



Department of
Local Government, Sport
and Cultural Industries

Local Government Advisory Board

Assessment of the proposal to amend the district boundary
between the Shire of Nannup and the Shire of Manjimup
(Lower Donnelly River)

September 2019



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Reference: M1901959-02

1. Introduction

Description of proposal

The Lower Donnelly River Conservation Association (LDRCA) submitted a proposal to the Local Government Advisory Board (the Board) to amend the district boundary between the Shire of Nannup and the Shire of Manjimup, which was received on 1 April 2019.

The area in question is in the vicinity of leasehold dwellings at the mouth of the Donnelly River, within the D'Entrecasteaux National Park.

The proposal would result in 33 dwellings, currently located within the Shire of Nannup, being transferred to the Shire of Manjimup, where 10 similar dwellings are currently located, thereby locating all 43 properties within the Shire of Manjimup.

The LDRCA has submitted the proposal on behalf of its members who are the lessees of the dwellings in question.

The area in question is illustrated in maps included in the Information Paper at Appendix 1 of this Report.

Making a proposal

Clause 2 (1) of Schedule 2.1 of the Local Government Act 1995 (the Act) states a proposal may be made to the Advisory Board by -

- (d) *affected electors who –*
 - i. *are at least 250 in number; or*
 - ii. *are at least 10% of the total number of affected electors.*

According to WA Electoral Commission data, there are 220 electors in the Shire of Nannup's South ward (at 2 April 2019), where the 33 huts are located. However, it is unlikely that any of the petitioners are included in this figure, as none are permanent residents of Donnelly River. Instead they would be registered as electors at another address, as under the terms of the hut's leases with the Department of Biodiversity Conservation and Attractions (DBCA), the use of the huts is for "short stay recreational accommodation" only.

For the purposes of this proposal, a petition signed by 42 petitioners who lease the Donnelly River huts accompanied the submission and the identities of 23 of those electors have been fully verified (or 55% of the total number of lessees affected by the proposal). This exceeded the 10% minimum requirement as specified by the Act, and accordingly meets one of the validity criteria. A further 17 petitioners could not be fully verified – as they either used another road name for their home property or had listed a different house number in the petition paperwork which was forwarded with the proposal.

A valid proposal also needs to meet the requirements of clause 2(2) of Schedule 2.1 of the Act which states:

A proposal is to –

- (a) set out clearly the nature of the proposal, the reasons for making the proposal and the effects of the proposal on local governments;
- (b) be accompanied by a plan illustrating any proposed changes to the boundaries of a district; and
- (c) comply with any regulations about proposals.

The Board assessed the LDRCA proposal as meeting all of the above requirements.

1.1 The proposal

The LDRCA proposal is to amend the Shire of Manjimup's district boundary to include 33 dwellings currently located in the Shire of Nannup.

The Donnelly River currently forms (part of) the boundary between the two Shires, and the proposed change would move the current boundary line directly north of the Donnelly River by approximately 200 metres, for a distance of around 1600 metres, to become a land-based boundary, encapsulating all 43 leased properties. The affected area is approximately 0.32 sq km in size, representing approximately 0.01% of the current Shire of Nannup total area of 2,934 sq km.

After receiving the LDRCA submission on 1 April 2019, the Board met on 2 May 2019 and after consideration, resolved to conduct a formal inquiry into the proposal.

1.2 Key statistical data

Under the Australian Classification of Local Governments, the Shire of Nannup is classified as Rural Agricultural Small and the Shire of Manjimup is classified as Rural Agricultural Large.

This proposal would not affect the capacity of either the Shire of Nannup or Shire of Manjimup to continue as local government entities. Should the boundary change proceed, it is anticipated that there would be no change to the permanent populations of either shire, as the Donnelly River lessees are considered as temporary visitors to the settlement, and as such are not included in census or WA Electoral Commission statistics.

Table 1 Key Statistical Data

Factor	Shire of Nannup ¹	Shire of Manjimup ²
Area (sq.km)	2,934	7,026
Population (2018)	1,328	9,250
Number of Electors (2019)	988	6,381
Number of Councillors (2019)	8 (incl President)	11 (incl President)
Number of Employees (2018)	30	176

¹ <https://walga.asn.au/About-Local-Government/Online-Local-Government-Directory/Details?council=Shire%20of%20Nannup>

² <https://walga.asn.au/About-Local-Government/Online-Local-Government-Directory/Details.aspx?council=Shire%20of%20Manjimup>

Factor	Shire of Nannup ¹	Shire of Manjimup ²
Number of Dwellings (2018)	790	5,000
Total Revenue (2018)	\$5 million	\$25 million
Total Rates Levied (2018)	\$2 million	\$9 million
Established	1890 (as the Lower Blackwood Road District)	1908 (as the Warren Road District)

Impact of boundary proposal

From a statistical perspective, the impact of a boundary change may normally affect the land area of a local government, in addition to the regular population, plus the elector population.

However, in this case, with a proposal area of just 0.32 sq.km, and with no permanent population or corresponding elector population, there is no significant statistical impact.

However, there are other potential effects of the boundary change which are discussed later in the report (at section 5 – assessment of the proposal – matters considered by the Board).

2. Local Government Advisory Board

2.1 The proposal

The Board is a statutory body established under section 2.44 of the Act. Its role is to provide advice to the Minister on amalgamations, district and ward boundary amendments and councillor representation.

The Board's major function is to assess proposals to change local government boundaries and their system of representation and make recommendations to the Minister about these proposals.

Clause 12 of Schedule 2.5 of the Act sets out the Board's powers of inquiry and they are as follows:

Powers of Inquiry

- (1) *For the purposes of carrying out an inquiry under this Act, the Advisory Board may –*
 - (a) *by summons signed on behalf of the Advisory Board by its executive officer, require –*
 - (i) *the attendance before the Advisory Board of any person;*
 - (ii) *the production before the Advisory Board of any document;*
 - (b) *inspect any document produced before it, and retain it for such reasonable period as it thinks fit, and make copies of the document or any of its contents;*
 - (c) *require any person to swear to truly answer all questions relating to a matter being inquired into by the Advisory Board that are put by or before the Advisory Board (and for that purpose a member of the Advisory Board or its executive officer may administer any oath or affirmation);*

- (d) *require any person appearing before the Advisory Board to answer any relevant question.*
- (2) *A person is not excused from complying with a requirement under subclause (1) on the ground that the answer to a question or the production of a document might be incriminating or render the person liable to a penalty, but an answer given by a person that was required under subclause (1) to be given is not admissible in evidence against the person in any civil or criminal proceedings other than proceedings for perjury or for an offence against this Act arising out of the false or misleading nature of the answer.*

2.2 Membership of the Board

Clause 2 of Schedule 2.5 of the Act makes provision for the membership of the Board and reads as follows:

Membership of Advisory Board

The Advisory Board consists of 5 members appointed by the Governor of whom-

- (a) one person is nominated by the Minister; and*
- (b) 2 persons are to be persons having experience as a member of a council appointed from a list submitted to the Minister by WALGA under clause 4(1); and*
- (c) one person is to be a person having experience as the chief executive officer of a local government appointed from a list submitted to the Minister by the Local Government Managers Australia WA Division under clause 4(2); and*
- (d) one person is to be an officer of the Department nominated by the Minister.*

The current membership of the Board is included in Table 2 below:

Table 2 Board Members

Chair	Ms Marion Blair OAM
Members	
WALGA Nominees	Cr Karen Chappel (Member) Cr Russ Fishwick (Member) Mayor Dennis Wellington (Deputy) Cr Karen Wheatland (Deputy)
LG Pro Nominees	Mr Anthony Vuleta (Member) Ms Helen Sarcich (Deputy)
Department of Local Government, Sport and Cultural Industries	Ms Mary Adam (Deputy Chair) Ms Narrell Lethorn (Deputy to the Deputy Chair)

3. Conducting the Inquiry

A proposal for amending local government district boundaries may be made by electors, local governments or the Minister.

Clause 2 of Schedule 2.1 of the Act sets out the requirements for proposals for amalgamations and boundary amendments and reads as follows:

Making a proposal

- (1) *A proposal may be made to the Advisory Board by —*
 - (a) *the Minister;*
 - (b) *an affected local government;*
 - (c) *2 or more affected local governments, jointly; or*
 - (d) *affected electors who —*
 - (i) *are at least 250 in number; or*
 - (ii) *are at least 10% of the total number of affected electors.*
- (2) *A proposal is to —*
 - (a) *set out clearly the nature of the proposal, the reasons for making the proposal and the effects of the proposal on local governments;*
 - (b) *be accompanied by a plan illustrating any proposed changes to the boundaries of a district; and*
 - (c) *comply with any regulations about proposals.*

Provisions for dealing with proposals are set out in clause 3 of Schedule 2.1 of the Act and reads as follows:

Dealing with proposals

- (1) *The Advisory Board is to consider any proposal.*
- (2) *The Advisory Board may, in a written report to the Minister, recommend* that the Minister reject a proposal if, in the Board's opinion —*
 - (a) *the proposal is substantially similar in effect to a proposal on which the Board has made a recommendation to the Minister within the period of 2 years immediately before the proposal is made;*
 - (aa) *where the proposal was made by affected electors under clause 2(1)(d), that the majority of those electors no longer support the proposal; or*
 - (b) *the proposal is frivolous or otherwise not in the interests of good government.*

** Absolute majority required.*
- (3) *If, in the Advisory Board's opinion, the proposal is —*
 - (a) *one of a minor nature; and*

- (b) *not one about which public submissions need be invited, the Board may, in a written report to the Minister, recommend* that the Minister reject the proposal or that an order be made in accordance with the proposal.*

** Absolute majority required.*

- (4) *Unless it makes a recommendation under subclause (2) or (3), the Advisory Board is to formally inquire into the proposal.*

On 2 May 2019, the Board determined that the proposal should not be dealt with under the provisions of clause 2 and 3 above, and as such, the provisions of clause 4 would apply and the Board would conduct a formal inquiry into the proposal.

The Minister for Local Government, both local governments and the proponent were informed of the Board's decision on 8 May 2019.

When a formal inquiry is conducted, the Board is required to give notice to affected electors and affected local governments about the inquiry.

Clause 4 of Schedule 2.1 of the Act contains provisions relating to a Notice of Inquiry and reads as follows:

Notice of inquiry

- (1) *Where a formal inquiry is required the Advisory Board is to give —*
 - (a) *notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and*
 - (b) *a report to the Minister.*
- (2) *The notice and report under subclause (1) are to —*
 - (a) *advise that there will be a formal inquiry into the proposal;*
 - (b) *set out details of the inquiry and its proposed scope; and*
 - (c) *advise that submissions may be made to the Board not later than 6 weeks after the date the notice is first given about —*
 - (i) *the proposal; or*
 - (ii) *the scope of the inquiry.*
- (3) *If, after considering submissions made under subclause (2)(c), the Advisory Board decides* that the scope of the formal inquiry is to be significantly different from that set out in the notice and report under subclause (1), it is to give —*
 - (a) *another notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and*
 - (b) *another report to the Minister.*
- (4) *The notice and report under subclause (3) are to —*
 - (a) *set out the revised scope of the inquiry; and*
 - (b) *advise that further submissions about the proposal, or submissions about matters relevant to the revised scope of the inquiry, may be made to the Board within the time set out in the notice.*

The formal Notice of Inquiry appeared in The West Australian, the Busselton Dunsborough Mail, and the Manjimup Bridgetown Times on 19 June 2019. A copy of the Notice of Inquiry is included at Appendix 2. As well, the inquiry was promoted on the websites of both affected local governments, in addition to the Board's webpage on the Department's website.

