

SUBMISSION to LOCAL GOVERNMENT ADVISORY BOARD

**A Proposal to Change the Boundary of a Local Government District;
The Boundary between Shires of Manjimup and Nannup**

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1. INTRODUCTION

This petition from affected electors in the Shires of Manjimup and Nannup is proposing an order to change the shire boundary in the vicinity of the hut precinct at the mouth of the Donnelly River, within the D'Entrecasteaux National Park.

The hut precinct consists of 43 huts, occupied under lease for recreational purposes and comprising a strong community of 896 people. It has no roads and all access is by boat. There are no neighbours and no local government services or facilities. The precinct is unique.

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

Consideration of the LGAB Guiding Principles for boundary changes suggests that there are no significant impediments to the proposal, only substantial benefit.

2. PROPOSAL to CHANGE BOUNDARY

2.1. Location and General Description

Owners of 43 huts at the mouth of the Donnelly River, in the D'Entrecasteaux National Park¹, have secure tenure through long term leases with the State through its management Authority².

The Donnelly River is the boundary separating the shires of Nannup and Manjimup with 33 leases on the north side in the Shire of Nannup and 10 leases on the south side in the Shire of Manjimup³.

The huts are isolated and all access to leases is by boat about 12km downriver from a landing. The landing is at the southern end of Boat Landing Road (unsealed) which starts at the Vasse Highway. Although road access from the highway to the landing is all within the Manjimup Shire it is a part of the D'Entrecasteaux National Park and maintained by the State.

Lessees supply all necessary services and materials for their huts and take all rubbish home with them. There are no on-site services supplied to lessees by the shires.

2.2. The Proposal

This proposal is to make a minor change to the boundary between the Shires of Manjimup and Nannup, at the mouth of the Donnelly River within the D'Entrecasteaux National Park.

The area affected is a precinct of 43 huts that occupy and use the land under long term leases for the purpose of "short stay recreational accommodation". The lessees represent extended families that comprise a community of 896 people across three generations in most cases.

¹ App.1: Map 1, Location Map

² App.2: Sample Lease 2380/100, CW&BW Russell

³ App.3: Map 2: Shires of Manjimup and Nannup, Hut Precinct, Quannup Pastoral Lease and Proposed Boundary Change

The current shire boundary divides the community and the intent of the change is to locate all electors within one shire, being the Shire of Manjimup⁴. The extent of the proposed boundary change is about 1600m.

2.3. The Petition

By virtue of leases to occupy Crown Land, within the Shires of Manjimup and Nannup, the lessees are electors in their respective shires.

All affected electors were surveyed to identify the size of their families, how often they used their huts and whether or not they supported a petition to change shire boundaries. 91% of the electors responded to the survey and all respondents supported the petition⁵.

The Petition proposes the following order:

“To place all leases of the 43 huts, at the mouth of the Donnelly River within the D’Entrecasteaux National Park, into the Shire of Manjimup rather than have them divided between the two shires of Manjimup and Nannup. It is proposed to relocate part of the south western boundary of the Shire of Nannup, in the vicinity of the 33 leases within the Shire, northward and aligned along the southern boundary of the Quannup Pastoral Lease shown on (Map 2)⁶”.

2.4. Key Stakeholders

Key stakeholders are seen to be the Shires of Manjimup and Nannup and the Department of Biodiversity, Conservation and Attractions.

The Association has advised the Chief Executive Officer of each shire of its proposal and provided them with a copy of the submission. It has also offered to present and discuss the submission with the CEO and or councilors if they wish to gain better understanding of the affected electors’ position.

The Association has also provided the Regional Manager of DBCA, who is responsible for administration of the leases, with a copy of the submission.

It should be noted that although 33 of the leases are within the Shire of Nannup all lease documents specify the Shire of Manjimup for compliance related to criteria of the building codes and management of effluent and waste water. This arrangement was readily agreed to by all stakeholders when leases were prepared and continues as common sense practice in the interests of consistency, efficiency and goodwill.

It should also be noted that other matters usually administered by local government authorities, such as fire prevention, noise, dogs, feral animals’ etcetera, are administered by the Lessor in partnership with the Association.

