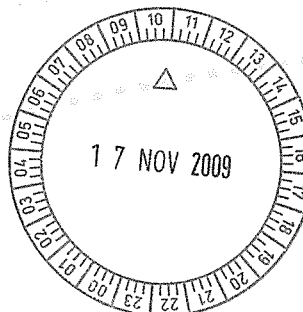




10 November 2009

Committee Clerk  
Public Administration Committee  
Legislative Council  
Parliament House  
Perth WA 6000



**PUBLIC**

Dear Sir or Madam,

**Recreation Activities within Public Drinking Water Source Areas**

This is a submission by the Board of the Bibbulmun Track Foundation to the Public Administration Committee for its inquiry into recreation activities within public drinking water source areas.

If further information is needed about this submission, please contact—

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Neither the Board nor Linda Daniels wish to appear before the Committee to explain or elaborate on this submission.

**The Bibbulmun Track**

The history of the Bibbulmun Track begins in about 1972 but the present alignment is over 10 years old. The Track has become well known both locally and overseas. It is WA's best known walking track. It runs from Kalamunda to Albany along the Darling Range and through the forests of the south-west and along its coasts. Spaced along it are 48 campsites for walkers, each of which has tent sites and a shelter with one or more water tanks filled from the roof and a separate toilet. Some are pit toilets, some are closed system toilets.

The Track passes through a number of public drinking water source areas: e.g. the catchment areas of the Mundaring Weir, the Canning Dam and the Serpentine Dam.

The Track's name recognises the pre-European inhabitants of the area, the Bibbulmun, who for years walked in the area leaving little or no trace of their having done so.

**The Bibbulmun Track Foundation (BTF)**

The BTF is an incorporated association whose main object is to support the Track. The BTF was formed about 11 years ago and has about 2500 members. It works closely with the Department of Environment and Conservation (DEC) which is primarily responsible for the Track.

**Outdoors recreation**

The Board believes the Track and its public profile play a part in encouraging people to recreate outdoors by walking. The WA government, through the Department of Health and the Department of Sport and Recreation, also encourages people to walk and take other forms of exercise.

Walking is perhaps the simplest and most basic form of human exercise.

Bush walking, including on the Track, is not a very widespread recreation. People bush walk on their own, in self- or commercially-arranged groups, and in sporting events such as orienteering events and rogaines run by clubs. Many people bush walk on established trails and tracks but some do not, preferring to follow a route of their own off tracks and trails.

Bush walkers sometimes stay overnight in the bush, either in shelters or in tents at places designed for camping or at an opportune place (sometimes called 'wild camping').

**Areas available for outdoor recreation**

Although WA is a big place, the area of it particularly suited to bush walking is not vast when you take account of WA's population centres. The bulk of WA's population live on the coastal plain between Perth and Bunbury. For most of them the Darling Range is the closest large area most suited to bush walking.

Of course the Darling Range is not the only area. The forests and coasts between Bunbury and Albany, and the Stirling and Porongurup ranges, provide excellent places to bush walk. But the Darling Range is closer to most of the population.

The Darling Range however has a number of uses, some of which are incompatible with one another. How to allow all those uses to continue so that a reasonable result for all and for the Range's environment is achieved seems to be the main question.

Apart from being used for recreation, the main uses of the land in the Darling Range are as—

- forests;
- mining areas (chiefly for bauxite);
- water catchments for public drinking water.

The areas required for these 3 uses overlap but they together occupy a significant proportion of the Range's area.

The forests south of the Darling Range that extend to near Albany may not be used for mining much, but they are harvested and some areas of them are water catchment areas.

**Current restrictions on access to areas for outdoor recreation**

As to forests, the Board is not aware of any proposal to ban people from them generally. However the *Conservation and Land Management Act 1984* gives officials powers to impose varying levels of restriction of access by people to land subject to that Act. The Board accepts that areas being harvested may be put out of bounds temporarily for safety reasons until the harvesting is done and that reasonable restrictions on access to control diseases such as dieback are warranted. Such restrictions do not presently restrict bush walking.