A six week public submission period commenced on 20 June 2019 and closed on 2 August 2019. The Board met with both Councils and the proponent on 23 July 2019 to discuss the proposal.

The Board also held a public hearing in the evening of 23 July 2019 at the Nannup Recreation and Community Centre, in the Shire of Nannup. Approximately 90 people attended the public hearing.

In carrying out a formal inquiry the Board is required to consider submissions made to it under clause 5(2) of Schedule 2.1 of the Act and have regard, where applicable, to:

- Community of interests
- Physical and topographic features
- Demographic trends
- Economic factors
- The history of the area
- Transport and communication
- Matters affecting the viability of local governments
- The effective delivery of local government services.

The Board may also take into account any other matter it considers relevant as part of its inquiry.

The Board has developed the following guiding principles for each of the above factors:

3.1 Community of Interests

Community of interests includes part of a district that share common interests, values, characteristics and issues giving rise to a separate sense of identity or community. Factors contributing to a sense of identity or community include shared interests and shared use of community facilities. For example sporting, leisure, religious and library facilities create a focus for the community.

The use of shopping areas and the location of schools also act to draw people together with similar interests. This can also give indications about the direction that people travel to access services and facilities. The external boundaries of a local government need to reflect distinct communities of interest wherever possible.

Neighbourhoods, suburbs and towns are important units in the physical, historical and social infrastructure and often generate a feeling of community and belonging. The Board believes that wherever possible, it is inappropriate to divide these units between local governments.

3.2 Physical and Topographic Features

Physical and topographic features may be natural or manmade and will vary from area to area. They may include:

- Water features (such as rivers)
- Catchment boundaries
- Coastal plains and foothills
- Parks and reserves
- Manmade features (such as railway lines or freeways).

These features can form identifiable boundaries and can also act as barriers to movement between adjoining areas. In many cases physical and topographic features are appropriate district and ward boundaries. The Board supports local government structures and boundaries that facilitate the integration of human activity and land use.

3.3 Demographic Trends

Local governments should consider the following characteristics when determining the demographics within its locality:

- Population size
- Population trends
- Distribution by age
- Gender
- Occupation.

Current and projected population factors will be relevant as well as similarities and differences between areas within the local government.

3.4 Economic Factors

Economic factors can include any factor that reflects the character of economic activities and resources in the area including:

- Industries within the local area
- Distribution of community assets
- Infrastructure.

3.5 History of the Area

The history of an area can be a relevant consideration, although the Board believes that in the majority of cases this will not be a primary justification for changing or retaining local governments and local government boundaries. The nature of historical ties between communities is important to understand, irrespective of where the local government boundaries lie.

A community within a local government may have a strong historical identity; alternatively there may be strong historical links between two or more communities in adjacent local governments. It is important to note that historical identity is not lessened if an area does not have its own local government.

3.6 Transport and Communication

The transport and communication linkages between towns and other areas may be a significant barrier to movement and therefore an appropriate boundary between local governments. Consideration of the following factors is important in any assessment of local government boundaries:

- Port access
- Neighbouring towns
- Railways
- Major roads.

3.7 Matters Affecting the Viability of Local Governments

Local governments should have a significant resource base:

- To be able to efficiently and effectively exercise its proper functions and delegated powers and operate facilities and services
- To be flexible and responsive in the exercise of its functions and powers and operation of its facilities and services
- To employ appropriate professional expertise and skills
- To be capable of embracing micro-economic reform.

Each local government should have a diverse and sufficient rate base to ensure that general purpose grants do not represent the major revenue source.

3.8 The Effective Delivery of Local Government Services

A broad range of factors can be relevant to the effective delivery of local government services and these are often directly relevant to those that also affect the viability of local governments. They include:

- The size and geographical spread of the population
- Management effectiveness and efficiency
- The availability of staff expertise
- Appropriate infrastructure and equipment
- Customer satisfaction and feedback.

4. Consultation

4.1 Meetings with Affected Local Governments and Proponent

Meeting with the Shire of Manjimup

The Board met with the Shire of Manjimup's representatives (both staff and councillors) on 23 July 2019 to discuss the inquiry process and the Shire's position on the proposal. The meeting also provided an opportunity for the Shire of Manjimup to raise any concerns or issues about the proposal.

The Board Chair provided the meeting with a summary of the Board's business and the inquiry process.

The Shire of Manjimup advised the following:

- The Shire currently maintains a good working relationship with both the Shire of Nannup and the LDRCA
- The Shire contends that it is a sensible option for all 43 huts to be located within one shire
- The Shire considers themselves to be in a "catch-22" situation – in that if they support the Shire of Nannup position on the LDRCA proposal, they may alienate their own community, and vice versa
- It is considered that the direct community of interest for the Donnelly River huts is with the Shire of Manjimup – as the lessees are mostly Manjimup or Pemberton residents

- There appears to be no community of interest with the Shire of Nannup, based on the electors roll or residential addresses
- It seems that the current Donnelly River lease holders do not want to pay rates to the Shire of Nannup
- The Shire of Manjimup's general rates are currently lower than those in the Shire of Nannup
- The Shire of Manjimup does not currently rate the 10 properties located within its boundaries, however that position is open for discussion
- Conversely, the Shire also indicated that they were not necessarily comfortable in considering the application of rates, as they did not provide any services to those 10 huts
- In comparison, rates are applied at the Windy Harbour community (which is set up in a similar way to the Donnelly River huts) located within the Shire of Manjimup, as services are provided by the shire
- Should rates be applied, the shire staff may consider lobbying the council for a concession (or possible waiver) of rates
- All the huts would likely be on a minimum rating of 25% plus ESL levy
- The Shire of Manjimup's current minimum rating is approximately \$950, whereas the Shire of Nannup's minimum rating is approximately \$1,250 (because of their lower population)
- The LDRCA has been advised of the Shire of Manjimup's potential application of a rates discount, should the boundary change proceed
- The Shire acknowledged the outcome of the State Administrative Tribunal (SAT) hearing in November 2018 – where it was determined that it is legally acceptable for the Shire of Nannup to charge rates on the 33 properties located within their boundaries, as they occupy rateable land
- The DBCA's current role is in a monitoring capacity and they have determined that no new leases will be made available – which the Shire considers to be a sensible decision
- Huts may sell for an average between \$200,000 to \$300,000, with a few huts potentially selling for more than that amount
- If the LDRCA had not submitted a boundary change proposal to the Advisory Board, the Shire of Manjimup would not be pursuing this course of action
- Should the proposal be accepted, then the Shire of Manjimup would take responsibility for the huts, as many of the hut owners are Manjimup or Pemberton residents

Upon closing the meeting, the Board Chair thanked the Shire of Manjimup for their input.

Meeting with the Shire of Nannup

The Board met with the Shire of Nannup's representatives (both staff and councillors) on 23 July 2019 to discuss the inquiry process and the Shire's position on the proposal. The meeting also provided an opportunity for the Shire of Nannup to raise any concerns or issues about the boundary amendment proposal.

The Board Chair provided the meeting with a summary of the Board's business and the inquiry process.

The Shire of Nannup advised the following:

- The Shire was heavily involved with the SAT appeals process – which went for a period of around 12 months and where it was determined that it is legal for the Shire of Nannup to apply rates to the leased Donnelly River huts

- The huts are considered to be a “liquid commodity” – with one hut having been sold in the past few years
- For some of the hut lessees, this represents their second or third property (ie not their principle place of residence)
- The hut owner’s obligations to the Shire are the same as for anyone else who lives in Nannup – in relation to payment of rates, ESL and WAR levy (waste and recovery)
- The shire is planning to alter the rates from UV to GRV – which may occur this financial year, though there’s only around \$100 difference between the two
- The GRV is the Valuer General’s valuation – and has been confirmed by them
- The rates paid by the Donnelly River community constitute 2.17% of the shire’s rates base
- Rating of the huts was only introduced a few years ago – and the Shire states that it was around this time that the perception of a poor relationship between the shire and the hut owners began
- The relationship between the hut owners and the shire has always been good – eg there has previously been a collaborative approach with the Donnelly River community
- The Shire says that they’re curious as to why the boundary change proposal has occurred now – as generally speaking the 33 huts which are the subject of this proposal have been located within the Shire of Nannup for the past 80-90 years
- One question which has been raised as a result of the proposal is if there’s 33 huts in Nannup and only 10 in Manjimup – would it perhaps be more sensible to move those 10 huts to Nannup instead?
- It is an individual choice for each of the hut owners to own (lease) their property – it is a discretionary asset and holiday home (ie not the principle place of residence)
- It therefore appears that the LDRCA proposal is suggesting that a discretionary asset should not be rated
- The shire’s view is that the issue at the centre of the LDRCA proposal is rates and charges, not community of interest, as the proponents claim. The shire does not consider the application of rates and charges to be an appropriate reason for a boundary change
- There are other Shire of Nannup residents who live outside of the town who also do not receive various services – yet still pay their annual rates – as they are members of the Nannup community
- When the building inspections of the huts were undertaken, they were done in conjunction with the Shire of Manjimup via a resource sharing arrangement (on a fee for service basis) – as the Shire of Nannup did not have appropriately qualified or experienced staff to undertake the inspections
- The huts were then required to be brought up to the standards required under the Building Code of Australia
- This collaborative approach is considered to be essential for small local governments like Nannup and the current arrangement is considered to be a positive one for both councils

Upon closing the meeting, the Chair thanked the Shire of Nannup for their input.

Meeting with the LDRCA (proponent)

The Board met with two of the LDRCA’s representatives to discuss the inquiry process. The LDRCA made a PowerPoint presentation to the Board on their proposal.

The Board Chair provided the meeting with a summary of the Board’s business and the inquiry process.

The LDRCA advised the following:

- The LDRCA claimed that the boundary change proposal would have no significant implications for the Shire of Nannup – as the total amount of rates received from the Donnelly River properties equates to 1.3% of the Shire’s total budget (note that this figure differs from the Shire’s estimate of 2.17%)
- They state that the Shire of Nannup’s 2016-17 Annual Report indicated “healthy reserves” and “one small self-supporting loan”
- The LDRCA’s view is that the rating amount applied by the Shire of Nannup is grossly unfair and that it is assessed as UV, not GRV – which they believe to be higher than the rates charged for permanent town dwellings which are occupied full time
- The LDRCA has ongoing concerns regarding limited access to emergency services and the emergency services levy charged by the Shire of Nannup
- At present the Shire of Manjimup does not apply any rates to the 10 Donnelly River dwellings within its boundaries
- A letter from the Shire of Manjimup President dated 10 November 2017 indicated that no rates would be charged, though the LDRCA expects that the shire will be pressured to charge rates eventually
- If the Shire of Manjimup does introduce rating to the Donnelly River properties, then residents will be happy to pay, as they consider that it would be fairly applied
- Reference was made to the November 2018 SAT hearing, where it was determined that it is legal and appropriate for the Shire of Nannup to apply rates to the 33 properties within their boundaries
- The 10 hut owners in Manjimup are now concerned that they will have to pay rates (at present they don’t) – and apparently there is some conflict around this issue. The LDRCA noted that the issue is “driving a wedge” among community members – and it is a topic for discussion for the next LDRCA meeting. They say that this disunity creates a potential threat
- The LDRCA claims that at no stage in the history of the settlement were they ever illegal squatters, as claimed by the Shire of Nannup

Upon closing the meeting, the Board Chair thanked the LDRCA for their input.

4.2 Public Hearing

The Board conducted a public hearing in accordance with clause 5 of Schedule 2.1 of the Act.

The Act requires that any hearing for the purpose of an inquiry is to be conducted in a way that makes it possible for interested parties to participate fully in the process. The Board held a hearing on 23 July 2019 at the Nannup Community and Recreation Centre, in the Shire of Nannup.

