



Shire of
Nannup
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Formal Response from the Shire of
Nannup into Submission to the Local
Government Advisory Group for a
Realignment of Local Government
Boundary Change by the Lower
Donnelly River Conservation
Association

July 2019

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Overview of Submission

This whole submission, in the eyes of the Shire of Nannup, has been brought about as a result of a long running dispute between the Hut Owners and the Shire of Nannup regarding their disagreement to having Rates and Charges imposed. This is evident both through actions and actual transcript from the Lower Donnelly River Conservation Association (LDRCA). The suggestion of animosity between the two parties is based purely on financial transactions and did not exist pre 2016 (when rating commenced).

To date the applicants of this enquiry have attempted through the State Administrative Tribunal (SAT) to quash the right of the Shire of Nannup to raise Rates and Charges against the huts. This process was lengthy and time consuming on both accounts. The SAT application was initially lodged on the 28 September 2017 with a decision reached in November 2018. This final SAT decision is included within this submission for the Review Panels reference and states without question that **Rates and Charges are payable on these parcels of land under Section 6.26 of the Local Government Act 1995 (The Act)**.

The applicants argued unsuccessfully that as a result of a Public Use Plan there should be an exemption applied as per Section 6.26(2)(i) of *The Act*. However, SAT ruled that while there is in place an agreement between the former Department of Parks and Wildlife, now the Department of Biosecurity Attractions and Conservation (DBCA), the reality is that all proceeds from letting out the individual huts goes to the hut owner and not to the State Government. This is similar as with any other commercial subletting agreement between two parties. To state that this would mean the definition of a Public Use Plan would not be true.

Prior to the rating process being implemented there was no disagreement between the two parties with the Hut Owners seemingly happy for the Shire of Nannup to complete building inspections and the like on their behalf. Included with this paper is a photograph, supplied by the applicants showing the former Shire President, Mrs Barbara Dunnet, on the banks of the Donnelly River along with representatives from the LDRCA, the former Shire President of Manjimup and other dignitaries. This photo is dated in 2009 and as per the information supplied by the LDRCA was taken to show the support of the two local governments to the progression of formal leases for the now Hut Owners.ⁱ Correspondence received from the LDRCA shows a direct quote from the then Chairman of the LDRCA in 2009, Mr Peter Wood, saying ***“Visits by myself and Tony Ryan to both the Shire of Manjimup and the Shire of Nannup have proven fruitful...Whilst the Minister is here we will have support from Shane Collie and Barbara Dunnet representing the Shire of Nannup”***. This would suggest that there was no animosity between the two parties and that the Shire of Nannup had instead helped to secure the formal leases that the Hut Owners were seeking.

The Shire of Nannup would question whether the proposed local government boundary modification is more as a move to Rates and Charges under *The Act* on leasehold properties that, because of their current tenure, now are a saleable tangible asset. This is evidenced by at least one property (that the Shire of Nannup is aware of) having being sold on the open market.ⁱⁱ These now leased properties, were in the first instance illegal squatting on behalf of the families/ancestors, subsequent campaigning by both the Hut Owners and the Shires of Nannup and Manjimup led to the State Government gifting the rights to the current Hut Owners for continued Rights. Given these circumstances, the Shire of Nannup questions why Rates and Charges should not be applied to these properties in the same way as any other landowner with the ability to sell a tangible asset or derive income from the property, held either in a leasehold contract or as an outright owner. This question has already, as indicated above, been the subject of a lengthy SAT Hearing battle with the outcome being that SAT ruled that these properties should be subject to Rates and Charges.

The current proposed outcome, if completed as per applicants' request, may set a tenacious precedence for other properties, anywhere within the State of Western Australia. The precedence set would be that if owners are unhappy with Rates and Charges applied to their properties, for whatever reason, including possibly similar to this instance where the Hut Owners choose not to utilise Council services, then other disgruntled ratepayers will also apply to have their properties realigned in order to achieve a lower financial output and will use any reasoning available to them to justify that position.

Within the applicants submission there is repeated reference to the point that *"The formal shire boundaries have been irrelevant"*ⁱⁱⁱ and *"there is no historical need to contemplate local government boundaries"*^{iv} If this were true, then why is this current submission being contemplated if the real issue is not about avoiding Rates and Charges?

The Shire of Nannup would counter as a more reasonable option, that if the community were wanting to be as a whole within the one local government then why would the 10 huts (23%) currently within the Shire of Manjimup not be moved into the Shire of Nannup where the majority of the huts (77%) are currently located? This appears more logical and creates less disruption overall to change the alignment so that the Shire of Nannup boundary included all 43 properties. It is noted that the current boundary alignment ends on the southern edge of the Donnelly River. i.e. directly in front of the 10 huts within the boundaries of the Shire of Manjimup.

It is acknowledged that, through this formal inquiry, there is the requirement to cover particular areas that are requested by the Local Government Advisory Board and key areas that need to be addressed in relation to the LDRCA submission, however the above statements, in the Shire of Nannup's view, remain the true issues at the centre of this request to realign the local government boundary.

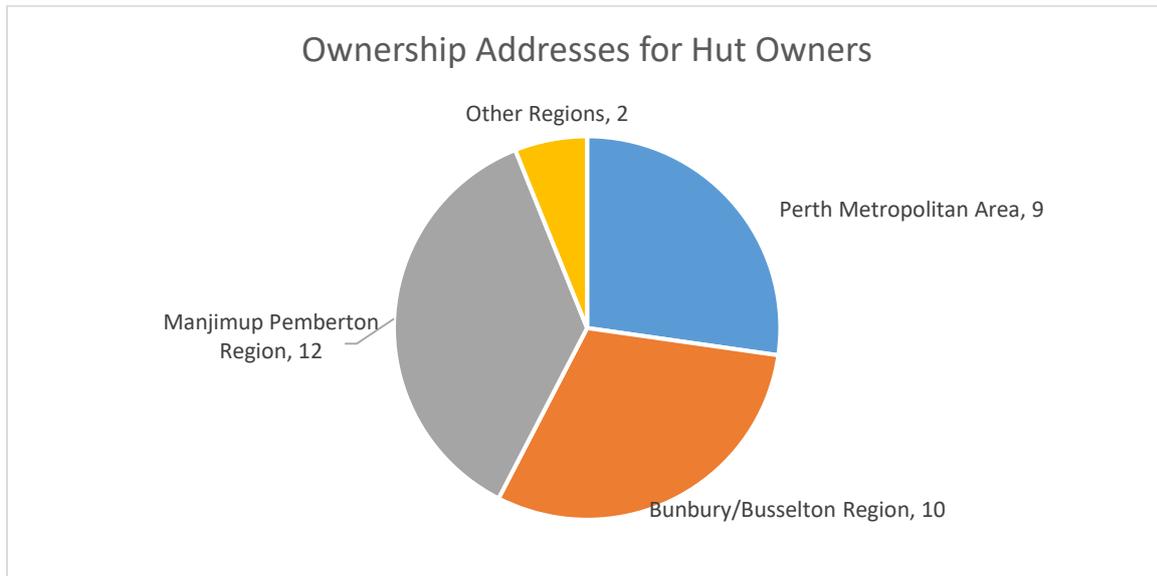
1. Community of Interest

The Community of Interest from the Shire of Nannup's perspective includes all stakeholders who are subject to Rates and Charges within the Shire of Nannup. If however, we were to address annual visitors to the area, which appears to be the logic used within the LDRCA original submission, where a figure of 896 people are stated as being within the community of the 43 huts, then the number of interested persons within the greater Nannup community would swell to well over 30,000 people. This number is based on the residents, both full time and part time owners, festival goers to all festivals held throughout the year and all other visitors who visit and enjoy the attractions within the Shire of Nannup.

Contact was made to the affected community to ascertain if the community had any concerns relating to the impact that withdrawing 33 ratepayers from a total rate base of 1150 would have. This information was circulated initially, as a result of the applicants posting on Facebook about their intentions. As a result of this post, the Shire of Nannup received numerous enquiries from concerned residents/ratepayers. It was decided to inform all ratepayers about what the impact would be, if the result is in favour of the applicants.

The Shire of Nannup would like to note that it believes the claims made from the applicants, the reason for requesting the boundary change is because the majority of the Hut Owners reside within the Shire of Manjimup is untrue. According to the latest data held at the Shire of Nannup, in relation to Hut Owners and their postal addresses 36% reside within the Manjimup or Pemberton regions and the remainder reside outside of the Shire of Manjimup boundaries. This negates the view shown and adds strength to the Shire of Nannup's case that the Hut Owners are pursuing this realignment purely on a

financial basis and not to address their sense of strong community ties to the Manjimup and Pemberton communities.



To achieve a greater sense of community within this precinct, it would make far greater sense to realign the remaining ten (10) leases that fall outside of the Shire of Nannup with the thirty-three (33) leases that already exist within the Shire of Nannup’s boundaries. This would then achieve a greater sense of community, would add weight to any improvements that may be undertaken within the area into the future and create a stronger community. The suggestion of transferring the remaining ten (10) leases to the Shire of Nannup would also align to the strong bond stated by the LDRCA, as the area would then consist of the 43 huts as a whole.

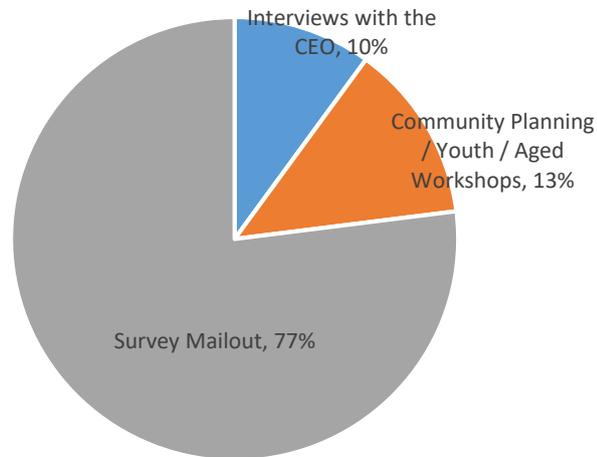
The boundary as it currently aligns is to the southern water mark of the Donnelly River. In put this in context, this is essentially at the front of the 10 Huts currently within the Shire of Manjimup’s boundaries. To realign the local government boundaries to include these 10 properties within the Shire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

Community Strategic Plan 2017 - 2027

As part of the Shire of Nannup’s Integrated planning documents and in particular the Community Strategic Plan there are clear strategic directives given to Council from the community. These directives are considered annually within the budget making process to ensure that the communities expectations have been taken into consideration and wherever budgetary consideration allows these strategic goals/initiatives are being catered for.

