



Bushwalking WA (Federation of Western Australian Bushwalkers Inc)

**Initial (Phase 1) submission to
the review of the Aboriginal Heritage Act 1972**
(with reference to DPLH Consultation Paper of March 2018)

Some key matters addressed in this submission:

- 1) “On behalf of the community”
- 2) The roles of people
- 3) Both Aboriginal and Non-aboriginal heritage are to be respected
- 4) Inconsistencies with the inclusive intent of the Act
 - i) Lack of consultation with community stakeholders in an affected heritage area
 - ii) Lack of a requirement for appropriate expert opinion about specific heritage matters
 - iii) Activities not permitted
 - iv) Evaluation process

OUR INTEREST

Bushwalking WA (BWA) is the peak body for bushwalking / hiking in WA. It directly represents the interests and concerns of about 1200 members of bushwalking/hiking clubs in Western Australia, and indirectly represents the wider bushwalking community in WA comprised of more than 65,000 Western Australians who say they walk in the bush. Through their activities over many decades bushwalkers have a particular awareness of, and respect for Western Australia’s Aboriginal heritage.

CONTEXT

Bushwalkers mostly prefer walking in a natural, undisturbed environment. Experienced bushwalkers commonly develop an affinity with the bush and landforms they pass through that may be somewhat comparable to the sense of ‘country’ of Aboriginal Australians.

Bushwalkers in WA can pass through registered and non-registered/unrecognized Aboriginal heritage sites on sanctioned public walk trails, and also during traditional cross-country bushwalking on public lands (mainly state forests, national parks and reserves) lacking developed walk trails. Undeveloped walk routes which may pass through locations of known or likely significant Aboriginal heritage and cultural value have been walked by bushwalking clubs and others as traditional bushwalking activities over the past half century and longer.

Some bushwalking trails have been developed with a specific focus on Aboriginal heritage and culture. There are numerous examples around Australia of locations that have established trail-based bushwalking experiences revolving around Aboriginal cultural heritage. In WA, many public walk trails pass through locations of recognized Aboriginal heritage significance and cultural value. See **Appendix 1** for examples.

Bushwalking trails and routes which pass through registered and/or unregistered Aboriginal heritage sites have the benefit of fostering greater awareness and connection with Australian Aboriginal culture among local walkers and other visitors, plus a sense of a shared custodianship of a heritage that needs to be valued and protected by all, Aboriginal and Non-aboriginal.

COMMENTS ON THE ACT AND ITS OPERATION

1) “On behalf of the community”

The wording “...on behalf of the community..” in the existing long title of the Act, indicates that the Act is intended to be inclusive and act on behalf of the entire WA community, though the wording should preferably be “...on behalf of the whole community..” in the interests of removing any possible ambiguity. The Act must strengthen this inclusive approach; Aboriginal heritage should be important to all Western Australians. It is a heritage that needs to be known, valued and protected by all, Aboriginal and Non-aboriginal.

In that context, BWA concurs with Ben Wyatt MLA Minister for Aboriginal Affairs who states in his Foreword to the Consultation Paper that we need “*to ensure that our Aboriginal heritage is recognised, protected and celebrated by all Western Australians today and for generations to come*”.

2) The roles of people under the Act (relevant to Question 2 in the summary Consultation Paper)

The roles of **both** Aboriginal and Non-aboriginal people under the Act need to be addressed consistent with the intention that the Act is on behalf of the [whole] community.

3) The following is consistent with the intention of inclusivity:

Both Aboriginal and Non-aboriginal heritage are to be respected. - No aspects of the Act should allow one heritage to override or supplant another. The several trails examples in **Appendix 1** demonstrate the bringing together in an empathetic way of Non-aboriginal bushwalking traditions and Aboriginal heritage, with benefits for both. Respective heritage values may conflict in some aspects but neither one whole set of heritage values should entirely subjugate the other.

4) The following are inconsistent with the intention of inclusivity

i) Lack of consultation with community stakeholders in an affected heritage area

The consultation process needs to consider impacts on the broader community such as the impact of the loss of traditional bushwalking access to a subject heritage area. eg Recognition that any loss of access to bushwalking areas further reduces the ability of bushwalking clubs and others to maintain their important positive contribution to the community: Walking in natural environments is well known to foster health and well-being in the community.