The venue and time for the hearing was organised to ensure that affected residents were able to attend a hearing within reasonable proximity to their place of residence. The hearing was also held in the evening to ensure maximum participation and minimal conflict with people’s work commitments.

The meeting was attended by approximately 90 people, including community members, Lower Donnelly River lease holders, the lead proponent - LDRCA, Shire of Manjimup staff and councillors, and Shire of Nannup staff and councillors. A representative from local ABC radio was also in attendance.

The Chair provided the meeting with a summary of the Board's business and the inquiry process and then opened the meeting to the attendees.

13 people spoke at the meeting – with seven of those in favour of the proposal and six against.

Some of the views which were expressed in favour of the proposal were:

- The history of the area in question is important to the proponents – some of whom spoke about multi-generational visits to the Donnelly River over a period of around 80 years
- The proponents were critical of the Shire of Nannup's decision to apply rates to their properties – without directly providing any services such as rubbish disposal or road maintenance
- The Donnelly River community was critical of the current relationship with the Shire of Nannup – claiming that it had become dysfunctional over the past few years
- In contrast, the proponents stated that they have a positive relationship with the Shire of Manjimup – who they believe have been more supportive of their situation than the Shire of Nannup
- Speakers also noted that they considered that their community of interest was more aligned with the towns of Manjimup and Pemberton, rather than Nannup, using as examples their common shopping or driving preferences, in addition to their location choice for rubbish disposal (there are no rubbish disposal facilities at the Donnelly River)
- The claim that hut owners originally illegally squatted on the land is incorrect – with some speakers maintaining that it's always been done legally – as in the early days of the settlement they were camping on a pastoral lease, with approval from the owner

Some of the views which were expressed against the proposal were:

- It appears that the basis of the LDRCA proposal is a desire for the 33 huts owners currently located in Nannup not to pay rates to the shire
- It is an individual choice as to where people may live (or holiday) – current Donnelly River residents are enjoying a relatively cheap asset – and they should not avoid their community responsibility by not paying rates
- A potential loss of rates to the Shire of Nannup will collectively impact the local community
- While rates are currently not paid by the 10 hut owners located on the Shire of Manjimup side of the river, it is likely that the shire will start charging rates should the boundary change proceed, which would result in 43 huts being located with the Manjimup boundary
- These leases represent rateable properties and it is appropriate that all properties are treated equally by the Shire
- There are similar examples in Nannup town – where some residents also don't receive the full range of services – yet they continue to pay their rates to the shire
- Others in town also only use their residences occasionally - and could therefore make the same argument as the Donnelly River hut owners (ie that they are holiday properties only) - however, they continue to pay their rates
- It is a legal condition of the DBCA leases for the owners to pay council rates – and the owners are in breach of the lease agreement if they don't do so
- Would the LDRCA consider moving the 10 Manjimup huts to Nannup, rather than the 33 Nannup huts to Manjimup?
- Locals say that they are sad to see this issue creating a division within the community

In closing the meeting, the Chair thanked all of those who attended and participated.

4.3 Analysis of Public Submissions

The consultation period commenced on 20 June 2019 and concluded on 2 August 2019. The Board received 208 submissions in total – either directly via email (66) or via an online survey (142) available on the Board’s webpage. Of these submissions, 192 (92%) supported the proposal and 16 (8%) opposed the proposal.

There were a number of common themes that were expressed in the written public submissions, that were similar to the views expressed at the public meeting of 23 July, which were in favour of the LDRCA proposal:

- All 43 Donnelly River huts would be better served by the Shire of Manjimup
- It is important to have all huts under the one local government – for consistency and fairness and for creating a more united sense of community
- The historical ties lie more with the Shire of Manjimup than with the Shire of Nannup
- The only access to the river is from the Shire of Manjimup
- The Shire of Manjimup has experience with a similar community at Windy Harbour
- The Shire of Manjimup conducted inspections and were very involved with the hut owners, CALM and DBCA during the introduction of the leasing process
- Many of the Donnelly River hut owners have their principle place of residence in the Shire of Manjimup – there are none who reside in the Shire of Nannup
- The Shire of Nannup has not consulted with the Donnelly River community
- The Shire of Nannup does not provide any services to the Donnelly River huts
- The Shire of Nannup is wrong in charging high rates to Donnelly River leaseholders
- It would be appropriate for the Shire of Nannup to re-invest the rates revenue back into the Lower Donnelly River area, or to charge lower rates
- When combined with an annual lease fee of approximately \$1,100 plus associated insurances of around \$900, the rating of the Donnelly River properties at around \$1,200 by the Shire of Nannup is causing financial stress on residents – with the possibility that some may have to consider giving up (selling) their properties
- It is considered absurd that lessees on one side of the river pay no rates and lessees on the other side pay rates, yet neither receive any services from their respective local governments
- Access to emergency assistance is an issue – as it is not possible for emergency services to physically access the Donnelly River community. The nearest hospital is located at Pemberton (within the Shire of Manjimup)

There were a number of common themes that were expressed in the written public submissions, that were similar to the views expressed at the public meeting of 23 July, which were against the LDRCA proposal:

- These properties were originally obtained via illegal squatting on the banks of the river alongside the Nannup boundary (ie they were never purchased as such)
- These huts represent something that is not available to most other home owners – ie ongoing cheap holiday accommodation. The formalisation of the leases now ensures that the properties may be sold on the open market in a similar fashion to any other home owner. For this reason there should be no difference between these owners and all other ratepayers within Western Australia
- The Shire of Nannup unanimously supported the LDRCA request for long term leases, and continues to work with the group to try to reach a positive relationship wherever possible

- As the decision from the State Administrative Tribunal shows, it is legal to rate these properties in a similar fashion to all other rateable properties within the Shire boundaries. To not do so, would have a negative impact on the remaining Nannup rate payers who would need to cover the deficit that the removal of these properties would have on the shire's annual budget. This is a considerable amount when you look at the relatively low median household income per capita within the Shire of Nannup (\$955 per week)
- The 33 Donnelly River huts that are currently part of the Shire of Nannup are able to access Shire facilities, roads, waste management etc. It is their choice as to whether they avail themselves of these facilities – as the fact remains that they can use them. The properties have been deemed rateable and have a saleable value, therefore they should be rated like any other property. Up until 2016 they were deemed to be squatters on the land and were fortunate enough to not have paid rates for all previous years of their occupation
- All owners of property, either residential or holiday are required to pay rates and to receive services offered within that shire. To be exempt due to being a holiday hut is not viable and would impact the broader Nannup community, potentially creating a precedent for future decisions

Board comment

While the majority of public submissions indicated a preference for the proposed boundary change, this is not unusual – as generally those seeking the change will be vocal and engaged, whereas those supporting the status quo may appear less active in comparison.

Some of the respondents claim that the community should not be divided into two shires. However, the river which forms part of the current boundary has historically divided the hut community since it was established in the 1930's.

In particular, the Board noted:

- Many of those who made submissions appear to have quite high expectations for a potential change to the Shire of Manjimup. Specifically, they seem to consider that they either will not have to pay any council rates, or if they do, that the rates will be lower than they are currently paying in the Shire of Nannup.
- The Shire of Manjimup has indicated that they are considering introducing rates, should the boundary change occur.
- While the expectations of the Donnelly River community members may or may not be realised, it seems that a move from Nannup to Manjimup would be likely to make them feel better about their local council.
- Some of the submissions stated that they believed that the Shire of Nannup no longer had an interest in their hut precinct, apart from collecting annual rates. While this may or may not be true of the Shire – the perception is clearly leading to discontent among the hut lessees.
- The Board does not consider these issues to be valid reasons to support a boundary change.

Assessment of the proposal – Matters considered by the Board

5.1 Community of Interests

Board comment

The issue of community of interests has been strongly emphasised by the proponents and supporters of the boundary change proposal. There appears to be a sense of community identity and belonging among the hut lessees not dissimilar to that of a small rural town. The residents have a commonality in that they lease the dwellings and most likely rely on each other in emergency situations - factors which are not uncommon among isolated communities.

It is considered that the above commonalities will continue to exist no matter what local government district the huts are located in.

The Board notes that there are strong community of interest linkages between those hut owners who purchase goods and utilise services from the Shire of Manjimup, most commonly from the towns of Manjimup or Pemberton. Many of the submissions to the inquiry stated that they do not travel through the town of Nannup or use any of the services offered by the Shire of Nannup.

While the matter of community of interests is relevant in relation to assessing this proposal, the Board will consider it along with the other matters it is to have regard to in accordance with the Act.

LDRCA proposal

The LDRCA proposal noted that:

“The Donnelly community has had a long and continuous collaborative relationship with Manjimup/Pemberton people (at least 90 years) but a short and antagonistic relationship with the Nannup Shire (about 3 years).

The boundary change will incorporate all leases into the Shire of Manjimup to overcome inconsistencies and issues caused by the current division between the two shires.”

The Board notes that unlike many other boundary change proposals, the land which is the subject of this proposal does not include schools, shops, sporting facilities, libraries, community or recreation centres – ie factors which would normally help to define community of interest. In this case, the proponents argue that it is this lack of services and amenities in the area which makes the Lower Donnelly River so unique and appealing.

The LDRCA proposal did not appear to acknowledge the many years of their good working relationship with the Shire of Nannup, prior to the introduction of rates in 2016.

The Guiding Principles state:

“Neighbourhoods, suburbs and towns are important units in the physical, historical and social infrastructure and often generate a feeling of community and belonging. The Board believes that wherever possible, it is inappropriate to divide these units between local governments.”

However, in the case of the Lower Donnelly River community, it could be argued that from the original establishment of the precinct (estimated to be in the 1930's), the huts have always been divided into two local government areas, because of the river itself forming part of the boundary. It could be considered to be somewhat ironic that the topographic feature which makes the area so appealing to people, is also the feature that the current hut owners appear to be objecting to.

This subject is explored further at section 5.2 – physical and topographic features.

The Board also considers that the community still remains as a community, even with the Donnelly River continuing to form a boundary between the east and west sides of the 43 huts, as it has always done.

Many of the written submissions highlight the strong community feeling which has been developed and maintained over the past 80 or so years. It should be noted that this sense of community has occurred even though the river has formed part of the district boundary between the Shires of Nannup and Manjimup since 1927 – ie prior to the commencement of the Donnelly River precinct in the 1930's.

A number of submissions included personal stories of how two or three generations of one family have enjoyed the calm and unique surroundings of the Lower Donnelly River settlement. These stories provided details of how the early settlers helped each other to establish their simple huts, even with the physical boundary of the river.

The Board notes that the issue of the huts being located in two separate shires did not apparently become a concern until after the huts were renovated and improved, and leases were granted by DBCA. It was at this time that the Shire of Nannup commenced the introduction of rates – which is legally allowable under the *Local Government Act 1995*, and which was further confirmed by the State Administrative Tribunal in November 2018.³

The LDRCA also commented on the following:

“Although the community straddles both the Manjimup and Nannup Shires its historic ties have always been with Manjimup/Pemberton people and organizations. The formal shire boundaries have been irrelevant.

The majority of lessees are low income families who have typically built their huts themselves using salvage materials wherever available. Securing long term leases has incurred the significant cost of upgrading huts to a Shire of Manjimup standard of safety and hygiene. In addition, lessees also incur a substantial annual lease fee (\$1,122 in 2018/19) and annual public liability insurance premium (\$914 in 2018/19).

The upgrade, lease and insurance costs have impacted heavily on firstly, the ability of families to keep their huts and secondly, on their ability to support the Association.”

The Board notes that while the hut lessees are required to pay an annual lease fee to the DBCA, annual public liability insurance and shire rates, they do not appear to have acknowledged that these are normal costs associated with the maintenance and upkeep of all properties in Western Australia – whether they are primary or secondary or holiday residences.