Extensive community consultation is completed every four years to ensure that these goals remain constant within the greater community. As an example, in 2017, when the last consultation period was completed, all ratepayers received a mail out asking for their participation. This could be completed either in person, on line via Survey Monkey, by completing a hard copy of the questionnaire sent with the mail out or by attending the community focus nights. As members of the greater Shire of Nannup community the Donnelly River Hut Owners was included within this process.

Consultation Process followed for Community Engagement



The current Community Strategic Plan 2017 to 2027 is the result of this process. Within this plan there are 6 community statements:

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

From these six community statements, a further 16 themes were prioritised with the intent that these will be the focus for at least the next four years, until a further review will be completed. The current Community Strategic Plan has a shelf life of ten years up to the year 2027. While ten years may seem a long time to work towards these themes, the reality is that as a result of budgetary constraints there is a need for an extended time frame in order to achieve some of the larger priorities of the community.

For a full copy of this current plan please refer to the Shire of Nannup's website www.nannup.wa.gov.au . On the following pages are areas where these themes/priorities are demonstrated or are currently being worked towards in reference to the Lower Donnelly River area.

Focus Point	Strategies	Actions
<p style="text-align: center;">1.1 All of Us / Who we are:</p> <p>We will retain pride in being a small but friendly town that is a welcoming place to live and full of wonderful people</p>	<p>Promote a connected, safe and healthy town</p>	<p>The Shire of Nannup has continued to work towards achieving outcomes for the Donnelly River Hut Owners. In 2009, Council endorsed with the Shire of Manjimup and Hut Owners that this community should be granted permanency. There were also numerous Council Information Session Items dedicated to the support offered to the LDRCA in their bid to legitimize long term leases^v</p> <p>8225 PINKERTON/LORKIEWICZ</p> <p>That Council advise the Minister for the Environment and the Lower Donnelly River Conservation Association that it has no objection to the 43 huts located on crown land near the mouth of the Donnelly River being legitimized by way of a long term lease through the Department of Environment and Conservation (say 21 years) and recommends the following conditions as part of that lease:</p> <ol style="list-style-type: none"> 1. All huts should comply with the Health Act 1911. 2. All huts should meet the requirements of the Building Code 2006. 3. Consideration be given to the development of a public access facility including toilets and a shelter as well as making available one or two of the huts for community/public use, with suitable management arrangements being put in place between the Department of Environment and Conservation and the Lower Donnelly River Conservation Association. 4. That the Department of Environment and Conservation be responsible for the administration of points 1, 2 and 3 above. <p style="text-align: right;">CARRIED 7/0</p> <p style="text-align: right;">June 2009 Ordinary Meeting of Council</p>
	<p>Value our heritage</p>	

Focus Point	Strategies	Action
<p style="text-align: center;">2.1 The Big Picture: We will have a sustainable, innovative and equitable economy</p>	<p style="text-align: center;">Work collaboratively with State and Federal Government agencies to improve our economy</p>	<p>The Shire of Nannup has an approximate 87% of land currently vested with State or Federal Government. The impact of this on the community is such that the remaining 13% of land owners must meet the rate requirement each year.</p> <p>It is for this reason that once the leases were formalised, and the land use of the huts was no longer “public use” in an effort to remain equitable and fair to the entire land owners/lessees within the whole of Nannup the decision was made to rate these properties. To not follow the Local Government Act 1995 S6.26 would be inequitable in that the 2.17% of overall rates raised within this area would have had to be borne by the remainder of our community.</p> <p>The decision, to rate the properties, was not completed without full due process being followed. Consultation with DBCA, Dept. of Local Government and legal representation confirmed that these properties, as a saleable, tangible asset that in effect were obtained in the first instance as a result of illegal occupation of crown land should be treated in the same manner as all other saleable tangible assets within the Shire of Nannup boundaries. To not follow this process is an example of poor governance on behalf of the remaining ratepayers.</p>

Focus Point	Strategies	Action
<p style="text-align: center;">3.1 Our Shire and Streetscape: Keep the charm and fabric of our unique shire and upgrade the amenity</p>	<p>Well maintained quality infrastructure for our community and visitors and to promote activity</p>	<p>Maintain our beautiful town, streetscape, public buildings, roads, cemetery and parks.</p> <p>The maintenance of these facilities is for the whole of Nannup community. This includes the residents of the Donnelly River Huts. As shown within the graph earlier, there are a considerable number of Hut Owners who are travelling to their huts from the North. The Shire of Nannup would love for these occupants to stop and enjoy the facilities and charm of Nannup's streetscape, public buildings and the like.</p>
	<p>Capture and promote our unique charm and fabric</p>	<p>Maintain the importance of heritage within the local planning scheme. Council would like, in the future, with budgetary consideration to work with the community of the Donnelly River to look at how the wider community can learn about the charm and history of this community.</p>

Focus Point	Strategies	Action
<p style="text-align: center;">3.2 Planning and Building: Providing a quality planning outcome for community benefit through appropriate consultation</p>	<p style="text-align: center;">Develop the south coast access and recreation opportunities</p>	<p>Work with State Government agencies to improve our coastal access and recreational opportunities.</p> <p>This work is currently in the conceptual phase with the development of the Quannup Pastoral Lease. The viability of pursuing an eco-tourism venture within this area has yet to be fully examined.</p> <p>As a result of the close proximity with the Donnelly River Hut Owners a representative from their group was invited to be a part of the working group established between all levels of government and other relevant persons. This was accepted by the LDRCA with the current chairman now sitting on this committee.</p>
<p style="text-align: center;">3.3 Communication: Increased coverage of communication systems</p>	<p style="text-align: center;">Improve all forms of communication within the shire</p>	<p>Work with relevant agencies to improve and secure appropriate local radio and television coverage, increased mobile phone and internet coverage.</p> <p>It is acknowledged that mobile coverage continues to be an area of concern for Hut Owners and day trippers to the Donnelly region. For this reason, The Shire of Nannup continues to advocate for increased mobile tower coverage in this area.</p>

Focus Point	Strategies	Action
<p style="text-align: center;">4.1 Our Sanctuary</p> <p>We will protect our amazing nature, magnificent forests, managed bush land, rivers, agriculture and our pristine coastline</p>	Protect our range of natural assets	Work with Government agencies to provide balance between natural and managed bush land, forests, rivers, agriculture and coast
	Improve awareness and increase public responsibility for our environment	To keep our community informed about our underground water supply levels, mining activity etc.
		Promote environmentally sustainable Government incentives
<p style="text-align: center;">4.2 Our Location</p> <p>Keep our beautiful combination of natural landscapes and built environments to retain our community and amenity</p>	Balance community, environment and economic development in our shire	Update the Planning Scheme and incorporate a strategy of balancing community, environment and economic development
<p style="text-align: center;">4.3 Our sustainable future</p> <p>To achieve a green clean future</p>	To support a sustainable, harmonious community and promote self sufficiency	Role model environmentally sustainable solutions such as recycling and energy efficiency

Focus Point	Strategies	Action
<p style="text-align: center;">5.1 Listen</p> <p>To listen and partner with our community leaders and all our diverse groups</p>	<p style="text-align: center;">Listen to the people</p>	<p>Conduct community engagement for significant projects and other activities.</p> <p>This is evidenced through community consultation completed as and when needed. Recent examples include the Community Strategic consultation completed in 2017 and the Declared Pest Rate consultation completed in 2018 as well as the small community consultations completed within review of current planning or other documents. The community of Donnelly River are always included with all of these consultations</p> <p>Provide open communications to residents with Shire staff and Councillor.</p> <p>This is evidenced, in relation to the Donnelly River Hut Owners, through the numerous meetings held within the past 3 years where the rate debate has been occurring. On no occasion has a request for a meeting been denied.</p>
<p style="text-align: center;">5.2 Working Together</p> <p>To have united community groups working together</p>	<p style="text-align: center;">Meeting of major community groups to share resources and goals</p>	<p>Advocate for meetings and sharing of resources.</p> <p>In 2016, a request was made from the LDRCA for resources to help purchase firefighting equipment. In this instant, due to the stipulations of the ESL funding model, this request could not be completed. However, the Community Emergency Services Manager, did extend the offer to provide firefighting training to the LRDCA community.</p>

Focus Point	Strategies	Action
6.1 Lead, Listen, Advocate, Represent And Provide: A listening leadership that provides and represents all	Be an example of sustainability	Balance our environmental, social and financial requirements.
	Provide a listening leadership that represents the people	Deliver ongoing community engagement to inform a representative community vision
	Be a role model for a cohesive and healthy community	Collaboration between Councillors and also with the community
	Provide a stable, consistent and honest government	Council and committee meetings that are open and transparent
6.2 We are one To do what is right and fair for the people	To do what is right for the people - for betterment of majority of community	Conduct community forums for project specific matters
	Maintain good working relationship with neighbouring shires	Active participation in the Warren Blackwood Alliance of Councils
The community of the LDRCA are afforded the same opportunities and actions as with the greater Nannup community.		

Response to comments relating to Heritage Listing Status

In regards to LDRCA comments relating to Heritage Listing status, the letter from the Heritage Council of WA^{vi} stated that the area had “some” cultural heritage significance but it was unlikely that the significance would meet the thresholds.

A search for properties currently listed under the Heritage of Western Australia Act 1990 within the Shire of Nannup boundaries shows that heritage listings in the Donnelly region is held by only one listing. This is for the Donnelly River Mill and Townsite Precinct which is in a completely separate region approximately 50 kilometres north of the LDRCA region.

It is worth noting that Heritage Listing is not something that effects the rating principles within the LG Act S6.26 and heritage listed properties are rated, under The Act as any other non-heritage listed property. The Shire of Nannup is struggling to understand why the issue of heritage listing is raised within this submission where the focus is around bringing the community as a whole as opposed to being split between two local government areas. There are currently 74 Municipal Heritage Listed properties vested with the Shire of Nannup. There is also the Donnelly Mill Precinct that is State

Heritage Listed. All of these properties and precincts appear to be able to forge a sense of community with the greater community of Nannup.

State Government's Upper House Enquiry

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.^{vii} *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.