⁴ See Appendix 3

⁵ App.4: Petition and Summary of Responses

⁶ App.3: Map 2: Shires of Manjimup and Nannup, Hut Precinct, Quannup Pastoral Lease and Proposed Boundary Change

3. GUIDING PRINCIPLES

3.1. Community of Interests

3.1.1. *The Community*

The Donnelly River community has a very strong and long standing sense of identity. It consists of 43 lessees who own huts, for the purpose of short stay recreational accommodation, within the D'Entrecasteaux National Park. Each is authorized to occupy the land under a long term and renewable lease.

A recent survey of hut owners showed that the 43 lessees represent a community of 896 people which consists of extended families across three generations in nearly all cases and who use their huts frequently⁷.

Community members share two compelling values:

- Strength of family
- Sense of community

Because of family they have their huts and use them frequently and because of their long standing communal efforts, among other things, Government lets them stay there. These are the values that have enabled them to keep their huts and to secure their long term future⁸.

3.1.2. *The Association*

The community is strongly bonded and has been very supportive of its organization the Lower Donnelly River Conservation Association (LDRCA). This formally incorporated Association has represented its members continuously since it was formed in 1978 and all lessees (100%) are financial members. Attendance to annual general meetings has averaged over 75% for each of at least the past six years.

The Association is vigorous and has initiated countless local projects. It has also undertaken three significant actions in recent years;

1. Heritage Listing (September 2004) – following substantial research the LDRCA lodged a submission with the Heritage Council of WA for the historic hut precinct to be listed in the State Heritage Register. Although unsuccessful with listing, the Council recognized cultural heritage significance⁹.
2. State Government Senate Enquiry (June 2010) – The Senate carried out a review of its squatter shack policy of removing illegal buildings along the coast and the Association provided two written submissions and a formal presentation. These resulted in the Donnelly huts being retained (see “3.5 History of Area” below).
3. State Administrative Tribunal Application (November 2017) – Nannup Shire began to invoice hut owners for Shire Rates in 2016, without providing any services, and the Association applied to SAT to have the action disallowed. The Association argued “poor governance” but the application was dismissed since the Shire has a legal entitlement to rate lease holders.

⁷ App.5: Summary of Family Survey, 8 September 2018

⁸ App.5(a): Community Values

⁹ App.6: Letter: Heritage Council of WA to Chairman LDRCA; 12 September 2006

Hut owners carry out a continuous community service in the form of 'caretaking' through physical presence, whereby anti-social behavior by day trippers is almost non-existent and rubbish clean-up after them is routine.

Further, provision of emergency services is frequent through assistance to stranded visitors. This is often due to boat breakdown or lack of fuel but also includes supply of water, overnight accommodation and basic first aid.

3.1.3. Nannup Shire Impact on Community

Although the community straddles both the Manjimup and Nannup Shires it's 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 (\$1122 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 Shire of Nannup recently imposed Shire Rates (\$1246 in 2017/18) on lessees within its boundary and the added cost is seriously threatening the viability of many huts. The Shire invoice includes a charge for general rates, a rubbish service fee and the emergency services levy (a consequence of rating) when no services at all are provided. Charging Shire Rates is considered to be totally unreasonable.

Shire actions that illustrate a lack of empathy for community values, especially for this community in unique circumstances, include the current rating process and its Quannup Pastoral Lease project¹⁰.

The lessees believe that Nannup Shire actions, although legal, represent poor governance towards the Donnelly community. It is apparent that the Shire of Nannup has no interest in nurturing a strong Donnelly community.

3.2. Physical and Topographic Features

The community of lessees is situated entirely along the banks of the Donnelly River near its mouth into the Southern Ocean. It is within the D'Entrecasteaux National Park.

The unique circumstances of being isolated and "river bound" have bonded the community, with no historical need to contemplate local government boundaries.

3.3. Demographic Trends

There are no apparent demographic trends of change in the Donnelly River community.

All huts within the D'Entrecasteaux National Park have been identified and granted leases to occupy the land. The leases are for a term of 21 years with an

¹⁰ App.5(b); Nannup Shire Actions

option to be extended a further 21 years¹¹ and it is anticipated that occupancy will be indefinite. No additional leases will be granted¹².

All huts are also used by friends and acquaintances. If any demographic changes take place it is most likely to be an increase in tourist visitation only.

3.4. Economic Factors

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.

3.5. History of the Area

3.5.1. Camping and Manjimup Support

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)¹³.

Active support was also given by the local Member of Parliament, the Hon. H D Evans, MLA. His letter (1976)¹⁴ 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.