The Board also notes that the proponents themselves state that “the formal shire boundaries have been irrelevant”.

³ State Administrative Tribunal, Russell and Shire of Nannup [2018] WASAT 2013
<https://ecourts.justice.wa.gov.au/eCourtsPortal/Decisions/ViewDecision?returnUrl=%2feCourtsPortal%2fDecisions%2fSearch%3fsearchText%3drussell%26jurisdiction%3dSAT%26advanced%3dFalse&id=c6e72add-1605-46fa-aab2-605c494d3592>

Shire of Manjimup submission

“A list of addresses of hut owners provided by the LDRCA shows that 23 of the 43 (53%) of hut owners having residential addresses in the Shire of Manjimup. Interestingly there are no residential addresses in the Shire of Nannup.”

The Board notes that while this figure may be correct, generally speaking, residential (or primary) addresses do not necessarily need to be in the same district as a holiday destination to demonstrate a community of interest. In contrast, and based on the figures provided by the Shire of Manjimup, just under half (47%) of the lessees actually live outside of the Shire, which to an extent negates their community of interest argument, as half of the hut owners live outside of the Shire of Manjimup.

Shire of Nannup submission

The Shire of Nannup has suggested that a greater sense of community within the Lower Donnelly River precinct could be achieved by realigning the 10 leases that fall outside of their shire with the 33 that already exist within their boundaries.

The Shire advises that the boundary as it currently aligns, is to the southern water mark of the Donnelly River, which is essentially at the front of the 10 huts currently within the Shire of Manjimup’s boundaries. To realign the local government boundaries to include these 10 properties within the Shire of Nannup would represent a far smaller land / boundary change and would be a lesser impact on the greater community.

In their submission to the inquiry, the Shire has also referred to their Community Strategic Plan 2017-2027, and highlighted how the Donnelly River huts are linked to the six community statements (plus a further 16 sub-themes), demonstrating significant strategic consideration of the Donnelly River precinct:

1. Our Community
2. Our Economy
3. Our Built Environment
4. Our Natural Environment
5. Our Community Leadership
6. Our Council Leadership

The Shire of Nannup also referred to the 2010 State Government Upper House Inquiry:

“During the State Government’s Upper House Inquiry, the Chairman raised the concern of the inequity to the greater community in that the hut owners did not have to pay any monetary compensation to the State for the rights to occupy the land on which the huts are situated. This has had the effect of creating a scenario where only a select few of the state’s general population have this benefit.

Also noted, within the standing committee inquiry, was the response from hut owners which stated that public access to these dwellings was intended for friends of family and other descendants only. For the greater general community, the hut owners wanted a camping facility developed away from their actual dwellings. This demonstrates that the hut owners’ intention was to only have these properties available for private use and not available to the general public which they now allude to.

As part of the lease requirements drawn up since this State Government's Upper House Inquiry, the lease stipulates that lessees must make certain huts available to the public. It is important, however, that this current review panel are aware that a fee and charge is payable by visitors to the respective hut owners when huts are used by the greater community and not merely friends and family members.

This fee is not paid to the State Government but instead is part of the individual hut owners' assessable income for tax purposes for the year in question. The reason for raising this point is that, at the current rate of \$250 per night, which is the agreed price, if the hut owners sublet these properties for fourteen days per annum, then they would recoup the annual costs of maintaining these premises. This then negates their argument regarding financial hardship as a result of the Shire of Nannup's rates and charges applied."

The Shire of Nannup commented on their relationship with the LDRCA:

"Noted within the submission from the LDRCA within Section 3.1.3 the whole premise is attempting to get out of any financial obligation to pay rates and charges over these properties. This then feeds into the Shire of Nannup's belief that this submission is based purely on financial outcomes and not as intimated on community outcomes.

Also within this section of the submission is reference to "*a lack of interest by the Shire of Nannup to nurturing a strong Donnelly community*". Again, this is believed to be untrue. To date the Shire of Nannup has attempted to work towards a solution between the two parties including inviting representatives of the group to address Council on three separate occasions, meeting with representatives at Council offices on numerous occasions, participating in mediation with representatives, agreeing to change rating valuations applied to the leased properties and agreeing to withhold rates applied for the financial year until rating methods were changed. This changing of valuations was noted within the SAT decision as not being required. It is being pursued purely from the hut owners desire to achieve a lower rate applied per annum.

It is the Shire of Nannup's belief that all of this shows, that contrary to the view raised by the applicants, that Council has tried to work with the community wherever possible. The reality is that within all of this process, the Donnelly River Hut Owners have remained of the attitude that it is up to Council to submit to their requests and that the Hut Owners themselves have no need to meet half way or adhere to legislation."

Board comment

In their submission, the Shire of Nannup has provided a comprehensive, well researched and objective approach to the issue. They have also looked at the situation from an analytical and strategic perspective and have attempted to demonstrate why the LDRCA proposal appears to come from a position of not wanting to pay rates to the Shire. With a relatively small population of around 1,300 the Shire has shown the impact of potentially losing the rates from the 33 Donnelly River properties.

5.2 Physical and Topographic Features

The current boundary between the two Shires which includes this particular section of the Lower Donnelly River was gazetted in January 1927. Of note, the area which is now in the Shire of Manjimup was annexed from the Shire of Nannup (ie it was previously wholly Nannup land).

The Guiding Principles state that physical and topographic features may be natural or man-made and will vary from area to area. They may include water features (such as rivers).

These features can form identifiable boundaries and can also act as barriers to movement between adjoining areas. In many cases physical and topographical features are appropriate district and ward boundaries.

The Board supports local government structures and boundaries that facilitate the integration of human activity and land use.

LDRCA proposal

The proponent's submission makes the following comment about the topographic feature which forms the boundary between the two shires:

“The unique circumstances of being isolated and ‘river bound’ have bonded the community, with no historical need to contemplate local government boundaries”

Shire of Manjimup submission

The Shire of Manjimup did not specifically address this principle in their submission.

Shire of Nannup submission

“Local Government boundaries often follow logical geographical features such as river banks, major roads and so on. Therefore, it remains logical to have the local government boundaries to remain on the edge of the river bank rather than an illogical shape that goes off the riverbanks to encompass the huts. All other interceptions of the boundary exist on the shores of the Donnelly both North and South of the area in question.

As mentioned within other sections of this submission, if there is a need to realign the local government boundaries, then this should be completed by changing the boundary to include the ten properties currently not included with the Shire of Nannup boundaries.

While there is no formal road formation to allow access to the huts via road there is a track from Woodaburup Road, which is within the Shire of Nannup, that would allow road access to the properties. It is noted that at present this allows access for 4WD vehicles on to the beach that adjoins these properties.”

Board comment

The Board notes that there is no direct road or track access to the Donnelly River precinct – the only access is via a 12 km boat trip. The boat landing is at the end of an unsealed road which starts at the Vasse Highway. This access is part of the D'Entrecasteaux National Park and maintained by the State. It is this feature that many hut owners and visitors appreciate as being part of the unique circumstance of the precinct – in that it provides a more secluded and nature-based experience.

Changing the current boundary would not affect (or improve) access to the huts, but would create an unusual and segmented boundary, which no longer follows the banks of the river.

It is noted that the river is a clear identifiable feature which is considered an appropriate district boundary.

Consequently, it would be difficult to defend a case to change the boundary to a line as proposed in the LDRCA submission, where there currently exists the natural boundary of the Donnelly River.

This therefore presents a sound reason to retain the status quo.

5.3 Demographic Trends

While the lessees of the Lower Donnelly River hut precinct are not considered as permanent residents of either the Shire of Nannup or the Shire of Manjimup (unless that happens to be their residential address), the following is provided as background information on general population change for both shires.

The comparative estimated resident population for the two local governments for the five years to 2018 is as follows:

Table 3 Population Change 2014-2018

Year (Estimated resident population 30 June)	Shire of Nannup	Shire of Manjimup
2014	1,350	9,448
2015	1,352	9,402
2016	1,339	9,341
2017	1,347	9,255
2018	1,363	9,159

Source: ABS ⁴

The general population figures remain relatively steady for both local governments. While the Shire of Nannup is showing minor population growth (1.0%) and the Shire of Manjimup is showing minor population decline (3.0%), neither is particularly significant, and do not directly affect the LDRCA submission.

In relation to the Lower Donnelly River huts precinct, it is unlikely that any further huts will be developed, in accordance with the DBCA lease conditions, so there will be no change to the hut precinct population.

⁴ https://itt.abs.gov.au/itt/r.jsp?RegionSummary®ion=56300&dataset=ABS_REGIONAL_LGA2018&maplayerid=LGA2018&geoconcept=LGA_2018&datasetASGS=ABS_REGIONAL_ASGS2016&datasetLGA=ABS_REGIONAL_LGA_2018®ionLGA=LGA_2018®ionASGS=ASGS_2016

Table 4 Index of relative socio-economic disadvantage (2017-18)

Index of relative socio-economic disadvantage	Index
Shire of Nannup	951
Shire of Manjimup	964

Source: .id, ABS ⁵

The Western Australia SEIFA Index of Disadvantage measures the relative level of socio-economic disadvantage based on a range of Census characteristics. It is useful to provide a general view of the relative level of disadvantage in one area compared to others and is used to advocate for an area based on its level of disadvantage.

The index is derived from attributes that reflect disadvantage such as low income, low educational attainment, high unemployment and jobs in relatively unskilled occupations.

A higher score on the index means a *lower* level of disadvantage. A lower score on the index means a *higher* level of disadvantage.

The table above indicates that the scores for both shires are relatively equal (and both fall within the mid-range of scores).

Neither the LDRCA nor the Shire of Manjimup made any particular comment on this factor.

Shire of Nannup

The Shire of Nannup has commented on the aging demographics of the shire, noting an average age of 53, compared with the Manjimup average of 40, the state average of 36 and the national average of 49.

The shire has provided the following analysis:

- “1. Total population is 1,328 with a median age of 53.
2. The average weekly income per household is \$955.
3. House tenure is shown to be 45% owned outright, 29% owned with a mortgage and 22% within a rent agreement.

This information, when assessed against the State and Australian averages shows that the Shire of Nannup is in a lower demographic trend. The impact of reducing the rate basis to this community would therefore increase the financial burden to the remaining community.

As the statistics show, Nannup has an aging community. Within this age group there will be a larger number of people on fixed income pensions and the like. Therefore, the impact to the greater Nannup community, if the applicant’s submission is granted, will be felt far greater than to the Donnelly River hut owners as the financial burden would be passed to the larger community of ratepayers.

⁵ <https://profile.id.com.au/wapl/seifa-disadvantage>

As shown within the State's Upper House Inquiry section above, at the current rate of \$250 per night, which is the agreed nightly rate, if the hut owners sublet these properties for fourteen nights per annum, then they would recoup the annual costs of maintaining these premises. For the majority of individual fixed income ratepayers, without complying with planning regulations and the like associated with short term rentals, this is not an option available to them to cover the increased cost of rating should the 33 properties be removed from the Shire of Nannup boundaries.

In comparison, if the same was applied to the Manjimup community, as a result of their much larger rate base and stronger financial viability than the Nannup community, the inclusion or exclusion of ratepayers is diluted. This results in the overall impact on the larger community being far smaller.

Also for consideration, for the permanent Shire of Nannup ratepayers, excluding the hut owners, for the most part these residences held are the occupiers' permanent homes as opposed to discretionary assets used for holiday purposes. This then makes the opportunity to sublet and achieve an income to offset costs associated with home ownership a lot harder to achieve."