As to bauxite mining, large areas of the Darling Range are mine sites and are out of bounds to people for recreation.

As to water catchment areas in the Darling Range, the Board has for some time been aware of and concerned about restrictions on access to the areas for recreation. In particular the Board is concerned about the prohibited zones that exist around the water bodies in the various dams in the Darling Range and further south.

Water reserves and catchment areas are constituted and defined by proclamations made under the *Metropolitan Water Supply, Sewerage and Drainage Act 1909* s 13. Under s 146 of that Act by-laws can be made (among other things)—

- (2) For the prevention of the pollution of water within or under any water reserve or catchment area.

- (2a) Preventing or minimising the pollution of watercourses and sources of supply.

That power is in addition to a power in s 17 to make and enforce local laws for preventing the pollution of water within or under a water reserve or catchment area. We do not know if that power has ever been used.

Under s 146 of that Act, the *Metropolitan Water Supply, Sewerage and Drainage By-laws 1981* have been made. By-law 4.2.2.2 defines 'prohibited zone' to be the area upstream of a dam and within 2 km of the top water level of any reservoir. As a result a considerable portion of areas attractive to bush walkers in the forests in the Darling Range is out of bounds to almost everyone, no matter how low is the risk they pose to the quality of the water in the reservoir.

By-law 4.3.6 prohibits entry to prohibited zones except for some purposes. The exceptions are worth noting. They are—

- (a) travelling through the prohibited area on public roads; or
- (b) travelling along private roads constructed for the Commission or Forests Department and which are open for public use; or
- (c) picnicking within designated picnic sites provided and serviced by the Commission.<sup>1</sup>

Under by-law 4.3.5, lighting of fires in prohibited zones seems to be prohibited except in fire places at authorised picnic sites or with official permission.

As a result of those laws, people who may do nothing more than walk are prohibited from doing so in prohibited zones unless on a road open to the public. Yet vehicles and the people in them are allowed to travel through the prohibited zones.

The risks to water quality from vehicles on public roads and the people in them are arguably greater than the risks from people who are just walking. Likewise the risk from people and vehicles at authorised picnic sites. If that is accepted then the laws forbidding walking in prohibited zones are arguably anomalous and illogical.

### **Concerns about restrictions on access to catchment areas**

The Board is concerned about a number of trends in the formulation of policies and laws for managing catchment areas—

- a tendency, without any real empirical basis, to assert that bush walkers in catchment areas pose an unacceptable risk to the quality of water supplies, and to over estimate the risk;
- a tendency to adopt policies and make laws that are not reasonable when judged in the wider context of—
  - all human (including vehicular) and animal activity in catchment areas; and
  - the actual and varying risk posed by human walkers;
- a tendency to adopt policies and make laws that are disproportionate to the risk that bush walkers in catchment areas pose to the quality of water supplies;
- a tendency to adopt policies and make laws that are based on the most irresponsible, environmentally harmful human practices and that do not credit those whose practices are responsible;

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<sup>1</sup> The references to the 'Commission' and 'Forests Department' have been out of date for some time.

- a tendency to adopt policies and make laws that do not recognise or differentiate between behaviour that extends—
  - from behaviour that is damaging to the environment and poses a high risk to the quality of water supplies; and
  - to behaviour that is unlikely to damage the environment or be a risk to the quality of water supplies;
- a tendency not to be prepared to critically examine and re-evaluate established policies and laws or to engage in debate about them;
- a tendency to make laws that are disproportionate to the mischief concerned.

The Board respectfully asks the Committee will resist these tendencies.

### **Walkers' risks to water quality**

The Board accepts that any human activity in a water catchment area poses some risk to the quality of the water in it. But it is by no means clear how big that risk is. Nor is it clear how big that risk is when compared to the risks to water quality from other things and activities in catchment areas some of which are permitted or at least not prohibited.