State Administrative Tribunal

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 for rating purposes.*^{viii} A copy of this determination is included within this submission. 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.

Impact on the Shire of Nannup from the Community of Donnelly River Hut Owners

Section 3.1.3 of the applicants' submission references that *"the community of Donnelly River straddles both Manjimup and Nannup boundaries"*. It also states that *"formal shire boundaries were irrelevant because of the sense of community in place"*.^{ix} The question is why then is there a need to change the boundary? Continuing in the same theme, if there is a need to change the boundary why would not propose the more logical approach in the 10 remaining huts joining the Shire of Nannup to make a whole community unless the premises of the argument was purely around the application of Rates and Charges.

Included within the submission put forward from the LDRCA was reference to huts having to be brought up to a standard of safety and hygiene compliant with the Shire of Manjimup.^x This is an incorrect statement as the requirements are legislative requirements that all local governments must

adhere to. As shown both within the Council Resolution of Item 10.6 in the June 2009 Ordinary Council Meeting^{xi} and within the submission to the SAT hearing, The Shire of Nannup endorsed advocating for

“the 43 huts located on crown land near the mouth of the Donnelly River being legitimised by way of a long term lease through the Department of Environment and Conservation (say 21 years) and recommends the following conditions as part of that lease:

1. *All huts should comply with the Health Act 1911.*
2. *All huts should meet the requirements of the Building Code 2006.*

Consequently, there was in place an agreement between the Shires of Manjimup and Nannup for the three-year period in which the huts were required to be brought up to a standard for inspections to be completed by a representative of the Shire of Manjimup. This was a negotiated agreement between the two Councils and has no bearing on this argument. All health services and housing matters are still the responsibility of the Shire of Nannup and are provided by same. The choice to delegate and negotiate an agreement between another local government to ensure that services are provided is afforded to all local governments and does not negate this responsibility or any costs associated with this provision. Similar Resource Sharing agreements are reached with other neighbouring shires/cities including ranger services and IT.

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.

Response to Quannup Pastoral Lease comments by applicant

It is unclear why the reference to the Quannup Pastoral Lease is shown to have a lack of empathy for the Hut Owners. While this pastoral lease is a neighbouring property to the Hut Owners, it is a project that currently is only in inception phase. In an effort to ensure that the Donnelly River Hut Owners were included within any actions planned for this area, an invitation was extended to the group to have a member join the advisory committee. This invitation was accepted and Mr Brad Russell now is the LDRCA’s group representative on the Quannup Working Group.

Further, it is queried why the proposal of an Eco-Tourism venture within the Quannup Pastoral Lease would be objected to the Hut Owners? How can a venture which would afford other people the same

luxury of being able to holiday within this region in a manner that is proposed to be sustainable and sympathetic to the natural environment show a lack of community values especially to the LDRCA community? Provision for the greater community to experience this region was a key focus point and point of difference that the Hut Owners used in their defence as a reason to be allowed to keep the huts in the first instance within the State Government's Upper House Inquiry. However, the inclusion of this comment within this submission, by the applicants, debates if this was a true reflection of feeling held by the Hut Owners.

Sense of Community

As shown below in the Demographic Trend table, The Shire of Nannup has been recognised as a community with a large volunteer basis. 33.9% of people currently living within the Shire regularly volunteer and work in an unpaid capacity. This is 15% higher than both the state and national averages. When reviewed alongside the sense of community shown by the LDRCA group it would appear that both communities have similar community ethics.

This is in direct opposition of the opinions expressed by the Hut Owners. The Shire of Nannup would encourage the Hut Owners to look at ways in which they could build relationships with other community members as the strong sense of community is a common denominator within all communities in Nannup as a whole.

2. Physical and topographical feature

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 Woodaburrup 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. This is shown within the map submitted by the applicants and shown at Appendix 1 of their document.

3. Demographic trends

	Shire of Nannup %	Shire of Manjimup %	State Average %	National Average %
Median Age	53	40	36	49
Highest level of education achieved				
<i>Bachelor Degree level</i>	12.9	7.9%	20.5%	22%
<i>Advanced Diploma / Diploma Level</i>	9.2	5.3%	8.9	8.9
<i>Certificate Level IV</i>	2.9	3.0%	3.1	2.9
<i>Certificate Level III</i>	14.2	16.5%	14	12.8
<i>Year 12</i>	14.3	13.6%	16	15.7
<i>Year 10</i>	17.1	18.6%	11.8	10.8
Employment				
<i>Work Full Time</i>	24.4	55.3%	12	13
<i>Work Part time</i>	36.9	31.1%	30	30.4
<i>Unemployed</i>	6.6	5.8%	7.8	6.9
Median Weekly Incomes				
<i>Personal</i>	\$515	\$602	\$724	\$662
<i>Family</i>	\$1,189	\$1,376	\$1,910	\$1,734
<i>Household</i>	\$955	\$1,118	\$1,595	\$1,438
Unpaid Work				
<i>Unpaid domestic work</i>	74.5	70.3%	69.4	69
<i>Cared for Children</i>	22.1	26.6%	28.5	27.6
<i>Provided unpaid work for a person with a disability</i>	10.8	11.5%	9.8	11.3
<i>Voluntary work through an organisation or group</i>	33.9	25.5%	19	19

Within the 2016 Australian Bureau of Statistics, the following demographic snapshot is shown for the Shire of Nannup.

1. Total population is 1328 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 applications 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. 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.

4. Economic factors and Matters Affecting the Viability of a Local Government

Economic factors associated with removing the 33 huts from the Shire of Nannup have already been alluded to within the context of this submission. However, in order to fully illustrate these factors, the following detail is supplied.

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. \$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.

For the benefit of the reader, the overall rate requirement each year per local government is not adjusted by the number of properties contained within that local government. Local Governments, annually produce a budget for the upcoming period. This is a combination of costs associated with 'business as usual, i.e. wages, utilities, insurances and the like; these are then combined with capital projects for the upcoming period and one-off spends. These expenses are then offset by the known income options for the upcoming period including fees and charges, federal and state government funding, interest, rental income and any other known miscellaneous income. The difference between these Income and the expense combined figures forms the shortfall that will be raised through rate income. Therefore, if you reduce the number of ratepayers within a local government you increase the overall rate requirement per ratepayer.

For this reason, 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 author on the financial mechanisms of local governments and shows a total lack of concern for the whole of community.

The Shire of Manjimup Shire 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,”*^{xii}

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 1150. 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. Effective delivery of Local Government Services

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.

Within the State Government’s Upper House transcript^{xiii}, the Honourable Kate Doust asked Mr Tony Ryan, the former president of the LDRCA about the relationship between the Donnelly River association, shack site holders and the local governments of the area. The following was the response given:

Hon KATE DOUST: *It has been very interesting to talk to the various groups involved with shack sites about their relationship with local governments. Maybe at this point you might like to explain to us the relationship between the Donnelly River association, shack site holders, and the local governments in the area.*

Mr Ryan: *That has been part of my job—to canvass the shires. We have a very good relationship with the shire president and the CEO of the Shire of Manjimup. We have the full support of all councils; we have done the same with Barbara Dunnet, the shire president of Nannup, and they are very supportive of us. We have written submissions in.*

Hon KATE DOUST: *Would they support a continuation of the shacks at these locations?*

Mr Ryan: Yes, their opinion is that they would like us to go for some sort of management plan, whether it be DEC controlled or shire controlled. What people seem to have in mind is something similar to what has happened at Windy Harbour; that is what people are thinking of, foremost, but we do not know, and we are only hoping that whatever management plan we get into, we will have some input into it. That, to me, is pretty important. But the relationship there is excellent. When we Environment and Public Affairs Friday, 28 January 2011 — Session One Page 6 had the last minister, Donna Faragher, down to the Donnelly—not the June just gone, but the June before—she came down with Barbara Dunnet, the Nannup shire president, the CEO of Nannup, and the shire president and the CEO of Manjimup shire. We have a photo of them all here at the site where we were intending to build a gazebo-type shelter for daytrippers. We just do not seem to be getting any answers; we want to fund it and build it, because the daytrippers and campers are a pretty important part. We want to fund it out of our own funds, but we cannot seem to get anywhere.

The CHAIRMAN: But you are saying that you have a good relationship with those councils.

Mr Ryan: A very good relationship, and the Nannup council was unanimous.

The CHAIRMAN: Are you in agreement with their requirements? We understand that they have talked of long-term lease if all huts meet health requirements and building requirements and that management arrangements exist for promotion of access to short-term rental.

Mr Ryan: If that is what we have to comply with, we will have to comply with it. We have no options, have we?

The CHAIRMAN: No, I was wondering whether you were all in agreement with that.

Mr Ryan: Yes, we are.

This transcript would suggest that the LDRCA and Hut Owners, prior to the implementation of rates, considered the relationship between the LDRCA, Hut Owners and the Shire of Nannup to be a very good relationship. This would further suggest that this overall submission is possibly not as a result of a sense of community but more as a submission that is made as a way of ensuring that the fair and equitable process of being included within the rate base of the local government district that their holiday homes are located within does not occur.

Any Fire and Emergency Service requirements, in the case of an emergency would be fulfilled by the Shire of Nannup as per legislations. While the Shire of Nannup is aware that there are Hut Owners who have ties to the emergency services within the Shire of Manjimup, the chain of command, should an emergency arise at the Donnelly River would see the lead agency be either DFES, DBCA or the Shire of Nannup. This would be dependent on the level of the emergency and the actual instigating site of the emergency.

The remaining comment from the applicants in regards to the residential addresses of the Hut Owners being for the most part residents of the Shire of Manjimup is in the view of the Shire of Nannup incorrect as previously stated.

6. History of the Area

The history of this site dates back to the late 1800's. Links can be shown to families from the Manjimup, Nannup and Vasse regions. These included pastoral grazing leases by pioneering families from Manjimup, Nannup (The Scott family in 1861) and Vasse (The Bussell Family) areas.

Later, the river became popular with campers who at some point in time started to illegally build huts on the banks of the Donnelly River within State Government vested land. This illegal squatting forms the basis for the descendants of the original squatters to place demands on the State Government for the Rights to occupy this land.

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.