Board comment

As the subject area does not contain any permanent residents, the Board does not consider this to be a significant factor, apart from the fact that any change to the number of ratepayers in the Shire of Nannup will have more of an impact on their overall revenue (because of their lower population base) than any change to the number of ratepayers in the Shire of Manjimup (which has a much larger population).

5.4 Economic Factors

Board comment

There are no major economic factors which have a significant bearing on the proposal as the subject area only includes 43 rateable properties. There is no industry or business located within the subject area. In the context of the Shire of Manjimup this represents a relatively small number, with just over 5,000 private dwellings. However, in the context of the Shire of Nannup, it is more considerable, as the Shire only includes 819 private dwellings (ABS statistics, 2016).⁶

LDRCA proposal

The LDRCA has not made any particular comment on this factor, apart from noting that:

"There is no industry or infrastructure within the hut precinct and the only community asset is a small shed supplied and built by lessees for the purpose of emergency services.

One commercial tour boat operates on the river without any infrastructure or direct involvement with lessees."

⁶ https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/LGA55180?opendocument

Shire of Manjimup submission

The Shire of Manjimup has not undertaken any particular analysis of this factor, apart from noting that:

“It is understood the lease fees for the Donnelly River huts generated by DBCA are used to offset their costs of administering and monitoring existing hut leases plus the general upkeep of Boat Landing Road, the boat landing and other activities in the greater area.

Under the terms of the DBCA lease, hut owners may be able to short term holiday rent their premises out to third parties to generate income. This however needs to be considered in the context of doing this safely and effectively given transport, complex infrastructure services and emergency management constraints and other issues.”

Shire of Nannup submission

The Shire of Nannup has commented on potential economic impacts of the boundary change proposal as follows:

“As shown within the demographic snapshot above, the median income, per household, within the Shire of Nannup is \$955. This is \$640 behind that of the Western Australian average and \$483 behind the national average. The median income for a Shire of Manjimup household is \$1,118, which is \$163 higher than a Nannup household. What this shows is that, prior to addressing the increased number of households shouldering the rate requirement for the Shire of Manjimup, there already is increased pressure per household within the Shire of Nannup, as a result of median income being 14.6% lower per capita than that of the Manjimup household as per the ABS Census 2016 data.

... to reduce the number of ratepayers by 33, as would be the case if the LDRCA properties were removed from the Shire of Nannup, the effect to the remaining ratepayers would be an increase on their rates overall irrespective of annual rate increases. For a community with a median household income of \$955 per week this is significant.

To suggest that the removal of these properties would have no effect on the viability of the Shire of Nannup is short sighted, shows a lack of understanding by the proponent on the financial mechanisms of local governments and shows a total lack of concern for the whole of the community.

The Shire of Manjimup President, Mr Paul Omodei is quoted within an ABC Southwest Interview on the 21st of June 2019 stating “the move won’t necessarily mean they will avoid paying rates...“Should they pay rates? I think yes they should.”

According to the Annual Report for the Shire of Manjimup published on their website, the number of rateable assessments for the 2018/19 period was 5,624. As shown above, the number of rateable properties for the Shire of Nannup is 1,150. Therefore, while the impact of removing 33 properties from the Shire of Nannup is a 2.87% loss to the rating base (number of rateable properties), for the Shire of Manjimup, the addition would represent a 0.59% increase in rate base. The economic effect of the inclusion/exclusion of these properties within each local government is vastly different.”

5.5 History of the Area

The local government boundary between Nannup and Manjimup has been very stable for around 95 years, when a minor transfer of land (which includes the current Donnelly River section of the boundary) occurred from the then Nannup Road District to the then Manjimup Road District in 1927.

The table below outlines key historical events in the two local governments since their establishment.

Table 5 Local government boundary history

Shire of Nannup	Originally established as the Lower Blackwood Road District on 20 February 1890 Renamed Nannup Road District on 21 August 1925 Renamed Shire of Nannup on 1 July 1961
Shire of Manjimup	Originally established as the Warren Road District on 26 June 1908 Renamed Manjimup Road District on 23 January 1925 Renamed Shire of Manjimup on 1 July 1961

LDRCA proposal

The LDRCA proposal notes the support for camping provided by the Shire of Manjimup, acknowledgement of cultural heritage by the Heritage Council of Western Australia and squatter shack policy:

“Camping by extended families beside the lower Donnelly River has been continuous for about 100 years with the original holiday hut being constructed c.1934. Early recollections demonstrate significant support from Manjimup as far back as early 1920s (Nora Palmer).

Active support was also given by the local Member of Parliament, the Hon. H D Evans, MLA. His letter (1976) to all hut owners outlined actions being taken by the State Government to establish a national park along the south coast and an intention to vest reserves at the Donnelly River and Broke Inlet with the Shire of Manjimup to facilitate leases for the huts as a means of securing their tenure.

The uniqueness of huts and their precinct have been noted by the Heritage Council of Western Australia.

The Heritage Council of Western Australia received an LDRCA submission for the hut precinct to be listed in the State Register of Heritage Places in 2006. The Council believed that the precinct was unlikely to meet threshold requirements for entry on the Register but did acknowledge its cultural heritage significance and informed the Department of Environment and Conservation that a heritage assessment would be needed before any changes were made.

Huts were built at a time when the land was Vacant Crown Land and squatter shacks proliferated throughout the State. State Government developed a policy to stop further construction and to remove existing shacks. The policy was to be applied by local government authorities but it was poorly implemented.

The Policy was reviewed by The State Senate Standing Committee for Environment and Public Affairs, to which the LDRCA made written submissions and a formal presentation. The Committee reinforced its existing policy with a few exceptions; it recommended that the huts along the Donnelly River be retained and their tenure is now secured by long term leases.”

Shire of Manjimup submission

The Shire of Manjimup has not commented on the history of the area, except to note that the Donnelly River huts are not listed in the shire’s Municipal Heritage Inventory.

Shire of Nannup submission

The Shire of Nannup has not provided significant comment on this factor, except to note that:

“The community within this precinct is undoubtedly a tight-knit community, who have created a quasi code by which the hut owners as a collective have supported. This is further enhanced through the LDRCA incorporated committee who oversee all the intricate working requirements of this community.

Through the support of the Shires of Nannup and Manjimup, this group of hut owners were successfully able to gain formalised lease agreements. This is something that was not afforded to all hut owners within Western Australia. While in no way wishing to take away from the commitment of the incorporated body in this success, it is undeniable that without the support of the Shire of Nannup, the 33 huts within the Shire of Nannup boundaries may not have had such an outcome.

At the time of the inquiry, the LDRCA were more than willing to acknowledge that the Shire of Nannup were firm supporters of this cause, it now appears, that when this group do not get everything that they ask for, that they are willing to turn and deny any good relationship exists.”

Board comment

The Board notes that the Lower Donnelly River community maintains a strong historical identity. It is considered that whether or not a boundary change proceeds, the history of the area remains intact and unchangeable and is not lessened if it remains within the Shire of Nannup.

5.6 Transport and Communications

The Board’s Guiding Principles identify that transport and communication linkages may constitute significant barriers to movement and provide appropriate boundaries between local governments. This is not necessarily the case at the Lower Donnelly River, as the only access to the huts precinct is via a 12km boat ride, therefore changing the current boundary will not make any difference to the issue of access.

LDRCA proposal

The LDRCA proposal notes that there is no state or local government sponsored transport or communications infrastructure in the hut precinct.

Access to the upper river is via state managed highways and an unsealed road. The existing boat ramp was built by community members, with some assistance from the DBCA. Some lessees have constructed jetties at their huts and river traffic and jetty licensing is managed by the Department of Transport, Marine Business Units.

Shire of Manjimup submission

The Shire of Manjimup submission notes that access to the huts is only by boats which are trailered into the boat landing via Vasse Highway which is under the control of Main Roads WA and Boat Landing Road which is under the control of DBCA. The Department of Transport controls boating on the Donnelly River with speed restrictions, hazard identification and the licencing and control of private jetties.

The Shire also notes that emergency transport access could be potentially provided by helicopter landings on the beach near the mouth of the Donnelly River. The lack of vehicle access makes the Donnelly River hut location very susceptible to any emergency events, particularly those arising from bush fires.

Finally, the Shire advises that no communication infrastructure is located near the terminus of the Donnelly River.

Shire of Nannup submission

The Shire of Nannup raises similar issues to the Shire of Manjimup in their submission on this factor.

Board comment

The Board notes that while transport and communications infrastructure within the subject area is very limited, hut owners consider that this is a positive factor in visiting the region – ie it contributes to the feeling of a unique and secluded location.

5.7 Matters Affecting the Viability of Local Governments

Board comment

If the boundary change proposal was to proceed, it would have a negative impact on the financial viability of the Shire of Nannup (which would lose ratepayers), but a positive impact on the financial viability of the Shire of Manjimup (which would gain potential ratepayers).

LDRCA proposal

“There are no ongoing direct or indirect costs incurred by the Shires of Nannup or Manjimup from the leases.

There is no revenue to the Shire of Manjimup from lessees and the Shire has advised them that it does not intend to issue rate notices.

There has been revenue to the Shire of Nannup since 2016 through the payment of shire rates. Lessees formally but unsuccessfully objected to the Shire charging rates and then proceeded to apply to the State Administrative Tribunal for a review of Council’s decision.

The Lessees argued that it was unreasonable for the Shire of Nannup to charge rates, fees and levies when no services were sought or provided and no Shire facilities were used. The Shire responded by demonstrating that it was legally entitled to rate lessees as a way of “growing the rate base”. The SAT agreed with the Shire of Nannup and lessees on the Nannup side of the river continue to pay shire rates.

Notwithstanding this, revenue to the Shire of Nannup from the Donnelly River lessees is a very recent income and has no effect on the viability of the shire.”

Shire of Manjimup submission

The Shire of Manjimup notes that should the 43 huts eventually be located within their district boundaries, the estimated increased revenue of \$39,689 would represent a 0.4% total increase in the Shire's rates base. It is not yet known if council would charge rates and then choose to discount or waive rates based on the level of service that may be provided to the Donnelly River hut owners.

Shire of Nannup submission

The Shire of Nannup has considered the question of potential loss of rates to their shire in the case of a boundary change and as previously noted, have advised the following in their submission:

“According to the Annual Report for the Shire of Manjimup published on their website, the number of rateable assessments for the 2018/19 period was 5,624 ... the number of rateable properties for the Shire of Nannup is 1,150. Therefore, while the impact of removing 33 properties from The Shire of Nannup is a 2.87% loss to the rating base (number of rateable properties), for the Shire of Manjimup, the addition would represent a 0.59% increase in rate base. The economic effect of the inclusion/exclusion of these properties within each local government is vastly different.”

Background – financial information

The Financial Health Indicator (FHI) is a measurement of a local government's overall financial health. It is calculated from the seven financial ratios that local governments are required to calculate annually. An FHI result of 70 and above indicates sound financial health. The maximum result achievable is 100.

Table 6 below demonstrates that both the Shires of Nannup and Manjimup have an FHI below the state average, though Nannup is generally considered to be in better financial health than Manjimup.

Table 6 Local government financial health indicator (FHI)

Local Government	FHI score 2017-18	FHI score 2016-17
Shire of Nannup	74	66
Shire of Manjimup	59	55
FHI state average	76	76

Source: MyCouncil (DLGSC) ⁷

⁷ <https://www.mycouncil.wa.gov.au/Council/CompareResult/93?compare=77&>

Table 7 below shows that both local governments have increased their rates over the past two financial years, generally in line with the state average.

Table 7 Local government rate growth

Local Government	Rate growth 2017-18	Rate growth 2016-17
Shire of Nannup	+3.76%	+5.11%
Shire of Manjimup	+3.7%	+4.85%
State average	+4.04%	+5.2%

Source: MyCouncil (DLGSC) ⁸

Table 8 below shows the difference in revenue, expenditure and value of assets in both local governments, which is in line with the differences in population.