Under **Section 19 (2) (b)** of the existing Act, the Minister’s notice of a recommendation that an Aboriginal site should be declared a protected area is required to be given to “*any other person the Minister has reason to believe has an interest that might be specially affected if the declaration were made*”.

One would therefore expect as a matter of course, that bushwalkers would be consulted when any restrictions are considered on Aboriginal heritage areas located in known or possible bushwalking areas. i.e. Bushwalking WA (the Federation of Western Australian Bushwalkers Inc), as the peak bushwalking body in the state, would expect to be contacted and afforded an opportunity for input as a key stakeholder and representative of its member clubs and the broader bushwalking community. That has not occurred under the operation of the Act to date.

For example in the case of **Boulder Rock** in Midgegooroo National Park near Karragullen it appears the site was declared as an Aboriginal heritage site several years ago after seemingly ‘*in camera*’ discussions involving the then Department of Environment and Conservation (DEC), Department of Water (DOW), the then Department of Aboriginal Affairs, and Aboriginal elders, without any consultation with the broader community (including BWA on behalf of bushwalkers). Boulder Rock was for a very long period also known for its popular small picnic area located at the northwestern foot of the Rock and within convenient close proximity to the busy Brookton Highway. The picnic area lacked any information board advising of the sensitive Aboriginal heritage and cultural significance of the Rock, including its role as a ceremonial site for Aboriginal ‘men’s business’. The Rock and the picnic area site were also located in a Reservoir Protection Zone (RPZ) around the Canning Dam Reservoir which precluded bushwalking beyond

the picnic area. The picnic area was neglected and suffered from vandalism which was not a unique problem to this site. Following the non-consultative and abrupt declaration of the heritage site, the picnic site was erased (bulldozed) by DEC, and DOW erected notices near the roadside indicating that entry to the picnic area and Rock was now prohibited.

There can be no winners from the secretive 'process' that resulted in the declaration of this particular heritage site and the destruction of the Boulder Rock picnic area without proper, broader community consultation. Perhaps the issues were considered intractable by the land managers, but organisations (such as BWA) and individuals in the community who would have been known by DEC and DOW to have *"an interest that might be specially affected if a heritage site was declared"* (as per the Act) were not consulted. The closure may have conveniently solved DEC concerns with vandalism at this one location and DOW concerns with activity in an RPZ, but the Aboriginal community lost an opportunity to educate the public through signage as to the special significance and asking users to treat the area respectfully; The DOW, while focused on the perceived water quality risks of a picnic area within the RPZ, also lost the opportunity to publicise the fragility of Perth's water supply using educative signage and encouraging site users to act accordingly. And the community lost a longstanding picnic area which had provided an easily accessed introduction to the jarrah forest and granite outcrops of Midgegooroo National Park close to Perth. Giving in to vandalism by bulldozing a picnic site rather than repairing or remediating does not serve the community interest; Similarly, declaring an Aboriginal Heritage Site without public consultation and removing a picnic site to protect the declared site, does not serve the community interest.

The provisions for inclusive consultation intended under the Act evidently require strengthening to ensure proper, open consultation in fact occurs.

ii) **Lack of a requirement for appropriate expert opinion about specific heritage matters (likely relevant to Question 18 in Consultation Paper)**

Under Section 39 (1) (c) the advisory body: the Aboriginal Cultural Material Committee (ACMC) "recommends(s) to the Minister places and objects which ...should be preserved, acquired and managed...". Of the appointed Committee members, as per Section 28, one shall be a person recognised as having specialised experience in the field of anthropology as related to the "Aboriginal inhabitants of Australia" and shall be appointed by the Minister after consultation with the persons responsible for the study of anthropology at such of the establishments of tertiary education situate in the State[...]. Other appointed members "shall be selected from amongst persons, **whether or not of Aboriginal descent, having special knowledge, experience or responsibility** which in the opinion of the Minister will assist the Committee in relation to the recognition and evaluation of the cultural significance of matters coming before the Committee...". Under Sections 29-30, the Committee may also have ex-Officio members and co-opted advisors.