3.5.2. Heritage Council of Western Australia

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 made¹⁵.

3.5.3. Squatter Shack Policy

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

¹¹ App.2: Lease 2380/100, CW&BW Russell

¹² Shannon and D'Entrecasteaux National Parks: Management plan 2012: Department of Environment and Conservation, Conservation Commission of Western Australia.

¹³ App.8(a): Camping on the Donnelly River

¹⁴ App.8(b): Letter Hon. HD Evans, MLA, 20 December 1976

¹⁵ App.8: Letter: Heritage Council of WA to Chairman LDRCA; 12 September 2006

few exceptions; it recommended that the huts along the Donnelly River be retained¹⁶ and their tenure is now secured by long term leases.

3.6. Transport and Communications

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 *Department of Biodiversity, Conservation and Attractions*. Some lessees have constructed jetties at their huts and river traffic and jetty licensing is managed by the *Department of Transport, Marine Business Units*.

3.7. Matters Affecting the Viability of Local Governments

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 notices¹⁷.

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 and lessees on the Nannup Shire 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.

3.8. The Effective Delivery of Local Government Services

Given that the 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;

¹⁶ App.9: Senate Standing Committee Report 21 (April 2011) Extract – Finding 42 (p135)

¹⁷ App.10: Shire of Manjimup letter, 17 November 2017

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.

Although emergency services are the responsibility of DBCA, lessees have established and actively support their own facility (building and equipment) in a voluntary capacity with assistance from *Fire and Emergency Services*, and *St John Ambulance* volunteers in the Shire of Manjimup (Manjimup and Pemberton localities). Although semi-formal, this arrangement is very effective due to long established and successful relationships in home towns.

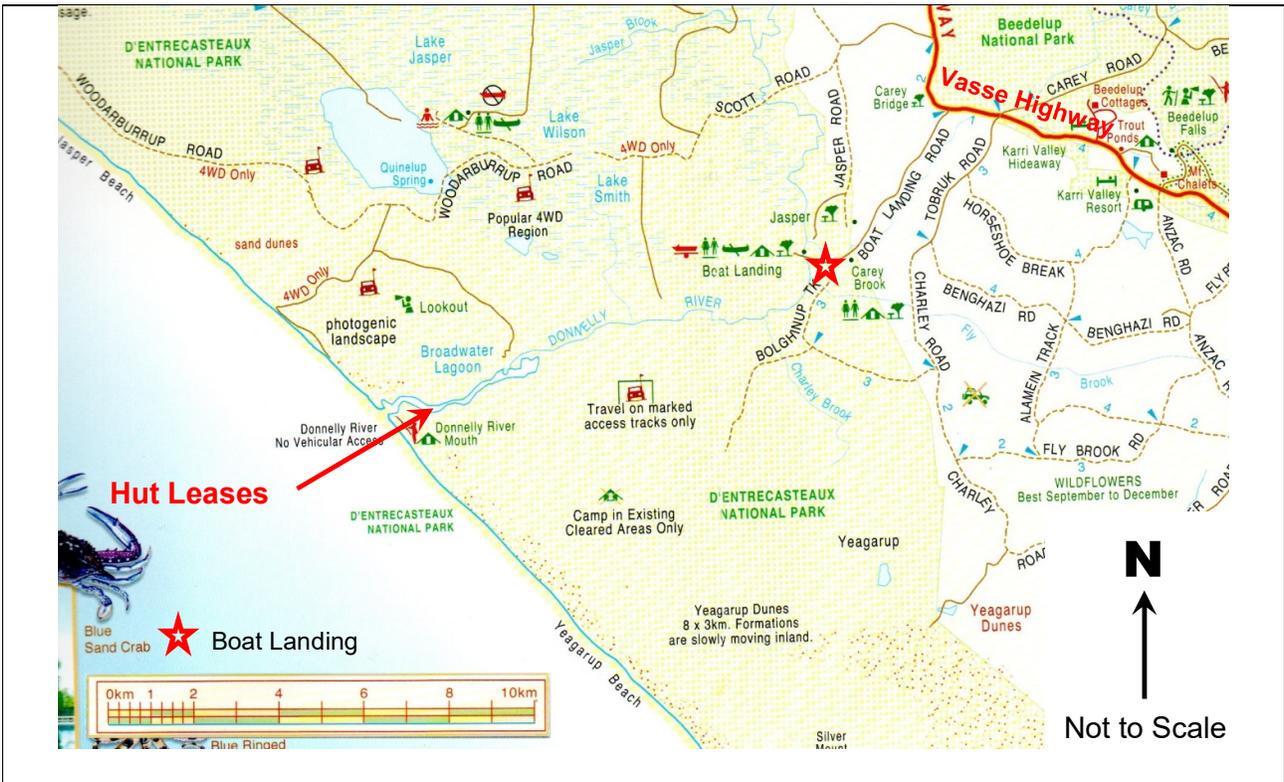
As a condition of their lease, lessees are required to remove all rubbish and do so routinely to their principal places of residence that have rubbish removal services provided by their home LG Authority and for which they pay a rubbish removal fee. A review of lessee's home addresses shows that most live in the Shire of Manjimup and none live in the Shire of Nannup¹⁸.