Table 8 Local government revenue, expenditure and assets

Local Government	Revenue	Expenditure	Asset value
Shire of Nannup	\$4.47m	\$4.81m	\$109m
Shire of Manjimup	\$20.51m	\$27.97m	\$302m

Source: MyCouncil (DLGSC) ⁹

The section of the Shire of Nannup proposed to be transferred to the Shire of Manjimup currently includes 33 properties with a rate income of \$41,118 (\$1,246 per property in 2017-18). There is no other material revenue that can be attributed to the area. This constitutes a 2.87% loss to the rating base (number of rateable properties) for the Shire of Nannup. At the same time, the transferred area would represent a 0.59% increase in the Shire of Manjimup rates base.

As a relatively small regional local government, the rates revenue lost by the Shire of Nannup through this transfer would represent a reasonably significant loss. As a larger regional government, the rates revenue potentially gained by the Shire of Manjimup would be considerably less significant.

⁸ <https://www.mycouncil.wa.gov.au/Council/CompareResult/93?compare=77&>

⁹ <https://www.mycouncil.wa.gov.au/Council/ViewCouncil/77>

Table 9 below shows the comparative rates applied by the two local governments.

Table 9 Local government rating

Rate in the dollar (2017-18)	Nannup ¹⁰	Manjimup ¹¹
GRV	\$0.0817	\$0.094843
UV	\$0.004257	\$0.0070877
Minimum rated - GRV	\$870 per property	\$892 per property
Minimum rates - UV	\$1.050 per property	\$892 per property

5.8 The Effective Delivery of Local Government Services

LDRCA proposal

The LDRCA has noted the following in their proposal:

“Given that the hut leases are accessed via state managed roads, and are in National Park, there are no formal ongoing local government services required or delivered.

Notwithstanding this, there have been and still are ongoing liaisons with Shire of Manjimup personnel.

Before current leases were approved huts had to be renovated to a standard acceptable to the LG Authority. By agreement the Shire of Nannup referred its responsibility for building inspections to the Shire of Manjimup. This occurred for four reasons:

1. Manjimup Shire and DBCA personnel had a long standing and effective relationship with lessees through the Lower Donnelly River Conservation Association
2. Building standards were aligned with dwellings in the Windy Harbour settlement within the Shire of Manjimup
3. It was more efficient and consistent to have all inspections carried out by one authority
4. Manjimup Shire personnel had experience in carrying out their duties in coastal areas through their settlements at Walpole and Windy Harbour.”

Shire of Manjimup submission

While the Shire of Manjimup has stated that they are awaiting the outcome of the Board's recommendation and Minister's decision on the LDRCA proposal, they are also applying what they describe as a fairness or reasonability test as to whether or not to rate the Donnelly River huts. The Shire is therefore considering the following factors:

¹⁰ <https://www.nannup.wa.gov.au/documents/1590/november-2018-agenda-attachment-1271-shire-of-nannup-annual-report-201718>

¹¹ <https://www.manjimup.wa.gov.au/our-documents/annual-budget-and-reports/Documents/Annual%20Financial%20Report%202018-2019.pdf>

- Access to the huts is by boats that are trailered to the boat landing via roads that are not under the Shire of Manjimup's care and responsibility
- Other than building related matters, there are no specific general Shire of Manjimup services provided to the huts and owners. This includes dealing with queries, complaints, compliance enforcement with statutory requirements, property specific records and emergency services response
- The Shire of Manjimup does not own a boat which makes it very difficult and potentially expensive to provide ordinary onsite service to the hut owners
- The Donnelly River huts are zoned "National Park" under the Shire of Manjimup Local Planning Scheme No 4 – which can significantly complicate development assessment
- Under the DBCA initial lease requirements, hut owners had to comply with basic habitable standards for buildings. The Shire of Manjimup undertook these initial and final compliance inspections on behalf of hut owners on both sides of the Donnelly River in a fee for service arrangement coordinated by DBCA
- If one of the 10 hut owners currently within the Shire of Manjimup district wanted to undertake building work on their premises that constituted the requirement for a building permit, they would have to apply to the Shire of Manjimup either via a privately certified building application or as an uncertified building application. The shire would consider the application on a fee for service basis with the consent and access coordination provided by DBCA. Since the introduction of the Donnelly River hut leases, no building permit applications have been made by the 10 Manjimup district hut owners.

Shire of Nannup submission

The Shire of Nannup has noted the following in their submission:

"Within the original submission by the applicants there are claims that there have been and still are ongoing liaisons with the Shire of Manjimup personnel. While the Shire of Nannup would not deny this from the perspective of the 10 properties currently within the boundaries of this local government, the same ongoing liaisons are also true and occurring between hut owners and the Shire of Nannup for properties within the boundaries of this local government.

Building permits continue to be assessed and authorised by Shire of Nannup personnel not by the Shire of Manjimup personnel as incorrectly reported within the submission by applicants. Should the Board wish to examine building permits held at the Shire of Nannup this can be arranged to further clarify this mistruth.

To suggest that building personnel at the Shire of Nannup do not have experience to carry out inspections and authorisation of coastal buildings is another example of stretching the truth. Firstly, there is a large coastal region within the Shire of Nannup which also has building approval requirements attached to it and secondly, the current building inspector for the Shire of Nannup is an employee of extensive 30+ years' experience in both Health and Building Regulation."

The Shire of Nannup also referred to a transcript from the Standing Committee on Environment and Public Affairs, Inquiry into Shack Sites (January 2011), where Tony Ryan, the former LDRCA president was asked about the Association's relationship with the Shire of Nannup – which Mr Ryan spoke about very positively at that time.

Board comment

The Board notes that while the example noted above was more than eight years ago – it does demonstrate that the LDRCA has previously considered the Shire of Nannup to be very supportive, and provided evidence of a good working relationship.

The Board is also mindful of the Shire of Nannup's summary of the State Administrative Tribunal determination of November 2018:

“The overall decision from SAT concluded that *there was no question that the land the subject of the applicants' lease falls within the district of the Shire (of Nannup) for rating purposes*. In summary, it was noted, that the Shire has gone to many lengths to work with the LDRCA in an effort to reach a mutual agreement while also maintaining a legislative obligation of raising rates under *The Act*, including going against the recommendation of the SAT determination and changing the land classification valuation from Unimproved Valuation to Gross Rental Valuation at the request of the hut owners. This proposed change in valuation was purely to work with the hut owners and lower their rates and charges. This then further shows that the Shire of Nannup have continued to try and work towards meeting the requests of the LDRCA.”

Additionally, section 6.26 of the *Local Government Act 1995* states:

- (1) Except as provided in this section all land within a district is rateable land.
- (2) The following land is not rateable land -
 - (a) land which is the property of the Crown and -
 - (i) is being used or held for a public purpose

The Board considers the SAT determination as an important factor in the evidence provided in relation to the boundary change proposal. The SAT concluded that the application of rates by the Shire of Nannup is in accordance with the relevant legislation.

This is an important consideration in relation to the current boundary change proposal. While the applicants suggest that the proposal is made on the grounds of community of interest, it is clear to the Board that they still consider the application of rates by the Shire of Nannup as unfair. This position was evident in the LDRCA written proposal, at the public hearing and in the written submissions and surveys received during the six week inquiry period.

In light of the information included in section 5.8 above, the proposal would appear to have some impact on the capacity for service delivery by the Shire of Nannup, but a lesser impact on the capacity for service delivery by the Shire of Manjimup.

5.9 Other Matters/Considerations

There were a number of common issues which were raised via the public submissions from those who support the LDRCA proposal:

- Donnelly River residents are generally unhappy with the Shire of Nannup
- They are concerned that rates are being charged by the Shire of Nannup for no services in return
- The community has focused on their long history and links with Manjimup

While the Board acknowledges these issues – they do not provide a relevant case for a boundary change, in accordance with the eight matters as prescribed in the Act.

Some of the hut owners advise that the costs to maintain their properties are unsustainable. But like all other property owners - they do have the choice to sell if required.

The LDRCA proposal and many of the public submissions seem to be based on the premise that the lessees have an entitlement to a low-cost family holiday. It may be argued that the sum of around \$3,000 per annum (which includes the Shire of Nannup rates) for almost unlimited access to the area as a holiday destination is in fact reasonable.

It is important to note that the LDRCA proposal is not agreed to by both local governments. This is a significant factor for the Board to consider in their deliberations.

Generally speaking, a proposal is more likely to be approved if both local governments are in agreement.

The SAT determination of November 2018 also included the following comments (made by member, Mr T Carey):

“The 'unique circumstances' ascribed by the applicants' submissions to the Donnelly River huts do not advance their claim that they should not be subject to the rating provisions of the LG Act. The asserted uniqueness is linked to arguments of the alleged lack of service provision. But, as I have explained, the application of the LG Act provisions does not depend upon the identification of ratepayer benefit.”

“Decisions by individual land holders not to avail themselves of those facilities and services are, again, not relevant to the question of their liability under the LG Act for rates and service charges.”

“Similarly, no aspect of the statutory scheme supports the applicants' submissions that the Shire forfeits its rating entitlements because services funded by rates are not provided to individual leaseholders due to their own activities or because individual leaseholders receive similar services by some other means.”

Board comment

The inquiry into the Donnelly River boundary change proposal demonstrated many strong views and opinions around the issue, from all parties involved.

The Board noted that the Donnelly River hut lessees have been both organised and determined in their application for a boundary change from the Shire of Nannup to the Shire of Manjimup.

While the proponents included the application of rates by the Shire of Nannup as one of the main reasons for their boundary change proposal, this is not a valid criterion, in accordance with the Act, for the Board to consider. However, it is an appropriate consideration for the State Administrative Tribunal – and they have already investigated it and made a determination in 2018.

The Board also notes the LDRCA claims of instances where the Shire of Nannup has been less than accommodating in their negotiations with hut owners. It was also claimed that on occasion the Shire refused to engage with hut owners.

Conversely, the Shire of Nannup claims that they have always endeavoured to maintain a positive relationship with the Donnelly River community.

When there are strong views on both sides, it can at times be difficult to determine the facts. The Board would advocate that even when the situation becomes difficult or challenging, it is important to maintain open communication channels between all parties.

The Board would like to acknowledge the work of the LDRCA in preparing the boundary change proposal for consideration. It is clear that the future of the Donnelly River precinct is important to those who are part of the community.

The Board also acknowledges the efforts of the many people in the community who either attended the public meeting in Nannup or who contributed submissions to the inquiry – particularly those who took the time to write about their individual family histories and circumstances.

The Shire of Nannup submission, as the local government which will potentially cede the subject area, was comprehensive, analytical and very well considered.

The Shire of Manjimup submission, which will potentially receive the subject area, was not quite as comprehensive or analytical. The Shire themselves stated that they considered themselves to be in catch-22 situation, as they wanted to maintain a good relationship with both their neighbour – the Shire of Nannup, and also with the Donnelly River proponents, but considered that was difficult to do in light of the LDRCA boundary change proposal.

6. Conclusion

While the Board accepts that the current situation is not ideal – in that some of the Donnelly River huts are subject to rates and some are not, it cannot recommend in favour of the proposal, as essentially it is about the capacity of individuals to pay a legal and recognised fee (ie council rates) to a local government authority for a holiday residence.

While the Board considers every boundary change proposal on its merits, they also recognise that to accept the proposal could potentially create a precedent for other local government residents to seek a boundary change if they believe that their neighbours in an adjoining shire are paying less than they are.

The Board also considers the fact that the Donnelly River currently forms a natural boundary between the two shires to be an important factor.