7. Transport and Communication

Transport to the huts is completed both by road up until the Donnelly River and then by boat from the boat ramp to the huts. Roads used to arrive at the boat ramp are dependent on where Hut Owners permanently reside. As shown in the section above this is varied. Some Hut Owners reside in the metropolitan areas, some within the Bunbury/Busselton areas and others within the Manjimup region. Therefore, the roads used will be either state or local government responsibility. For the Hut Owners travelling from Busselton and Margaret River, the roads used are very likely to have a combination of State and Shire of Nannup funding applied to them.

In regards to communication, mobile phone reception continues to be an issue. To this end the Shire of Nannup continues to lobby for better phone coverage for the entire shire

as a whole. Given the remoteness of this community it is a worrying factor that there is a real possibility that in the case of an emergency, communication between the Hut Owners and the rest of the world is compromised. This then forms an objective within the Shire of Nannup's Corporate Strategic Plan -

<p>3.3 Communication: Increased coverage of communication systems</p>	<p>Improve all forms of communication within the shire</p>	<p>Work with relevant agencies to improve and secure appropriate local radio and television coverage, increased mobile phone and internet coverage.</p>
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8. Conclusion

The Shire of Nannup would like to thank the Local Government Advisory Board for taking the time to consider this submission. It is hoped that at the conclusion of reading all of this submission and the attachments thoroughly, it will become evident that the Shire of Nannup continues to work with the LRDCa to achieve the sense of community desired. It is also hoped that the reader can acknowledge that the true reasoning behind the request to realign the boundaries is more in an attempt to avoid paying Rates and Charges to the community in which the holiday homes are situated.

ⁱ Photograph taken on the banks of the Donnelly River with visiting CEO's, Shire Presidents and dignitaries, information supporting this photograph included within Upper House Inquiry into Shack Sites page 6.

ⁱⁱ Screenshot from Real Estate agency – Landmark Harcourt's

ⁱⁱⁱ Applicants submission Point 3.1.3, - Attachment 3

^{iv} Applicants Submission 3.2 – Attachment 4

^v Council Items endorsed by Council to show support for the LDRCA in their bid to legitimise long term leases – Attachment 5

^{vi} Letter from Heritage Council of Western Australia – Attachment 6

^{vii} Page 13 and 14 of the State Government's Upper House Transcript – Attachment 7

^{viii} Final determination CC2239 of 2017 - Russell & Anor v Shire of Nannup – Attachment 8

^{ix} Applicants submission Point 3.1.3, - Attachment 3

^x Applicants submission Point 3.1.3, - Attachment 3

^{xi} Item 10.6 of the June 2009 Ordinary Meeting of Council – Attachment 5

^{xii} ABC South West Transcript printed 12/07/2019 – Attachment 9

^{xiii} Full transcript of evidence 28 January 2011 – Inquiry into Shack Sites – Attachment 10



Shire of
Nannup
rest • connect • grow

Attachments to the Formal Inquiry into The Proposed Donnelly River Huts Local Government Realignment

July 2019

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Attachment 1

Photograph taken on the banks of the Donnelly River with visiting local governments CEO's, Shire Presidents, LDRCA representatives and visiting dignitaries July 2009

LOWER DONNELLY RIVER CONSERVATION ASSOCIATION

Page 2 of 2



!-R
Tony Ryan BARBAR DUNNETT DONNA FATQUAT
PETER WOOD WAYNE DELAMPO.

06-Jul-09

Attachment 2

Web Posting for Hut Sold

found on the 10 July 2019. www.realestate.com.au/sold/property-house-wa-pemberton-122408734

The screenshot shows a web browser window displaying a real estate listing on realestate.com.au. The browser's address bar shows the URL: <https://www.realestate.com.au/sold/property-house-wa-pemberton-122408734>. The page features a green header with the 'LANDMARK Harcourts' logo. The main content area displays a large photograph of a small, light-colored hut with a covered porch, situated outdoors. A yellow 'SOLD' badge is overlaid on the top left of this image. To the right of the main image is a vertical gallery of smaller photos showing the interior of the hut, including a bedroom with a bed and a kitchen area. Below the main image, the text reads 'Hut 12 Donnelly River, Pemberton, WA 6260' followed by a star icon, '2 1 House', and 'Contact agent Sold on 07 Jul 2016'. On the right side, there is a contact box for 'Landmark Harcourts WA' with the address 'Level 1, 55 Belgravia Street, Belmont, WA 6104' and a button that says 'Ask about this property'. The Windows taskbar is visible at the bottom of the screen, showing the time as 3:25 PM on 10/07/2019.

Attachment 3

Applicants submission point 3.1.3

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.

Attachment 4

Applicants submission point 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.

Attachment 5

Extracts from Ordinary Meeting of Council minutes – July 2009 and other documented support from Council showing support for the LDRCA in their bid to legitimise long term leases.

Minute Extract – July 2009

8225 PINKERTON/LORKIEWICZ

That Council advise the Minister for the Environment and the Lower Donnelly River Conservation Association that it has no objection to the 43 huts located on crown land near the mouth of the Donnelly River being legitimised by way of a long term lease through the Department of Environment and Conservation (say 21 years) and recommends the following conditions as part of that lease:

1. All huts should comply with the Health Act 1911.
2. All huts should meet the requirements of the Building Code 2006.
3. Consideration be given to the development of a public access facility including toilets and a shelter as well as making available one or two of the huts for community/public use, with suitable management arrangements being put in place between the Department of Environment and Conservation and the Lower Donnelly River Conservation Association.
4. That the Department of Environment and Conservation be responsible for the administration of points 1, 2 and 3 above.

CARRIED7/0

Attachment 5 continued...

April 2009 Information Session Item

Donnelly River Huts

Shane Collie – Chief Executive Officer

Shire President and Chief Executive Officer met with representatives of the Lower Donnelly River Association on 1 April 2009. The meeting was held in relation to the huts located on the lower reaches of the Donnelly River. Of the 43 huts, 33 are located in the Nannup Shire and it understood that the Minister for the Environment will shortly be signing off on the Shannon/D'entrecasteaux National Park plan which gives six years until the expiration of lease agreements for the huts. When that six years expires it is understood that the huts will be demolished unless other arrangements acceptable to the Minister are put in place

Representatives of the association were seeking Council's assistance to lobby or support the position of the group which was to retain the huts. The group have canvassed a number of possibilities including the construction of a community based shelter at the river mouth as well as exploring the heritage value and possible shared use of some of the huts.

At the time of writing the association were going to be writing formally to Council and when the correspondence is received an agenda item is anticipated to be prepared.

October 2009 Information Session Item

Donnelly River Huts

Craige Waddell – A/Chief Executive Officer

Councillors will recall discussing the Donnelly River Huts located on the lower Donnelly River at the July 2009 meeting of Council. Council resolved as follows:

That Council advise the Minister for the Environment and the Lower Donnelly River Conservation Association that it has no objection to the 43 huts located on crown land near the mouth of the Donnelly River being legitimised by way of a long term lease through the Department of Environment and Conservation (say 21 years) and recommends the following conditions as part of that lease:

- 1. All huts should comply with the Health Act 1911.*
- 2. All huts should meet the requirements of the Building Code 2006.*
- 3. Consideration be given to the development of a public access facility including toilets and a shelter as well as making available one or two of the huts for community/public use, with suitable management arrangements being put in place between the Department of Environment and Conservation and the Lower Donnelly River Conservation Association.*
- 4. That the Department of Environment and Conservation be responsible for the administration of points 1, 2 and 3 above.*

A response has been received from Hon Donna Faragher, Minister for Environment; Youth stating that she is currently considering long-term management options for the Donnelly river huts with the aim of providing a balanced outcome to the issue, and will advise Council of the outcome in the near future.

Inquiry Into Shack Sites in Western Australia

Shane Collie – Chief Executive Officer

Attachment: 1

The State Government Standing Committee on Environment and Public Affairs has announced an inquiry into Shack Sites in Western Australia calling for submissions by 23 July 2010.

A submission has been prepared and forwarded on behalf of the Shire of Nannup based on Council's July 2009 resolution in respect of the Donnelly River huts which is repeated below:

“That Council advise the Minister for the Environment and the Lower Donnelly River Conservation Association that it has no objection to the 43 huts located on crown land near the mouth of the Donnelly River being legitimised by way of a long term lease through the Department of Environment and Conservation (say 21 years) and recommends the following conditions as part of that lease:

- 1. All huts should comply with the Health Act 1911.*
- 2. All huts should meet the requirements of the Building Code 2006.*
- 3. Consideration be given to the development of a public access facility including toilets and a shelter as well as making available one or two of the huts for community/public use, with suitable management arrangements being put in place between the Department of Environment and Conservation and the Lower Donnelly River Conservation Association.*
- 4. That the Department of Environment and Conservation be responsible for the administration of points 1, 2 and 3 above.”*

Minimal time was required to complete the submission as Council's position has previously been stated.

April 2011 Information Session Item

Donnelly River Huts Visit

Robert Jennings – Chief Executive Officer

On Thursday, 31 March 2011 Cr Dunnet and CEO Robert Jennings joined the Minister for Environment and Water, Bill Marmion and Minister for Agriculture, Food and Forestry, Terry Redman, representatives from the Shire of Manjimup as well as several Department of Environment and Conservation representatives to visit the Lower Donnelly River Conservation Association (LDRCA) at one of their huts.

Chairman for the LDRCA, Tony Ryan, appealed to the Minister for Environment and Water to support their proposal to seek a 21 year lease for their buildings, currently located on crown land.

Support for the LDRCA was previously resolved by Council at its July 2009 meeting. At the time of writing, Minister Marmion was yet to announce any decision on the matter.

Attachment 6

Letter from Heritage Council WA

Appendix 5(a)

Your ref:
Our ref: P17517
Enquired: Eddie Marcus 9221 4177.
heritage@hc.wa.gov.au



**HERITAGE
COUNCIL**
OF WESTERN AUSTRALIA

12 September 2006

Mr Noel Hartnett
Chairman
Lower Donnelly River Conservation Assn
c/o RMB 20
MANJIMUP WA 6258

Dear Mr Hartnett

HERITAGE NOMINATION
P17517 Donnelly River Mouth Hut Precinct, D'Entrecasteaux National Park

Thank you for nominating the above place to the Heritage Council for assessment. Our Register Committee considered the referral at their meeting on 28 July 2006.

At the meeting, it was determined that while the place has some cultural heritage significance, it was unlikely that it would meet the threshold for entry on the State Register of Heritage Places. This determination may be reviewed should further information become available.

