10 years on opportunities for safety improvement. The University of the Sunshine Coast in partnership with Edith Cowan University and the OCA have been managing a National Incident Dataset to perform this innovative and informative function for the industry.

Our state peak bodies, members of OCA, are engaging members directly to educate, inform and assist in industry-based solutions, using the above examples as well as other initiatives.

An example of which is the Activity Safe Education Program, led by Outdoors NSW & ACT in partnership with Affinity Insurance Brokers. This tool guides businesses in understanding the risks in their business and how to mitigate them. The gap here is that a suitable accreditation program does not currently exist and could provide a sustainable option for insurance availability. We hope to work with the government on filling this gap in the near future.

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5. Insurance Outcomes Depend on the Supply Chain

National experience shows that insurance outcomes improve when:

- *Brokers operate as strategic risk partners rather than transactional intermediaries*
- *The supply chain between operator and underwriter is shortened*
- *Brokers and insurers invest in sector-specific understanding*

Conversely, the poorest outcomes arise where underwriting decisions are made without knowledge of the sector, operational context or site-specific controls. This is a market design issue, not a business behaviour issue.

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6. Structural Issues Beyond the Control of Small Business

Despite significant industry reform, two systemic issues continue to distort insurance outcomes and remain beyond the control of individual businesses.

6.1 Excessive Public Liability Limits

Australia has normalised a $20 million public liability requirement through government procurement policies, land-use licences and risk-averse contracting practices.

This figure is not evidence-based. It is materially higher than international norms and is driven by institutional risk aversion rather than claims experience. The cost burden of this over-insurance is borne entirely by small businesses, regardless of turnover or exposure.

6.2 Tort Law Settings and Legal Uncertainty

Australia's tort environment, while complex and state based, continues to drive insurer conservatism, particularly in sectors involving physical activity. Even where claims are rare, the severity risk associated with litigation costs, precedent-driven settlements and legal uncertainty inflates premiums.

While industry has invested heavily in prevention, training and systems, tort reform has not kept pace. As a result, insurers continue to price for legal uncertainty rather than operational reality.

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7. Reframing the National Conversation

OCA is concerned that some submissions to this inquiry continue to frame small businesses as passive victims of market forces or imply that affordability can only be addressed through insurer-led solutions.

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This framing overlooks:

- *Demonstrated evidence of successful industry-led reform*
- *The role of government procurement and liability settings in shaping the market*
- *The opportunity for collaborative risk sharing*

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

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8. What the Federal Government Can Do

The Commonwealth has a critical enabling role in addressing structural market distortions:

1. ***Review tort law settings** that disproportionately impact small, risk-mature sectors*
2. ***Examine public liability limits** embedded in Commonwealth procurement, contracting and land-use frameworks*
3. ***Support recognition of industry-led risk frameworks** within federal procurement, possible funding and policy settings*
4. ***Encourage insurer engagement** with sectors demonstrating measurable risk maturity*
5. ***Improve national data transparency**, including claims frequency and severity by sector*

These actions would not weaken consumer protection. They would strengthen it by supporting viable, well-insured operators who actively manage risk and deliver public benefit.

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9. Conclusion

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

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

The Outdoor Council of Australia welcomes further engagement with the Committee and would be pleased to provide additional evidence or appear at hearings.

Lori Modde
Chair
Outdoor Council of Australia
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