While generally speaking it may be desirable to have the whole community located within one shire, the Board notes that the shire boundary was established before the Lower Donnelly River community itself was formed.

Additionally, the Board notes the significance of the State Administrative Tribunal 2018 ruling against the proponent's application that the Shire of Nannup should not rate the 33 Donnelly River huts.

While there was strong community support for the LDRCA proposal, many of those who provided submissions to the Board have a financial interest in the outcome – in that they would potentially no longer have to pay around \$1,200 per annum in rates to the Shire of Nannup.

It was noted that most of the public submissions to the inquiry were either from hut owners, or from their direct family and friends – most of whom currently benefit from access to this low-cost holiday accommodation.

While the Shire of Manjimup indicated that it was neutral about the proposal (though advised that they would take on the additional 33 Donnelly River properties should the proposal be supported), the Shire of Nannup is strongly opposed to the proposal.

In summary, the Board cannot recommend in favour of the LDRCA boundary change proposal for the following reasons:

- The current natural boundary of the Donnelly River is considered to be an appropriate boundary
- Only one of the two local governments support the boundary change
- There would be a negative financial effect to the Shire of Nannup should they lose the rates from the 33 properties currently located within their boundaries
- SAT has determined that the application of rates by the Shire of Nannup is legal and in accordance with the Act
- While the community of interests with the Shire of Manjimup has been demonstrated, it is only one of eight factors that the Board is required to consider.

After conducting the inquiry, and after taking into account the eight prescribed matters, the Board finds that there is a strong case to retain the 33 huts currently located within the Shire of Nannup, therefore no boundary change should occur.

Considering the above, the Board considers it appropriate to decline the proposal and recommends accordingly.

7. Recommendation

RECOMMENDATION:

That in accordance with the clause 6(1)(a) of Schedule 2.1 of the *Local Government Act 1995*, the Minister for Local Government reject the proposal submitted by the Lower Donnelly River Conservation Association to amend the boundary between the Shire of Nannup and the Shire of Manjimup.

Moved:

Seconded:

For:

Against:

Absolute majority required:

APPENDIX 1: Information Paper

Local Government Advisory Board

Proposal to transfer part of the Lower Donnelly River area from the Shire of Nannup to the Shire of Manjimup

Information paper

June 2019

E1910785

Proposal to transfer part of the Shire of Nannup to the Shire of Manjimup

This document has been prepared by the Local Government Advisory Board (the Board) as a guide to the range of issues to be considered as part of its inquiry into the proposal to transfer part of the Lower Donnelly River area from the Shire of Nannup to the Shire of Manjimup.

The Board has received a proposal from the Lower Donnelly River Conservation Association (LDRCA) to amend the Shire of Manjimup's district boundary to include a portion of the Lower Donnelly River currently located in the Shire of Nannup. A map illustrating the current and the proposed boundary is included as Attachment 1 (Maps 1, 2 & 3) of this paper.

The area which is the subject of this boundary change proposal is in the vicinity of leasehold dwellings at the mouth of the Donnelly River, within the D'Entrecasteaux National Park. The proposal would result in 33 dwellings, currently located within the Shire of Nannup, being transferred to the Shire of Manjimup, where 10 similar dwellings are currently located. The LDRCA has submitted the proposal on behalf of its members who are the lessees of the dwellings in question.

The proposal will not have any effect on the Shire of Nannup and the Shire of Manjimup continuing as separate local government entities.

The Donnelly River currently forms (part of) the boundary between the two Shires, and the proposed change will move the current boundary line directly north of the Donnelly River by approximately 100-200 metres. The affected area is approximately 32 hectares in size.

The Donnelly River settlement differs from most other areas in the State as the 43 lessees are not electors, as all have residential addresses outside of the area in question. None of the lessees has a permanent residence in the Shire of Nannup. Twenty-three (23) of the 43 lessees have a permanent residence in the Shire of Manjimup.

The remaining 20 lessees are residents of a number of south west Shires including Bunbury, Busselton, Capel, Dardanup, Donnybrook, Mandurah, Margaret River and West Arthur. Included in that number are four lessees from Perth, Fremantle, Mundaring and Serpentine Jarrahdale.

The boundary change proposal was accompanied by a petition, which was signed by 39 of the 43 lessees, (four abstained) representing 90.7% of the lessees in the affected area.

The proposal as submitted by the LDRCA can be found online at: www.dlgc.wa.gov.au/LGAB

Public hearings

As part of the Board's inquiry process, interested members of the public (individuals and groups) are invited to attend a public hearing. The hearing will be held at the Nannup Recreation and Community Centre (function room) on Tuesday 23 July from 7.00pm to 8.00pm.

The public hearing is an opportunity for community members and other interested parties to provide the Board with their views on the proposal. The Board may also grant private hearings on request.

Submissions

The Board welcomes community input as part of its inquiry. In addition to the public hearing, the Board will accept written submissions which can be mailed or emailed to:

Local Government Advisory Board
Department of Local Government, Sport and Cultural Industries
PO Box 8349, Perth Business Centre WA 6849

Email: advisoryboard@dlgsc.wa.gov.au

Submissions should be received by the Board by **4pm on Friday 2 August 2019**

A public submission form is included as an attachment to this paper (page 13).

An online submission form can also be found on the Board's web page:

www.dlqc.wa.gov.au/LGAB

For more information, please contact the Advisory Board staff at advisoryboard@dlgsc.wa.gov.au

Background Information

The Board is a statutory body established under section 2.44 of the *Local Government Act 1995* (the Act). It is responsible for making recommendations to the Minister for Local Government for changes to local government district boundaries and ward and representation structures.

The LDRCA submitted a proposal to the Board in April 2019, to transfer 33 dwellings currently located in the Shire of Nannup to the Shire of Manjimup. The Board resolved on 2 May 2019 to conduct a formal inquiry into the proposal in accordance with the provisions of the Act.

Assessing the Proposal

Under the Act, the Board is required to take into account the following factors when assessing proposals for amalgamations and boundary changes:

- community of interests
- physical and topographic features
- demographic trends
- economic factors
- history of the area
- transport and communication
- matters affecting the viability of local governments
- effective delivery of local government services.

The Board will also take into account other factors it considers relevant to the inquiry.

Guiding Principles

The following information is intended as a guide to the range of issues the Board will take into account in its assessment of submissions. Public submissions need not be limited by these factors and can address any area of interest relevant to the inquiry.

Community of interests

Community of interests includes parts of a district that share common interests, values, characteristics and issues giving rise to a separate sense of identity or community. Factors contributing to a sense of identity or community include shared interests and shared use of community facilities. For example, sporting, leisure and library facilities create a focus for the community.

The common use of shopping areas and the location of schools also draw people together with similar interests. This can give indications about the direction that people travel to access services and facilities. The external boundaries of a local government need to reflect distinct 'communities of interest' wherever possible.

Neighbourhoods, suburbs and towns are important units in the physical, historical and social infrastructure and often generate a feeling of community and belonging. The Board believes that wherever possible, it is inappropriate to divide these units between local governments.

Physical and topographic features

Physical and topographic features may be man-made and will vary from area to area. They may include:

- water features (such as rivers)
- catchment boundaries
- coastal plains and foothills
- parks and reserves
- man-made features (such as railways or freeways).

These features can form identifiable boundaries and also act as barriers to movement between adjoining areas. In many cases, physical and topographical features are appropriate district and ward boundaries. The Board supports local government structures and boundaries that facilitate the integration of human activity and land use.

Demographic trends

Local governments should consider the following characteristics when determining the demographics within its locality:

- population size
- population trends
- distribution by age
- gender
- occupation.

Current and projected population factors will be relevant as well as similarities and differences between areas within the local government.

Economic factors

Economic factors can include any factor that reflects the character of economic activities and resources in the area including:

- industries within the local area
- distribution of community assets
- Infrastructure.

History of the area

The history of the area can be a relevant consideration, although the Board believes that in a majority of cases this will not be a primary justification for changing or retaining local governments and its boundaries. The nature of historical ties between the communities is important to understand, irrespective of where local government boundaries lie.

A community within a local government may have a strong historical identity; alternatively, there may be strong historical links between two or more communities in adjacent local governments. It is important to note that historical identity is not necessarily lessened if an area does not have its own local government.

Transport and communication

The transport and communication linkages between towns and other areas may be a significant barrier to movement and therefore an appropriate boundary between local governments.

Consideration of the following factors is important in any assessment of local government boundaries:

- port access
- neighbouring towns
- railways
- major roads.

Matters affecting the viability of local governments

Local governments should have a significant resource base:

- To be able to efficiently and effectively exercise their proper functions and delegated powers and operate facilities and services
- To be flexible and responsive in the exercise of their functions and powers and the operation of their facilities and services
- To employ appropriate professional expertise and skills
- To be capable of embracing micro-economic reform.

Each local government should have a diverse and sufficient rate base to ensure that general purpose grants do not represent the major revenue source.

Effective delivery of local government services

A broad range of factors can be relevant to the effective delivery of local government services and these are often directly relevant to those that also affect the viability of local governments. These include:

- size and geographical spread of the population
- management effectiveness and efficiency
- availability of staff expertise
- appropriate infrastructure and equipment.

Final Decision

On completion of its inquiry the Board will submit its report with recommendations to the Minister for Local Government for consideration in accordance with clause 6 of Schedule 2.1 of the Act.

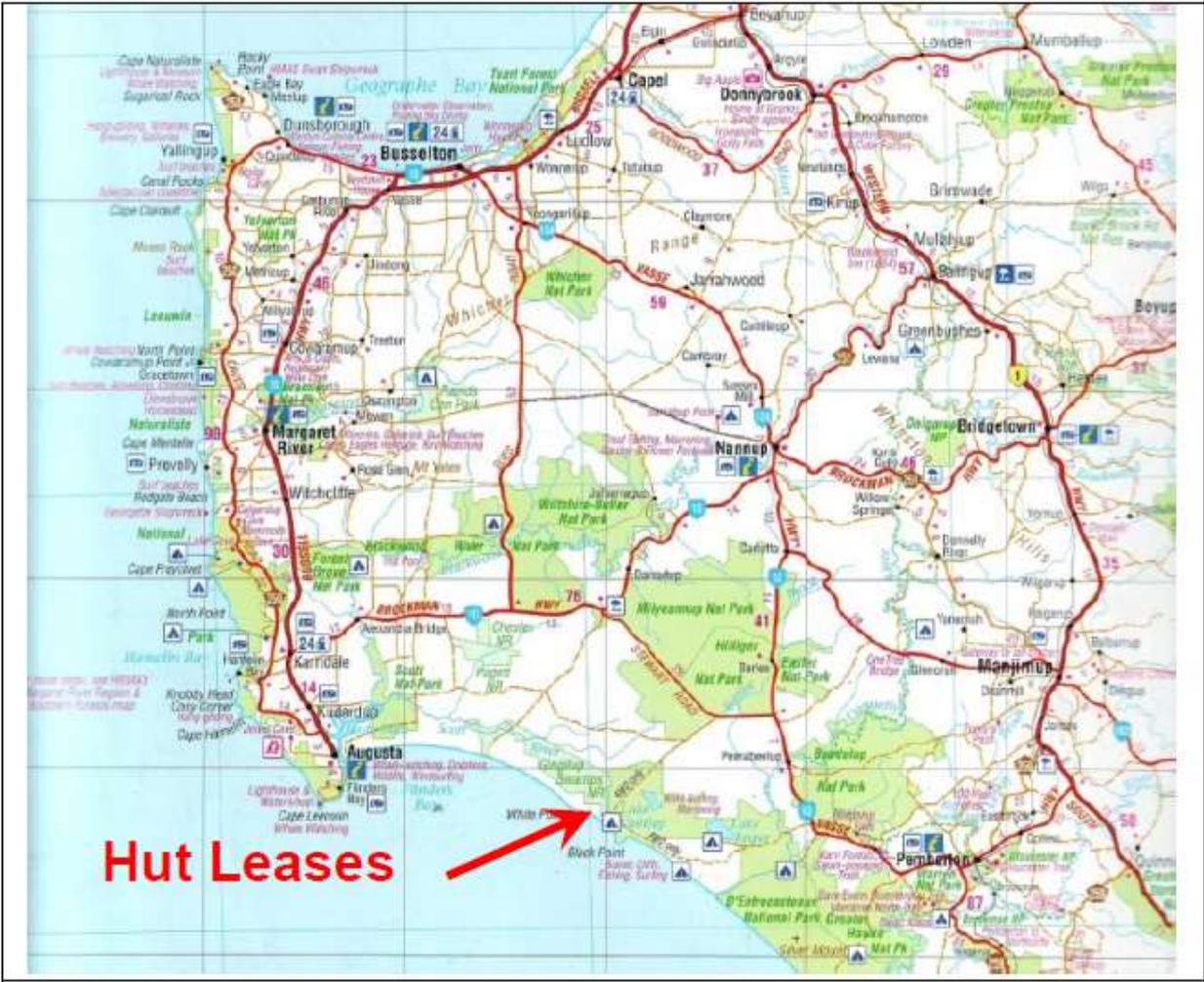
The Board may recommend to the Minister for Local Government that an order be made in accordance with the proposal. The Minister may accept or reject the recommendation.