However, we have informed the Department of Environment and Conservation that we will require a heritage assessment of the area before they make any changes to the above place.

If you have any further queries regarding this matter, please contact me on (08) 9221 4177.

Once again, thank you for your referral.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Penny O'Connor', written over a horizontal line.

Penny O'Connor
SENIOR CONSERVATION OFFICER (ASSESSMENT)

cc: Annette Green, Regional Heritage Advisor, Great Southern

108 Adelaide Terrace, East Perth, Western Australia 6004 PO Box 6201, East Perth, Western Australia 6892
Telephone: (08) 9221 4177 Facsimile: (08) 9221 4151 Freecall: 1800 644 177
Email: heritage@hc.wa.gov.au 10%bclta: www.heritage.wa.gov.au



Attachment 7

Transcript from Upper House transcript pages 13, 15 and 16 – Hut Owners’ responses to use of huts by wider public and inequity of associated with leases being granted on land as a result of illegal squatting

Environment and Public Affairs Friday, 28 January 2011 — Session One Page 13

Mr Ryan: Yes.

Mr Serafini: Yes.

The CHAIRMAN: Okay. I would like you to clarify also: in your recommendations, point 8, you are saying —

Usage of “shack settlements” is inclusive, meaning that access is available in a controlled and sustainable way to the wider public ...

Do you mean in that recommendation the right to rent the property or are you talking about just other people coming in and camping there? Which way do you —

Mr Ryan: I think that is regarded more friends of the family and other descendants of the family and people —

Mr Lush: My understanding is that for general public use there would be some sort of camping facility provided, similar to the Bibbulmun hut sort of shacks, and that people would use those. If there was an overflow from that sort of facility, I expect it to fall back to the verandas again, but I have not heard—and Tony had better clarify this—any mention in my association with different members of people leasing or renting or subleasing their huts to holidaymakers.

Mr Ryan: I am not aware of that.

The CHAIRMAN: So that would be in conflict with what the local government wants?

Mr Serafini: I do not think so.

The CHAIRMAN: No?

Mr Lush: Tony, can you comment on what the local governments, you think, are thinking for wider public use?

Mr Ryan: I do not know. The talks I have had with the shires, really, they would just be happy to see us have a plan, say, have a lease for 20 or 21 years and a management plan that we abided by. I

do not think they want—they have not really got into any more specifics than that.

The CHAIRMAN: This is something that I did read from one of the shires. It seemed to want more, I suppose, equity and it mentioned something about that management arrangements exist for

the promotion of access for short-term rental.

Mr Ryan: See, that has been more comments from DEC. DEC would like us to have—originally this is what they have been saying—five, six, seven, eight or however many huts available for that

use. That is what they are saying.

The CHAIRMAN: This is from the Shire of Manjimup actually.

Mr Ryan: Is it? All right. So they are saying they want —

The CHAIRMAN: There just seems to be a little bit of confusion between you —

Mr Ryan: I have been there quite a few times, Brian, and I have not heard it mentioned they would

want that. They have written that submission without our knowledge, I would say.

Mr Lush: I think the association is keen that wider public use happens in a sustainable way; that whatever facilities for camping are available that fits in with the tone of the place. At one stage, different huts if they became available, they could be made available for camping, but then you have got the issue of kerosene fridges and all sorts. So I can imagine if a hut becomes available and

there is nobody interested in keeping it going, you would get rid of the hut and you would replace it with a camping shelter, which allows people to have a roof and some warmth, and there is water and a reasonable toilet available. I think that is for the hut owners. People camping on the veranda they need to go toileting: if the toilet is a camp toilet, the people might prefer to go in the bush at

Environment and Public Affairs Friday, 28 January 2011 — Session One Page 15

The CHAIRMAN: Just along the same issue, I suppose, I have to ask the question about equity. To the public who wish to go there but cannot use your huts and you did not buy the huts, how do you justify that you should keep them?

Environment and Public Affairs Friday, 28 January 2011 — Session One Page 16

Mr Lush: I think then the visitor information, the interpretative facility, needs to explain that these are a part of a past heritage; start to tell people that families used to camp on the coast.

Attachment 8

State Administrative Tribunal Decision November 2018

Matter No: CC 2239 of 2017
Contact Officer: Suzanne
Your Ref:

Shire of Nannup
nannup@nannup.wa.gov.au

Dear Sir/Madam

Russell & Anor v Shire of Nannup

I enclose a copy of the reasons for decision and orders in these proceedings.

You may have a right to have this determination reviewed by the State Administrative Tribunal or by the Supreme Court.

If you have any enquiries, please contact the Tribunal on (08) 9219 3111.

Yours sincerely

EXECUTIVE OFFICER

9 November 2018

Enc.

JURISDICTION : STATE ADMINISTRATIVE TRIBUNAL

ACT : LOCAL GOVERNMENT ACT 1995 (WA)

CITATION : RUSSELL and SHIRE OF NANNUP [2018] WASAT
123

MEMBER : MR T CAREY (MEMBER)

HEARD : DETERMINED ON THE DOCUMENTS

DELIVERED : 9 NOVEMBER 2018

FILE NO/S : CC 2239 of 2017

BETWEEN : CLAUDE WILLIAM RUSSELL
BRADLEY WILLIAM RUSSELL
Applicants

AND

SHIRE OF NANNUP
Respondent

Catchwords:

Local government - Rates and service charges - Huts located on Crown land leases - Whether 'rateable land' - Whether land used or held for public purpose - 'Unique circumstances' of lessees alleged - Duplication of services - Rating basis

Legislation:

Local Government Act 1995 (WA), s 1.4(a)(ii), s 3.18(3)(b), s 6.17(1), s 6.26, s 6.26(2)(a)(i), s 6.28, s 6.28(2), s 6.32(1), s 6.39, s 6.40, s 6.41, s 6.41(1), s 6.44, Pt 6, Div 6

State Administrative Tribunal Act 2004 (WA), s 18(1), s 27(1), s 27(2), s 29(1), s 29(3), Div 3, Pt 4

Result:

Review application dismissed
Decision of respondent affirmed

Representation:

Counsel:

Applicants : N/A
Respondent : N/A

Solicitors:

Applicants : N/A
Respondent : N/A

Case(s) referred to in decision(s):

Nil

REASONS FOR DECISION OF THE TRIBUNAL:***Introduction***

1 Claude Russell and Bradley Russell (applicants) seek review of decisions of the Shire of the Nannup (Shire) the effect of which is to impose general rates, a waste management fee and an emergency services levy upon them. Their liability, if any, arises from the applicants' leasehold interest in a property located on Crown land within the D'Entrecasteaux National Park at the mouth of the Donnelly River in the south of Western Australia (property).

2 On the property lies a hut, one of 43 in the area in respect of which formal lease agreements were entered between with the State Government in 2015/16. The construction of the original huts was completed many years before formal approval was required by any government, and the huts have been occupied, to a lesser or greater extent, by the same people, their families and friends during those years. It was only after those responsible for the huts, the former Department of Conservation and Land Management, and local government authorities entered into an agreement for a two-year moratorium to bring huts up to current Building Code, which, when achieved, resulted in formal leases being entered into for a period of 21 years, that the Shire included the properties within its rate base under the *Local Government Act 1995* (WA) (LG Act).

3 The applicants submit that the imposition of rates and service charges in this way was unexpected, and in their view, unfair, unreasonable and unjust. They summarise their arguments in seeking to overturn the Shire's decision in this regard as follows:

- Because the lessees' circumstances are unique, usual services and facilities provided by the Shire are unnecessary and appropriate;
- The decision by the Shire to rate lessees was opportunistic and motivated by a perceived ability to raise funds; and
- Other decisions by the Shire's Council have been poorly considered and demonstrate poor governance.

4 A further argument that the Shire cannot legally charge rates was contradicted by the applicants' other submissions and can be ignored.

The statutory scheme

5 In general terms, a local government is authorised by Pt 6 Div 6 of
the LG Act to levy rates and service charges.

6 A general rate may be imposed on rateable land within the district
of the local government and a service charge may be imposed on land
within its district, in accordance with s 6.32(1) of the LG Act.

7 Section 6.39 and s 6.40 of the LG Act require the local
government to enter details of a resolution to impose rates into a rates
record compiled by it and to amend its rate record for each current
financial year to ensure the information contained in it is current and
correct. This information comprises prescribed details in relation to all
rateable land and land on which a service charge is imposed.

8 Notice of the imposition of rates and services charges is required
after completion or amendment of the rate record in accordance with
s 6.41 of the LG Act. Section 6.41(1) states that a rate notice is to be
given to the owner of rateable land and the owner or occupier of land
on which a service charge is imposed. By s 6.44 of the LG Act, the
owner for the time being of land on which a rate or service charge has
been imposed is liable to pay the rate or service charge to the local
government.

9 The applicants' potential liability as owner arises by reason of the
following alternative in the definition of 'owner' in s 1.4(a)(ii) of
the LG Act:

a Crown lessee or a lessee or tenant under a lease or tenancy agreement
of the land which in the hands of the lessor is not rateable land under
this Act, but which in the hands of the lessee or tenant is by reason of
the lease or tenancy rateable land under this or another Act for the
purposes of this Act[.]

10 Section 6.26 of the LG Act states relevantly:

(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[.]

- 11 Section 6.28 provides for the basis of rates as follows:
- (1) The Minister is to •
 - (a) determine the method of valuation of land to be used by a local government as the basis for a rate; and
 - (b) publish a notice of the determination in the Government Gazette.
 - (2) In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be •
 - (a) where the land is used predominantly for rural purposes, the unimproved value of the land; and
 - (b) where the land is used predominantly for non rural purposes, the gross rental value of the land.
 - (3) The unimproved value or gross rental value, as the case requires, of rateable land in the district of a local government is to be recorded in the rate record of that local government[.]

12 Section 6.17(1) deals with how the level of fees and charges is set:

- (1) In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors •
 - (a) the cost to the local government of providing the service or goods; and
 - (b) the importance of the service or goods to the community; and
 - (c) the price at which the service or goods could be provided by an alternative provider.

The Tribunal's review

13 This matter falls within the review jurisdiction of the Tribunal, the subject of Div 3 Pt 4 of the *State Administrative Tribunal Act 2004* (WA) (SAT Act). In exercising its review jurisdiction, the Tribunal is required to deal with a matter in accordance with the SAT Act and the enabling Act (in this case, the LG Act): s 18(1) of the SAT Act.