The risks posed by bush walkers are arguably lower than those posed by things such as feral animals (particularly pigs) and activities such as logging, mining and vehicle use on and off roads in catchment areas.

Unfortunately there does not appear to be much empirical data about the risks to water quality from humans walking and camping in catchment areas. In the absence of such data the Board accepts it is reasonable to err on the side of caution. But the policies and measures to address those risks ought to reflect and be commensurate with the level of risks for which there are data. The risk from bush walkers will obviously vary depending on various factors, and policies and laws ought as far as possible take account of the variance.

The main risk from bush walkers to water quality seems to be from human faeces deposited in catchment areas. Human urine is comparatively benign. Food scraps and other rubbish from camping also pose some risk.

Most generally available advice to bush walkers advises them not to camp or defecate within 100 m of water courses or water and to carry out all rubbish and left over food that was carried in<sup>2</sup>. Responsible walkers follow this advice and aim to leave no trace of themselves. The BTF promotes responsible bush walking.

The Board accepts that not all people know about or take this advice. But the Board is concerned that policies and laws that assume no-one knows about or takes this advice produce an unreasonable and disproportionate result which in turn leads to disrespect of the law by those walkers who do not leave any trace.

The Board believes policies and laws ought to be framed so as to earn the respect of and be accepted by the people affected by them because the policies and laws are sensible, well thought out, reasonable and proportionate to the mischief. If they are not there is a risk the people will ignore them. Not surprisingly, people react against disproportionate responses to risks, or proportionate responses to exaggerated risks. Such responses can therefore be counterproductive.

The Board believes that any blanket approach to the risks to water quality from walkers and campers is likely to be disproportionate and counterproductive and argues against any such approach.

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<sup>2</sup> See for example the '7 principles of leave no trace' promoted by Leave No Trace Australia available at [www.LNT.org.au](http://www.LNT.org.au).

**The Track's risk to water quality**

As noted, the Track passes through a number of water catchment areas. Some of the Track's campsites are in catchment areas.

The Board accepts that human activity at campsites in catchment areas, being concentrated as it is, poses a risk to water quality and accepts that no campsite ought to be within 100 m of any water or water course in a proclaimed catchment area. The Board acknowledges that some campsites are within 100 m of water outside proclaimed catchment areas and would accept any proposal to move them if there were evidence they adversely affect the quality of the water.

But the Board believes there is no evidence to show that the Track's alignment ought to always be more than 100 m from water or water courses in proclaimed catchment areas when there are plainly many roads and a deal of vehicular activity within those 100 m margins.

The Board also believes that without evidence about the size of the risk from human activity at campsites, there is no reason why campsites cannot be sited in proclaimed catchment areas.

**Conclusion**

The Board believes water catchment areas can be used not only to collect water for human consumption but also as places for human recreation that has no or a low impact on the environment and poses no or a low risk to water quality. The Board does not believe that walking and camping done responsibly in catchment areas is a significant risk to water quality.

The Board believes policies and laws for the management of catchment areas should address the risks to water quality in a balanced and therefore reasonable way so as to attract as much popular support for them as possible. Only with such support are they likely to be effective.

The Board advocates policies and laws for public drinking water source areas that—

- do not penalise or prohibit those who do walk and camp responsibly in them; and
- aim to educate people recreating in them to adopt practices that leave no trace; and
- reflect and support the 7 principles of leave no trace,

rather than laws that assume no-one will adhere to such practices or principles.

The Board advocates research into the risks that various kinds of human activity in catchment areas pose to water quality so that policies and laws can be empirically based.

Just as the Bibbulmun people walked freely in the forests of south-west WA leaving little or no trace of their passage, the Board believes that people today who walk and camp and leave no trace ought to be able to do so without unreasonable restriction.

The Board trusts this submission is of assistance to the Committee.

Yours faithfully,



Linda Daniels  
Executive Director  
Bibbulmun Track Foundation  
on behalf of the Board of the Bibbulmun Track Foundation