The Board may also recommend the making of an order that is different to the one included in the proposal. In the event that an order is recommended that is substantially different to that included in the original proposal, notice is to be given to affected electors inviting further submissions about the recommendation. The Board must consider any submissions it receives before providing its recommendation to the Minister. The Minister may accept or reject this recommendation.

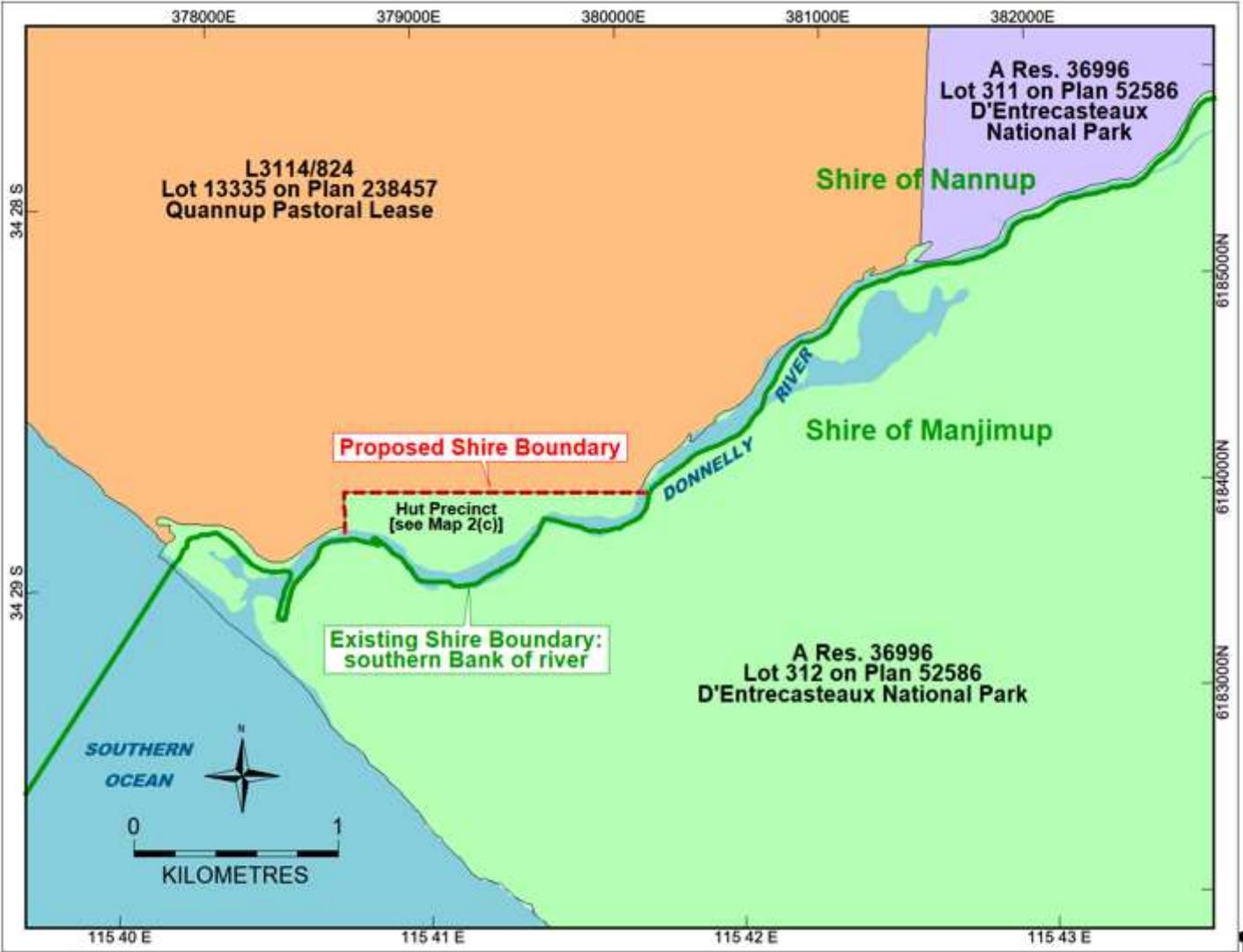
In the event that the Board recommends to the Minister that the proposal be rejected, the Minister must accept this recommendation and the proposal will not proceed.

Attachment 1: Maps of the Proposal

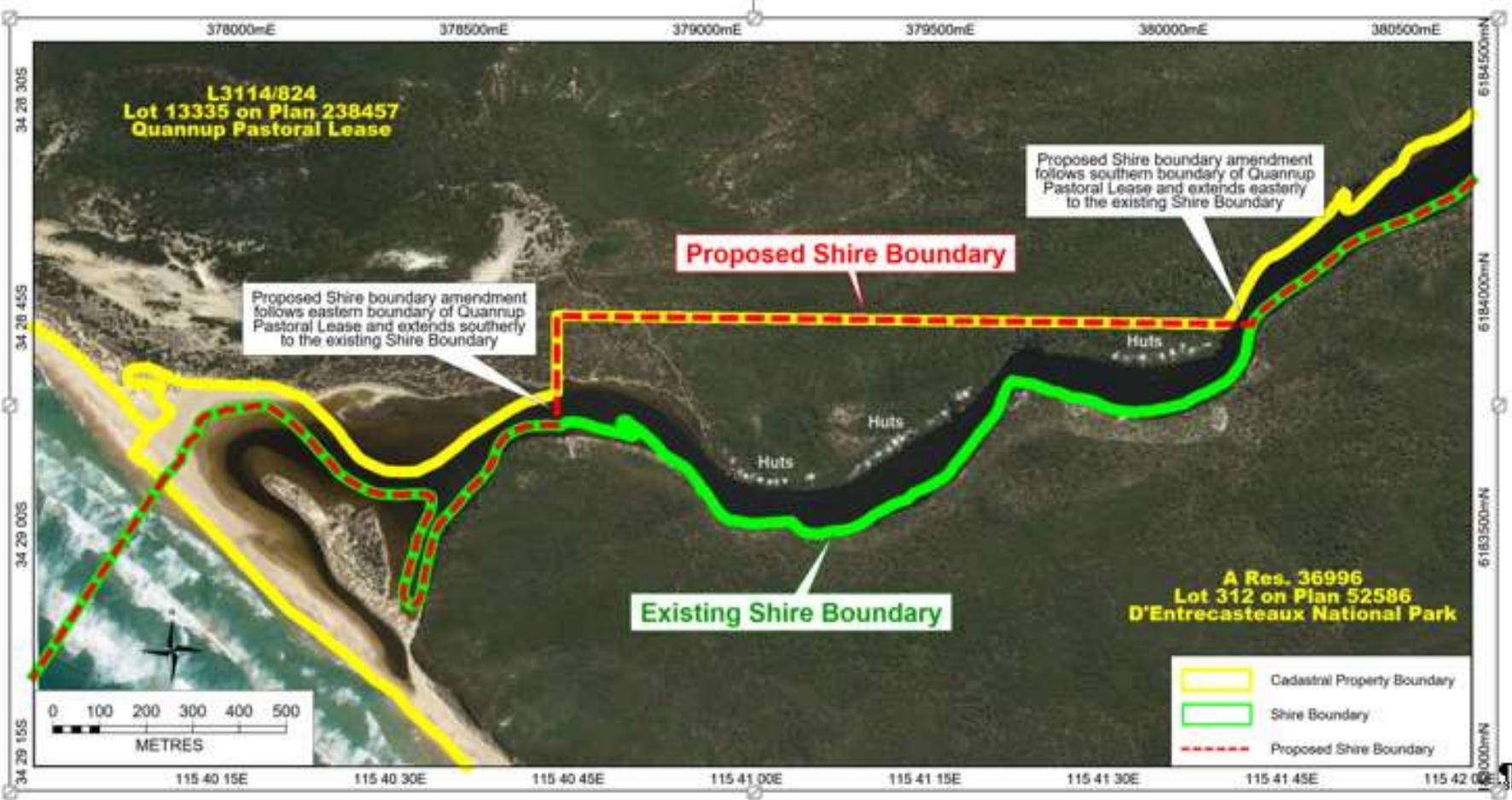
Map 1: Location map



Map 2: Overview (not to scale)



Map 3: Aerial view





Public Submission Form

Name:	[Click here to enter text.]
Address:	[Click here to enter text.]
Email:	[Click here to enter text.]

Proposal to transfer part of the Lower Donnelly River from the Shire of Nannup to the Shire of Manjimup.

Do you agree with the proposal? (Please check the response.) Yes No

Please provide reasons:

[Click here to enter text.]

* Attach further documentation if required.

Do you wish this information to remain private and confidential: Yes No

Signature:

Date:

Please return submissions by 4.00 pm on Friday 2 August 2019

Local Government Advisory Board, PO Box 8349, Perth Business Centre WA 6849

Email: advisoryboard@dlqsc.wa.gov.au

APPENDIX 2: Notice of Inquiry

Notice of formal inquiry into the proposal to transfer part of the Shire of Nannup to the Shire of Manjimup

The Local Government Advisory Board (the Board) is conducting a formal inquiry into a proposal to transfer part of the Shire of Nannup to the Shire of Manjimup.

The proposal would result in 33 dwellings located within the Shire of Nannup, being transferred to the Shire of Manjimup. The proposal submitted by the Lower Donnelly River Conservation Association can be found at www.dlgsc.wa.gov.au/LGAB

Interested parties are invited to present their views on the proposal to the Board at a public hearing or prepare a submission to the Board for consideration. The Board may also grant private hearings on request.

Public hearing

Date: Tuesday 23 July 2019

Time: 7:00pm – 8.00pm

Venue: Nannup Recreation and Community Centre (function room)

Address: Warren Road Nannup

Submissions

The Board will accept submissions by email (preferred), post, or via an online submission form available at www.dlgsc.wa.gov.au/LGAB

Written submissions should be forwarded to:

Local Government Advisory Board

Department of Local Government, Sport and Cultural Industries

PO Box 8349, Perth Business Centre WA 6849

Submissions close **4.00pm on Friday 2 August 2019**

More information

w: www.dlgsc.wa.gov.au/LGAB

e: advisoryboard@dlgsc.wa.gov.au