14 The review is by way of a hearing de novo and may involve consideration of new material whether or not it existed at the time the decision was made: s 27(1) of the SAT Act. The purpose of the review

is to produce the correct and preferable decision at the time of the decision upon review: s 27(2) of the SAT Act.

- 15 The Tribunal has functions and discretions corresponding to those exercisable by the decision maker in making the decision under review: s 29(1) of the SAT Act. The Tribunal may make any order it considers appropriate, including to affirm the decision, vary the decision or set it aside and substitute its own decision, or send the matter back to the decision maker for reconsideration: s 29(3) of the SAT Act.

Details of the applicants' grounds for avoidance or exemption and change to the rating basis

- 16 The applicants' 18 page written submission contains a great amount of detail in relation to the circumstances of the applicants' lease and those in similar and dissimilar situations; usage of the hut on their lease in the context of their argument based upon its alleged 'public use'; criticism of the Shire in relation to the rating of the applicants' and other property holdings and extraneous matters; the question of the appropriate basis of rating land (unimproved value or gross rental value); and assertions going to the legislative basis upon which the Shire is entitled to charge rates and services and whether that basis applies to the property and others like it.

- 17 Much of the detail provided in the written submission has little or no significance to the task of the Tribunal as identified by me. This lack of significance is reflected in two of the general heads of argument referred to in my introduction. The motivation of the Shire (alleged to have been an opportunistic money grab) is neither here nor there on the Tribunal's review, the objective of which is to determine the correct and preferable decision when the same functions and discretions available to the Shire are applied. The claim that the Shire's Council has demonstrated poor governance in relation to decisions other than those under review is even further removed from the Tribunal's task.

- 18 The applicants referred to the lessees' circumstances as 'absolutely unique', a reference to the isolation of the landholdings with no road access, providing low-cost holidays for extended families. Access to all leases is by boat, about 12 kilometres downriver from a landing. The 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. As a consequence of its location, lessees are self-dependent and supply all necessary materials for the

purposes of their hut stays. Additionally, it is said, lessees take all rubbish home with them.

19 By reason of the alleged uniqueness of their situation, the applicants contend that the services provided by the Shire for other ratepayers within its district are neither needed nor used by lessees including the applicants.

20 The applicants' next argument is that they are exempted by s 6.28(2) of the LG Act by reason of an alleged requirement of the lease that their hut be available for public use.

21 The applicants rely upon the incorporation of a recommendation by a Senate Standing Committee considering shack sites in Western Australia into a National Park Management Plan that the huts be retained 'for the public and members of the Association' on certain conditions. The reference to 'Association' is to the Lower Donnelly River Conservation Association, of which Bradley Russell is Chairman.

22 The applicants also rely upon a provision of their lease, clause 10(3), in terms that:

The lessees shall ensure that members and guests, the general public and other guests have access to and use of the huts held under this lease in accordance with the public use plan.

23 The 'public use plan' is described by the applicants as an agreement between the lessor, Association and lessee regarding implementation of public use. Apart from some huts being trialled for 'more commercial up-market purposes', all huts, it is asserted, facilitate free basic public use.

24 According to the applicants:

It is further contended that the Council has not recognised the cost of facilitating public use, the extent of public use available or the ongoing arrangement to develop further public use and is therefore unreasonable in its action to rate the lessee.

25 The applicants assert that the community comprising the extended families and friends who use the Donnelly River hut leases have provided active support of the relevant Park Management Authority for over 20 years in matters including emergency, public access and environmental are matters, including removal of rubbish left by public

visitors and providing its own fire protection and medical emergency facilities.

26 The applicants point to the factors identified in s 6.17(1) of the LG Act to underline their submission that the lessees, in light of their unique circumstances, do not need or use any services provided by the Shire, and as such, should not be charged by way of rates for those services.

27 Finally, the applicants submit that by charging lessees for a rubbish service they do not provide the lessees, and numerous other services such as provision of roads, management of health (sanitation and sewerage) and housing (building permits and inspections) charged for through general rates, in relation to which, it is said, the services are either not provided, or performed by the lessees themselves or other authorities (for example, health and housing services which for historical purposes continue to be carried out by the Shire of Manjimup), the Shire has duplicated services contrary to s 3.18(3)(b) of the LG Act.

28 Turning to the basis used by the Shire for current rating purposes, that is, to charge rates on the unimproved value of the leased land, the applicants note the land the subject of the lease is essentially the floor area of the hut plus one additional meter around it. The permitted use is short stay recreational accommodation. This, it is submitted, is a non-rural purpose, suggesting that any valuation for rating purposes should be based on gross rental value. The legal preconditions to obtaining a valuation based on gross rental value, including certification of a plan or diagram of the land by Landgate and gazettal of the lease area, have not been met. Therefore, the Shire having wrongly charged rates based on unimproved value, those rates should be refunded to lessees.

Consideration

29 I agree with the thrust of the submission filed on behalf of the Shire that the principal consideration of the Shire, and of the Tribunal on review, is the application of the relevant legislation: the LG Act. The scheme of the Act requires consideration of, first, whether or not the land the subject of a party's interest is rateable land within the district of the Shire, and land within the same district; and, if it is, the appropriate rating basis.

30 There is no question here that the land the subject of the applicants' lease falls within the district of the Shire for rating purposes. A possible issue for debate is whether or not one of the exceptions appearing in s 6.26 (2) of the LG Act applies. The only exception for which the applicants contend is that which appears in s 6.26(2)(a)(i) of the LG Act where Crown land is being used or held for a public purpose.

31 Contrary to the applicants' submission, the Public Use Plan, which is in evidence, is, on its face, an agreement between the Department of Parks and Wildlife and the Association. Further, the substantive provisions of the Public Use Plan require that only three of the 43 lease holdings comprising the collective Donnelly River huts 'be made available for public use', on the following conditions:

- for a minimum of 100 days per year;
- the huts' availability to be advertised through a publically accessible booking service; and
- the huts are to be offered to the public at the 'price' of \$250 per night.

32 The fee is payable to the leaseholder, not the State Government.

33 The three huts subject to the 'public use' requirement are specified, and the applicants' hut is not included. Although it is not something I have to decide, even if it were, it seems to me that it would be a stretch to regard the type of requirement for public use in the case of the three huts, on a commercial basis to the advantage of the leaseholder, as commensurate with either previously accepted interpretations or common perceptions of 'public purpose'.

34 The applicants' arguments for the application of the public purpose exception (to which it repeatedly alludes with the less exacting 'public use') are even more tenuous than had they been able to rely upon any such requirement. They rely on an expression of encouragement in a National Park Management Plan regarding the huts' preservation, and the reference to 'the general public' in a clause in the lease the main concern of which is to ensure compliance with the public use plan. In circumstances where any member of the general public must be invited by the leaseholder before being allowed to access the applicants' hut, which, were it to occur, would presumably be on a commercial fee

paying basis, the leasehold property can hardly be described as being used or held for a public purpose.

35 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. It would be entirely unwieldy to permit exemption for reasons of a lack of quid pro quo. In any event, the Shire's submissions identify the facilities and services made available to all land holders in the Shire through the agency of rates and service charges. 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.

36 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. The anti-duplication provisions of the LG Act relied upon by the applicants such as s 3.18(3)(b) are concerned with efficiency of the provision of services and facilities. They are not intended to, and do not, have any bearing upon the entirely different matter of a person's liability for rates or service charges.

37 I turn to the applicants' challenge to the basis upon which the rating of the property has been made, namely, the unimproved value of the land. They point out that the general principal, identified in s 6.28(2) of the LG Act, is that where land is used predominantly for non-rural services, the gross rental value should be used.

38 The parties are in agreement that in order for it to apply gross rental valuation, the Shire must hold a copy of the lease and house plan for the hut in respect of each leasehold property. Currently, of the 33 lease holdings within the Shire, only 13 plans are held.

39 Submission of the plans is a matter for the individual lessees. The Shire follows a perfectly reasonable policy that all similar land is rated in the same way, and avoids individual 'spot rating' where possible. The Shire's Council has, however, resolved to change the

rating classification for all the hut properties in its district from unimproved values to gross rental values once plans all of all buildings on the individual lease holdings have been supplied in full to the Shire.

40 Section 6.28(2) of the LG Act is, on the face of it, for guidance rather than prescription. Although, as a general rule, land use predominantly for non-rural purposes (which includes the property) would generally be rated on a gross rental value basis, an exception may arise where a proper ground exists. I regard the reason advanced by the Shire to not apply the rule currently to the property to be such a ground, particularly given its resolution consistent with the application of the general rule once the current obstacle to that application is removed.

Conclusion

41 For the reasons given above, the application must be dismissed.

Orders

1. The review application is dismissed.
2. The decision made on 29 September 2017 to dismiss the applicants' objection to the respondent's decisions imposing general rates on an unimproved value basis, waste management fee and emergency services levy is affirmed.

I certify that the preceding paragraph(s) comprise the reasons for decision of the State Administrative Tribunal.

MR T CAREY, MEMBER

9 NOVEMBER 2018

Attachment 9

ABC South West Transcript printed 12/07/2019

7/12/2019 (25) ABC South West BOUNDARY FIGHT - Facebook Search
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ABC South West

  BOUNDARY FIGHT  

Would you change shires if you could? That's what a group of 33 home owners in Nannup are trying to do. Families lived on the land along the Lower Donnelly River as squatters before the State Government negotiated a 20 year lease agreement...

ABC South West

BOUNDARY FIGHT

Would you change shires if you could?

That's what a group of 33 home owners in Nannup are trying to do. Families lived on the land along the Lower Donnelly River as squatters before the State Government negotiated a 20 year lease agreement. They say rates are unnecessarily high and want the local government boundaries changed so they can join the Shire of Manjimup.

The Lower Donnelly Conservation Association Chairman Brad Russell said they've never considered themselves part of the Shire of Nannup. "We had no interaction with the Shire, you know, we don't draw on any of their services, we didn't qualify as rate payers," he said.

But Shire of Nannup Preside Tony Dean said the group of home owners was trying to get out of its responsibility to pay rates. He said if the move does go ahead, rates in the Shire of Nannup rates could rise by up to three per cent to make up for the loss of money. "You must remember we're 87 per cent bush so we have a very small rate base," he said. "In fact I call on the State Government at this stage to revoke their leases because they're not abiding by the lease which is to buy all rates and taxes which are due."