Bradley Russell
Chairman
Lower Donnelly River Conservation Association

¹⁸ App.11: Table of Lessee Home Addresses

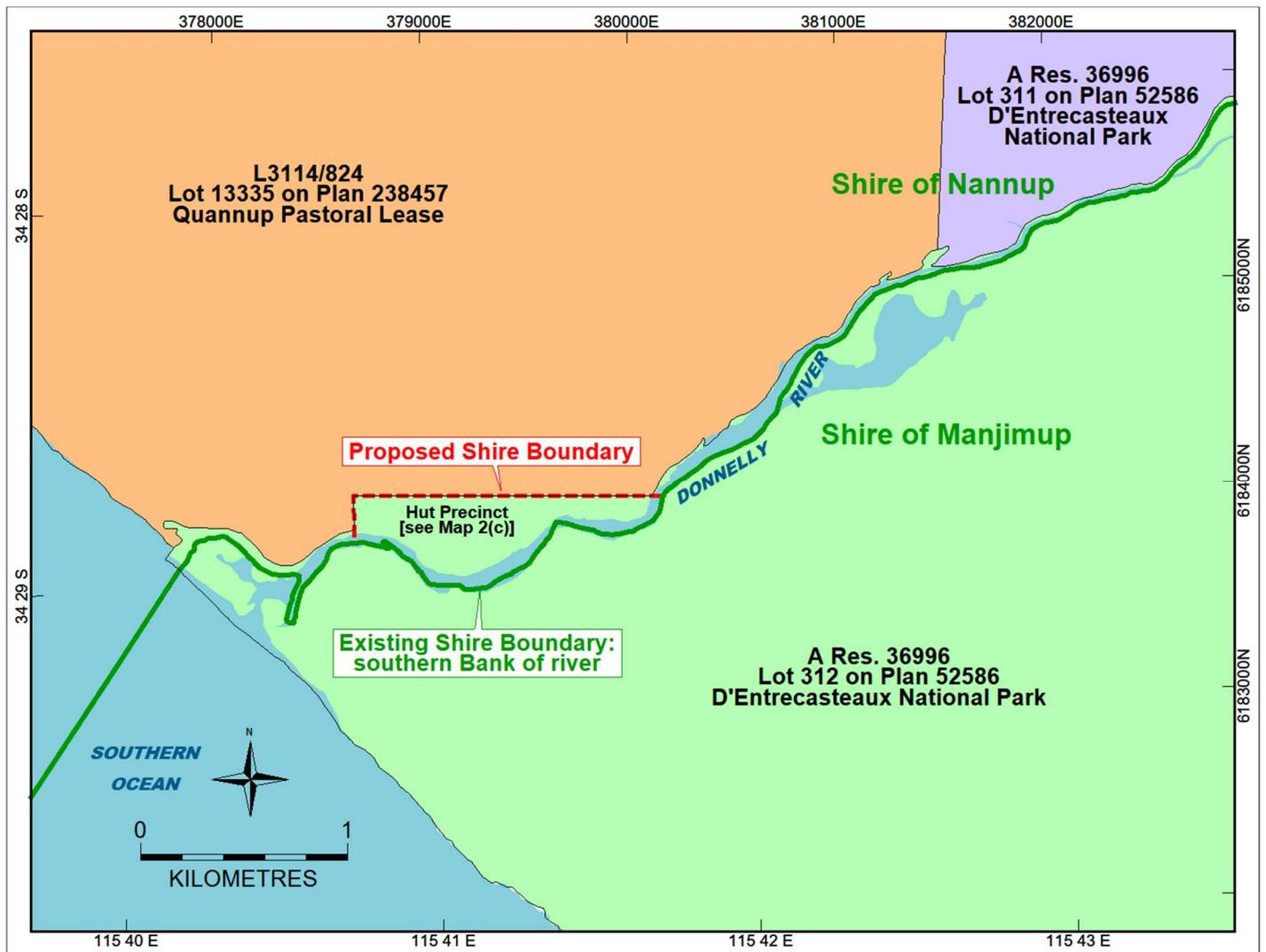
Appendix 1

Map 1: Location Map

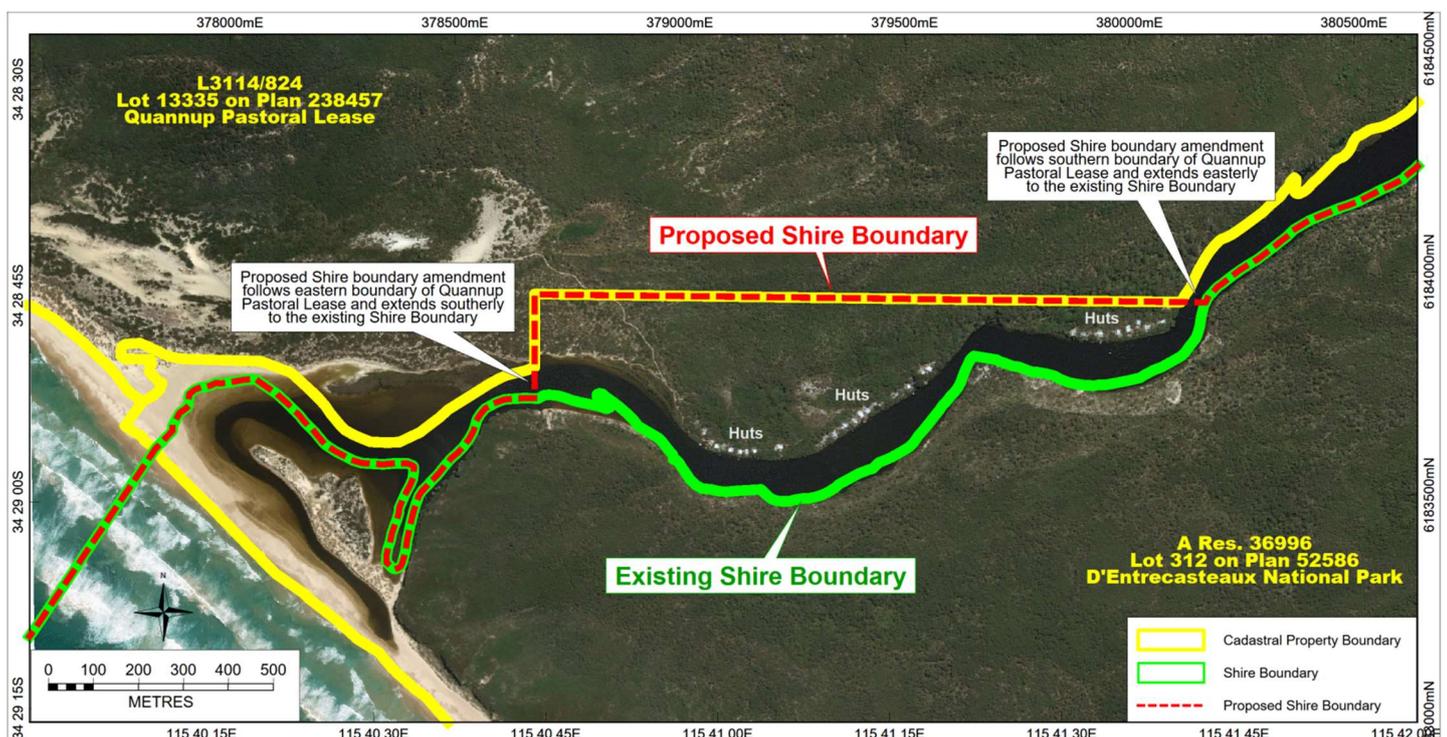


Map 2: Shires of Manjimup and Nannup, Hut Precinct, Quannup Pastoral Lease and Proposed Boundary Change

Map 2(a): Overview (Not to scale)



Map (2b): Aerial View



Map 2(c): Proposal - Expanded View