The Act allows via the composition of the ACMC that Aboriginality is not a pre-requisite for expertise recognition and evaluation of the cultural significance of matters coming before the ACMC. However, the Act also needs a requirement for 'experts' who advise and make decisions on specific heritage matters to have expertise which is demonstrably directly pertinent to the **specific** heritage items, locales and matters under consideration. That may be the intent of the above wording from the Act, but it appears too vague and needs strengthening.

In this context it also needs to be clear that identification simply as "Aboriginal" does not signify global expertise on Aboriginal heritage site matters. The five major Aboriginal groupings in WA before contact had significant cultural differences and were as culturally diverse as European nation states; Even identification as belonging to any particular one of the five large groupings or "people" closely associated with "country" is insufficient to signify expertise across the cultural diversity that exists, or existed pre-contact, within any one of the broad groupings. For example, the Noongar grouping of the southwest itself includes five cultural groups; Noongar diversity was such that in 1833 when two Aboriginals from Albany (Gyallipert and Manyat) met a number of Perth Aboriginals (including Yagan and Yellagonga) it was apparent to all observers that the Albany men did not share a common language with the Perth men though all were Noongars, and lived only 400km apart.

iii) Activities not permitted (likely relevant to Question 9 in the summary Consultation Paper)

Many bushwalkers on their cross-country walks pass through locations that bear likely evidence of prior Aboriginal occupation. Reporting of all such numerous potential sites (under Section 15) is impracticable. A particular example is water sources - mostly gnamma holes which are not uncommon on granite outcrops - that may have been in use since the beginning of human occupation. Gnamma holes were often significant water sources which required occasional or regular cleaning out to remove sediment or vegetation fill and so maintain water storage capacity. Without such maintenance these water sources become a lost part of the Aboriginal heritage and also a lost water source for today's cross-country walkers.

Section 17(b) of the Act however states that "... a person who... in any way alters any aboriginal site...commits an offence ...". Many gnamma hole water sources are likely non-registered sites, but the Aboriginal interest and Non-aboriginal interest would be best served by some provision in the Act to allow bushwalkers (including Aboriginals) to access and maintain such water sources provided the reservoir is not materially altered.

iv) Evaluation process (relevant to Question 18 in the summary Consultation Paper)

The Act should ensure that a broader community context is also considered when matters of heritage site access are being evaluated.

The Act (Section 39 (2) & (3)) dictates the matters which the ACMC must consider when evaluating the importance of places and objects. The considerations are limited to Aboriginal and aesthetic matters with no reference to a possible broader community context, including a consideration of opportunities (and impacts) consistent with inclusivity, and/or cultural education, and/or a reconnection with culture. For example, bushwalking is an activity that not only provides health and well-being benefits to the broader community that come from engaging and connecting with the natural environment (see also 4) i) para 1 above), but it also provides great opportunities for current and future generations of Aboriginals to re-discover and re-connect with their cultural heritage. The walking trail examples given in **Appendix 1** highlight the types of opportunities for both Aboriginal and Non-aboriginal people to connect with the heritage.

Appendix attached.

APPENDIX 1

Examples of public walk trails which pass through locations of recognized Aboriginal heritage significance and cultural value.

i) **Walyunga National Park, Aboriginal Heritage (& Syds Rapid) Trail**

Registered Aboriginal Sites #3536 and #4287.

Quote: “Walyunga contains one of the largest known Aboriginal campsites around Perth and was still in use by the Noongar people late last century. Archaeological evidence suggests that the area has been used by regional tribes for more than 6000 years.” Information panels along the Trail allow people to learn about Aboriginal myths and legends and see the park's plants and animals through the eyes of the original inhabitants. (Source: [Trails WA site](#)).

ii) **Yanchep – Neerabup National Parks, Yaberoo Budjara Heritage Trail** (refer [Trails WA site](#))

Registered Aboriginal Sites #3504, 3532, 3742, 4404 etc.