But Shire of Manjimup President Paul Omodei said the move won't necessarily mean they will avoid paying rates. "Should they pay rates? I think yes they should," Mr Omodei said.

Attachment 10

Full Transcript of evidence 28 January 2011 – Inquiry into Shack Sites

**STANDING COMMITTEE ON
ENVIRONMENT AND PUBLIC AFFAIRS
INQUIRY INTO SHACK SITES
TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
ON FRIDAY, 28 JANUARY 2011
SESSION ONE**

Members

Hon Brian Ellis (Chairman)

Hon Kate Doust (Deputy Chairman)

Hon Phil Edman

Hon Colin Holt

Hon Lynn MacLaren

Environment and Public Affairs Friday, 28 January 2011 — Session One Page 1

Hearing commenced at 9.24 am

SERAFINI, MR TONY

**Deputy Chairman, Lower Donnelly River Conservation Association,
sworn and examined:**

LUSH, MR ALAN

Local Resident and User of the Donnelly River, sworn and examined:

RYAN, MR ANTONY

Chairman, Lower Donnelly River Conservation Association, sworn and examined:

The CHAIRMAN: First we would like to welcome you along to this hearing. Before we do start, I

have a procedure I have to go through, but I would like to introduce our committee to you. On my left we have Hon Phil Edman; Hon Lynn MacLaren; myself, the Chair, Brian Ellis; the Deputy Chair, Hon Kate Doust; and Hon Col Holt as members of the committee. As you know, I have a formal procedure I have to go through and I ask you to take either the oath or affirmation.

[Witnesses took the oath.]

The CHAIRMAN: You will have signed a document entitled “Information for Witnesses”. Have you read and understood that document?

The Witnesses: Yes.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of

any document you refer to during the course of this hearing for the record, and please be aware of the microphones and try to speak into them. Ensure that you do not cover them with papers or make

noises near them. As we have more than one witness, can you speak in turn? It is easier for Hansard

to pick up, rather than someone speaking over the top of each other.

I remind you that your transcript will become a matter for the public record. If for some reason you

wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in

attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or

disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Thank you for bearing with me through that. I understand you have a presentation for us and, as we

invited you along, I would welcome that presentation now if you would like to give it to us.

Mr Ryan: I would just like to thank you, Mr Chairman, for allowing us to add to our previous submission on shack sites in WA, and I would like to call on Alan to start on the submission.

Mr Lush: Mr Chairman and committee, the document that I am referring to is titled “A Presentation to the Standing Committee on Environment and Public Affairs Regarding Inquiry into

Shack Sites in Western Australia”. It is dated today, 28 January. I will simply start out with a summary of what we will be covering and then go into the detail of each of them so that we all have

a bigger picture to start with.

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The CHAIRMAN: Can I just say—I have spoken to Alan about it—that while the presentation is going, as long as you do not mind, we may ask some questions and may interrupt at times. I think that will be better for the whole inquiry anyway if we have a question to ask at that moment.

Mr Lush: Thank you, Mr Chairman. The Lower Donnelly River Conservation Association—I will

just talk about “the association” after this—represents 43 hut owners who occupy land under lease

arrangement within the D’Entrecasteaux National Park in the Shires of Manjimup and Nannup. It recognised the need for a state government squatter policy to control the proliferation of random and ragged coastal shacks, mostly along the central west coast, north of Perth. It believes that the policy has achieved its purpose and now needs to mature to take account of other significant community values and their ongoing management.

The association submits that the hut precinct on the lower Donnelly River is absolutely unique. It requires both protection of its heritage and other values and careful management. The precinct has

been a low-cost family holiday destination continuously for almost 100 years, covering up to four generations. It can only be accessed by boat, it has a strong connection with our earliest pastoral activities and it demonstrates the benefit of an effective, sustained and environmentally sensitive hut

community.

The association has worked in partnership with the Department of Environment and Conservation—

formerly CALM—for over 20 years and has been considered for its heritage values by the Heritage

Council of Western Australia. The proposal to protect and manage the hut precinct is supported by

both the Manjimup and the Nannup shire councils—the Donnelly River is actually the boundary between those two shires and that part of the world—and the association proposes changes to the squatter policy and proposes sensitive developments to the lower Donnelly River hut precinct to protect significant values whilst enabling wider public use.

If we look at the location—just a reminder that 43 hut owners occupy land there—the map that is displayed shows where we are talking about on the south coast, which is probably 350 kilometres south of Perth to this point, and the nearest road access is that little spot there. So, it is a 12-kilometre journey by boat from here to the estuary of the Donnelly River.

The huts are under lease arrangement—individual leases—within the D’Entrecasteaux National Park on the estuary in those two shires. The huts are on the other side of the estuary. This is the estuary. It would almost be over the top of the beach here on the Southern Ocean, but you can see

some of the huts here. There are more huts along the edge here, and there are some huts around in there. They are reasonably inconspicuous and they each have some sort of a jetty. So, that is pretty well the impact that you have got on the landscape. From the river they are a little bit more obvious, but we will see a couple of pictures of that shortly. It is certainly one of the best spots in the world, but we all live in those places and we think it is pretty good. The situation, as I said, is unique. Access is by boat. This would be a pretty typical commute these days, and so getting backwards and forwards is by boat and getting materials to the coast to build a shack is by boat. In one of the earlier pictures somebody has just barged up a couple of boats, put the materials on board and then poled their way down. Some of the evidence that we collected during the preparation of a submission to the Heritage Council cited an example of two days for the journey—it must have been a low river—so it accesses by boat only. The other thing which is shown here is just the community. It has been a low-cost holiday destination for a long time and there is a very strong community there. The emphasis is family holiday. The community is selfgoverning more or less and has been for many years. It is a registered organisation with a constitution and by-laws.

[9.33 am]

The CHAIRMAN: Alan, you are saying you access only by boat; where do you get on your boat?

Mr Lush: At the boat landing.

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Hon COL HOLT: 12 kilometres up the river.

The CHAIRMAN: It is 12 kilometres up?

Mr Lush: Yes, at this point. I have got a couple of photos of that spot later on.

The CHAIRMAN: Okay, I was just wondering where you started from.

Mr Lush: So, this is just a community meeting at the time. There is a hut at the back. That is one of the more recent huts, but that is the kind of hut we are talking about on the Donnelly. The association has a code of conduct, it has a building code, it has regular busy bees for site and environmental maintenance to deal with public access et cetera. There is general caretaking done by

the association that includes informal monitoring and policing of, kind of, other users, if you get jobs down there, miscreants, if you get people misbehaving. The local members, just by their presence, have an influence on that and so the code of conduct tends to be followed by everybody that is down there. The huts are reasonably scattered and discrete, just a couple to illustrate that. You can see in those ones that this particular hut here is that building and the photo came from another hut up there. So, these are what we are talking about. Less obvious, tucked in the bush there; a little bit more obvious a bit further down the river. The Donnelly River beach itself is pristine and the surrounds—if you could get a vehicle down there you could drive along this beach

for a long way. The next beach to the east is the Yeagarup Beach. That has public access. It is 17 kilometres from the Warren River to the Donnelly River along the beach and it is hard sand; it is a

60 to 70 kilometre per hour sort of driving with four-wheel drives. If people could get to this beach

by vehicle—that is the kind of beach it is, you can travel along it for a fair distance, but is not

accessible by vehicles and so you have got a very pristine beach. The surrounds are natural for the settlement.

On the point of the community being environmentally sensitive, the river conditions: these are typical. Essentially, the river conditions show no impact by users other than what has been developed at the boat landing up river and what has been developed in the immediate hut precinct.

There are just a couple of pictures: these are normal sort of views. This is just up a little side water and that is the side water, but you cannot see any impact of access and there have been people going down there—the earliest record we found was 1913, the earliest campers. So, there has been a lot of usage, if you like, and the river is fantastic. That is the ocean; the mouth is just around the corner there, so this is right at that bottom end of the estuary. So, the river has not shown any impact by users over all that time. The coast itself: there has been rehabilitation done, by the association, of degraded areas, especially mobile dunes. In the old photo, taken around about 1970, the river is here, it just scoops around that bit of a cliff and it goes out there sometimes, it goes out there sometimes, it is not going anywhere just in this photo, but all of this is mobile sand dune. Moving in that direction, you can see evidence of past sand dunes moving, but that was mobile in 1970. This is the same area now. One way or another, the area has been stabilised, a lot of the association people over the years have picked up a bit of marram grass somewhere else along the coast and put in here to help sort of stabilise things. The river bar builds and breaks naturally; artificial breaking is actively discouraged. Some people like to dig a trench if it looks like it might go, but the local people there, they try to stop that. Periodic surveys of noxious weeds and the removal of introduced species have been carried out in conjunction with CALM and, these days, DEC since the 1980s. The huts are spread out and discreet sullage is disposed off hygienically. But the building code has, for years back, started dealing with toileting waste and so on, so there is good disposal of sullage these days.

The CHAIRMAN: When you say the building code, so the local government asked you to come up —

Mr Lush: No, the local associations, their own initiative.

Hon KATE DOUST: Would you be able to provide a copy of that to the committee?

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Mr Lush: We have not got one with us, but we can provide it.

The CHAIRMAN: If you could.

Mr Ryan: That is a copy of the building codes, the association's building codes.

The CHAIRMAN: It is your own building code.

Mr Ryan: We have got a code of conduct as well, if you would like both.

Hon KATE DOUST: Yes, both would be very helpful, thank you.

Mr Lush: Rubbish is removed from the site on a carry in, carry out basis and the association has annual clean-ups of the areas where visitors tend to go, and so that is sort of kept clean as well. Very recently, the fires in December of last year—they had a fair bit of press—exposed a whole lot

more rubbish that had been covered by scrub. There has been a cleanup of that and that removed

two semitrailer truck loads of the rubbish that was just sighted, so there was a busy bee to get rid of that. So, that has all been happening.

Mr Ryan: That was what has been carted in the bush for years and years. Since the fire, between Christmas and New Year—we never knew the rubbish was there. It exposed it all, and it is open because it burnt pretty heavy, so then we had to clean up this mess on Monday, where we gave people a week or two notice and we brought stuff up to the landing and we took bucket loads out. The place now, as far as the eye can see, within a kilometre, is as clean as a whistle.

The CHAIRMAN: When you say that rubbish was brought in over a number of years: brought in by who? The settlement or other people?