The Heritage Trails Network was established in commemoration of the 1988 Bicentenary to provide the Community with a Statewide network of “Heritage Trails” - routes designed to enhance awareness and enjoyment of WA’s natural and cultural heritage. Loch McNess at the end of the Yaberoo Budjara Heritage Trail is extremely significant to the Aborigines of the area. According to Aboriginal tradition a Waugul (Rainbow Serpent) inhabits Loch McNess. It is through the activities of this Waugul that the springs which feed the lake continue to flow. Should he be killed, Loch McNess would dry out completely. The lake itself is a mythological site, and the level ground of its southeastern corner was a traditional meeting, corroboree and ritual area. Aboriginals from the Moore River and from the Swan River came to Loch McNess to hold tribal meetings, discuss tribal law matters, stage corroborees and in some cases initiate young men into adulthood and its associated religious life.

iii) **Boyagin Nature Reserve, Boyagin Rock**

Registered Aboriginal Site #3225.

a) **Summit walk route** (mainly on rock): An information display at the picnic site at the base of Boyagin Rock and at the start of the walk includes an excellent summary of the strong cultural and spiritual links of the Nyoongar people to the area. [“Boodjin: The Boyagin Rock Storybook”](#), Christie Kingston, 2015 (Wheatbelt NRM publication; ISBN 978 0 9924243 5 0) also provides a wonderful, well-researched source of background information (with ‘yarns’) on the cultural and historical significance to the Noongars of the Rock and surrounding area, including the animal and plant life.

b) [Boyagin Rock \(Boogin\) Dreamtime Trail](#) – proposed (refer [Master Plan”](#), by [Treadwell Management](#), for Pingelly Tourism Group, May 2014): This proposed loop trail has gained support from the local Noongar population (although not all) with the intention of establishing a trail that depicts aspects of Aboriginal ‘Dreamtime’, including the six distinct seasons; Birak, Bunuru, Djeran, Makuru, Djilba and Kambarang. The trail has potential to create greater awareness of Australian Aboriginal culture among local walkers and tourists through a meaningful and educational walking experience in natural bushland.

The cultural significance of Boyagin Rock for the Noongar Peoples includes its connection with the Wagyl (Rainbow Serpent) and the belief that this is the last resting or sleeping place of the Waugal. Boyagin Rock is said to be alive with the spirit of the Wagyl, and Noongar Peoples tread lightly and respectfully here as it is known as a sacred place. Noongars believe if you walk to the top of the granite outcrop without stopping you will have a long life. Boyagin Rock is a popular gathering place for the local Noongar Peoples, but generally only by day. After dark the Noongar Peoples do not like to stay there as it is a very spiritual place.

iv) **Dryandra Woodland, Ochre Trail**

Registered Aboriginal Sites unknown.

Interpretive signs along this trail ensure walkers discover the Aboriginal heritage by explaining aspects of Noongar culture and a significant ochre pit site. (Refer [Trails WA](#).)

v) Blackwall Reach Reserve, Bicton, Jenna Bidji Yorga Urban Walk

Registered Aboriginal Sites - details unknown.

This is a Whadjuk cultural heritage journey along Kwoppa Kepa (Bicton foreshore) and through Jennalup (Blackwall Reach Reserve). Running along Jennalup is one of many dreaming trails which traverse along the Swan and Canning Rivers. This dreaming trail on the southern side of the river is the yorga bidji (women's trail) and the men's trail is found on the northern side. The sand spit (Djoondalup), connects these two trails. To the Whadjuk people Jennalup was traditionally a place for women and children, and carries the story of Djunda the Charnock woman. Audio recordings available through an app. enable Whadjuk Elders to share their stories of this area. (Refer [Trails WA.](#))

**vi) Southern Walyunga National Park, Brigadoon area (near Bells Rapid),
Coondebung's Kalleepgurr Heritage Trail**

Registered Aboriginal Site? - details unknown.

(Refer Heritage Council of W.A., 1998 pamphlet; W.A. State Library PR12454/84). – This is not a developed trail. Walks along an informal route were once led by a guide from the Noongar community. The walk pamphlet is no longer readily available, but provides a brief summary of the significance to the Aboriginal people of some natural features and areas in the Brigadoon area. Club walkers and others continue to walk this area.