Mr Serafini: In the early period of people using the Donnelly, there were practices that, you know, were like today it does not exist. These are going back over 20 years ago; we are looking at people that were either dumping stuff and then not realising in those—our mental thinking today is totally different than what was practised in the past.

Mr Lush: In terms of cooperation with DEC: that recent clean-up in the last couple of weeks, DEC

provided a boat and some of their workers to assist. That was just part of ongoing cooperation with

DEC, but there are a number of other things. The hut owners have met regularly with CALM and DEC on numerous matters for over 20 years. Fire management is formal; the association has its own formal management plan and documented fire plan. They have done that with some liaison with DEC, but it is a proposal to DEC to say, “This is what we think needs to be done.” The association engaged a private consultant to prepare that fire management plan, especially to identify

and specify preventative measures. The hut owners actively assisted CALM to control wildfires in

1988 and again in 2010—very recently. DEC firefighters were hosted overnight during the 2010 fires. There were a number of members of the public trapped down at the mouth and when the river

was closed for three days they were then housed and looked after by the hut people, I think for a number of days, until access became safe.

There has been a survey of noxious weeds and the removal of introduced species carried out in conjunction with CALM and DEC, again, for a number of years. The public facilities, that is parking and toilets and boat handling facilities at the upstream landing site, were planned and developed in conjunction with CALM and DEC and some involvement with the Manjimup Shire.

Hon PHIL EDMAN: Can I ask a question on that? Just in relation to the boat jetty that was built by

the hut owners, why didn't you use a floating jetty, rather than having it built where it is on three different levels?

Mr Ryan: I think that that is pretty difficult there, because we were not allowed to put it out, because the stream is very narrow. We were not allowed to put it out in the actual stream; we had to

build a jetty and that is a drawback for the jetty, the jetty is back on the bank. When the water is really low it cannot be accessed. Because, harbour and lights would not let us put it right out in the

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middle. If we did, we would have blocked half the stream off. The three-tier system works very well. Another metre out, obviously would have made a lot of sense, but even for the tour boat, the

river cruise, it is very hard to access that. So, he has got a front loader—you will probably see it in another photo—which loads down onto the concrete ramp. There used to be wooden ramp before and because all the wood was built like slats, like a weatherboard house on its side, so your tyres—you would have the grip to pull your boat out of the water. Now we have replaced that. Most of the money for that came from the Shire of Manjimup, from grants. We had done all the work, and we did the same with the jetty and the same with the boat ramps. We did the boat ramp in two pieces, and that is all concrete now.

Mr Serafini: You have got to visualise also that that height of the top tier is actually under water when that river is high.

Hon PHIL EDMAN: That is what I was looking at; it looks a bit—

Mr Serafini: And that varies; that even covers that, you do not even see that on occasions. That was

designed to load our boats and bring our stuff to the boat when we had the boat in the water.

Mr Lush: In this picture, you can see that the river is quite narrow, that is the other side of the river

and so the point has been made that there would be a problem if you had something out into it. The

boat ramp that Tony is talking about, which is now concrete, is back in behind the picture to my right; everybody's right; that is now a concrete structure. What is not in this picture, and I do not have a photo of it, is up above the bank there is an old winch, which was restored some time ago. When you did not have traction you had to hook this winch up and wind yourself out of the water;

we have had some interesting experiences, but we will not take up that today!

[9.45 am]

Mr Ryan: Just while we are on that point, the distance between that jetty and the boat ramp is not very much; probably two boat widths, back this way, to the right. A canoeist would find it very difficult, with powerboats and the cruise boat, to get in and out. It is a real problem. We like to encourage canoeists; the river is pretty famous with canoeists, and they need protection. We have talked about it with the powers that be, to no avail. They need a separate launching pad to run off, because the distance is there. With powerboats and the cruise boat alongside it, something is going

to happen one day. They need a separate spot, and we have been trying to get that done, but no-one

seems to be listening to us. That is a pretty important factor, I think, as far as the canoeists are concerned.

Mr Lush: This work was funded by the Shire of Manjimup. The association was able to secure a grant from that shire, and it was built by the association members.

Hon KATE DOUST: It has been very interesting to talk to the various groups involved with shack

sites about their relationship with local governments. Maybe at this point you might like to explain

to us the relationship between the Donnelly River association, shack site holders, and the local governments in the area.

Mr Ryan: That has been part of my job—to canvass the shires. We have a very good relationship with the shire president and the CEO of the Shire of Manjimup. We have the full support of all councils; we have done the same with Barbara Dunnet, the shire president of Nannup, and they are

very supportive of us. We have written submissions in.

Hon KATE DOUST: Would they support a continuation of the shacks at these locations?

Mr Ryan: Yes, their opinion is that they would like us to go for some sort of management plan, whether it be DEC controlled or shire controlled. What people seem to have in mind is something similar to what has happened at Windy Harbour; that is what people are thinking of, foremost, but we do not know, and we are only hoping that whatever management plan we get into, we will have

some input into it. That, to me, is pretty important. But the relationship there is excellent. When we

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had the last minister, Donna Faragher, down to the Donnelly—not the June just gone, but the June

before—she came down with Barbara Dunnet, the Nannup shire president, the CEO of Nannup, and

the shire president and the CEO of Manjimup shire. We have a photo of them all here at the site where we were intending to build a gazebo-type shelter for daytrippers. We just do not seem to be getting any answers; we want to fund it and build it, because the daytrippers and campers are a pretty important part. We want to fund it out of our own funds, but we cannot seem to get anywhere.

The CHAIRMAN: But you are saying that you have a good relationship with those councils.

Mr Ryan: A very good relationship, and the Nannup council was unanimous.

The CHAIRMAN: Are you in agreement with their requirements? We understand that they have talked of long-term lease if all huts meet health requirements and building requirements and that management arrangements exist for promotion of access to short-term rental.

Mr Ryan: If that is what we have to comply with, we will have to comply with it. We have no options, have we?

The CHAIRMAN: No, I was wondering whether you were all in agreement with that.

Mr Ryan: Yes, we are.

Mr Lush: We are talking or liaising and have been cooperating for some time with DEC and the shires. In terms of public access and support, in addition to the upstream landing facilities, the hut owners have renewed the boat ramp several times. They provide shelter, water and fireplaces for public visitors, including overnight stays.

Hon PHIL EDMAN: Can you elaborate a bit on that point? You have 43 huts, so how do you provide the shelter and the fireplaces for the overnight stays? Does that mean you are renting out?

Mr Lush: The verandahs are all available.

Hon PHIL EDMAN: So you are letting out one of the 43?

Mr Lush: Not subleasing, just letting people use the verandahs and providing the barbecue fireplaces that are there. There is a water supply available, and all of those places on the huts are readily available for public use.

Hon PHIL EDMAN: What about sleeping quarters?

Mr Lush: They sleep on the verandah. It saves them sleeping in their tents, sometimes. If they are

trapped down there after a boat breakdown—that happens periodically—they have somewhere where they can at least get out of the rain, if it is wet.

Hon PHIL EDMAN: But the actual shacks themselves are not for rent or lease.

Mr Lush: Parts of the shacks are less secure.

Hon COL HOLT: Do you have any idea how many general public visitors, who do not sleep in the shacks, come down?

Mr Lush: Day visitors?

Hon COL HOLT: Day visitors or overnighters who camp on the beach at the river mouth. Any idea how many? How many go on the tour?

Mr Ryan: On the tour, there are about 30 every second day.

Hon COL HOLT: Thirty every second day?

Mr Ryan: Pretty well.

Hon COL HOLT: What about other people?

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Mr Ryan: Just to give you an example, during the recent fire we chartered a helicopter. A friend of

mine, a hut owner, and three others went down, because we wanted to get things organised and straightened out. We landed a helicopter there, and there were 30 people at the meeting, and I reckon 15 of them were visitors. They were stuck there; they did not get out for three days. I got to

my place; obviously I did not have a boat. We had to rely on other people there to move them out, and there were people on my verandah, camped there, and that was all right. They were using the barbecue and sleeping on the verandah. A lot of people use the Donnelly, and I was so surprised. If

we had not come in by helicopter, and they were trapped there, I was so surprised there were so many people there. But we put them to good use; they made good firebreaks and worked their little

butts off, and they were very helpful.

Hon COL HOLT: So they all jump in their boats from the ramp and tootle off down there for a few days.

Mr Lush: Yes, and DEC closed access because of the fire.

Mr Ryan: We just had a Legacy group down there over the past few weeks, and they had 60 children and 15 adults there; that was just last week. They wrote a letter to thank us for the use of the huts and things like that, and we have had other things; we have had Apex clubs. I have a list that I can go through later.

Hon COL HOLT: To go bit further, the association wants to build some amenity for daytrippers in

terms of a gazebo and a barbecue area—is that right?

Mr Ryan: That is right.

Hon COL HOLT: But so far it has not been done because DEC —

Mr Ryan: We have an architectural drawing already in our possession; we have already paid for that. It was done by a lass in Bridgetown who is an architect. We presented that to the Faraghers, the Jim Sharps and the whoevers, and we have got nowhere. We want to fund that and do it ourselves.

Hon COL HOLT: That is a spot near the huts?

Mr Ryan: Right where the photo was taken of Donna Faragher and the shire presidents.

Hon LYNN MacLAREN: Is that something that could be addressed in a management plan, if you had a management plan?

Mr Ryan: It could well be. We wanted to show that we do not just use it ourselves; we want other

people to use it, the same as the canoeists. We want canoeists to have the best possible place where

they can launch off.

Mr Lush: Our submission has a number of proposals and I will get to those in a moment. It includes making provision for that sort of amenity. Very quickly on the subject of public access, there is a shelter and rubbish collection in public places. Caretaking duties, moderation of vandalism and unsocial behaviour just by frequent visitations is done, especially in popular holiday

times. Obviously the association puts visitors to work, too, if there is an emergency happening, providing emergency help as and when required, such as aiding stranded boats or injured people.

Boats do break down and people do hurt themselves in accidents, so the people down there, the hut

owners, tend to be the first port of call for first aid and assistance. They are proactive towards DEC

regarding improving amenity and the like. Obviously there is a reluctance for any formal endorsement of that until such time as policy is aligned with what DEC does. The hut owners promote and maintain a positive attitude towards high standards and sustainable use of that part of

the D'Entrecasteaux National Park. As was mentioned just a minute ago, the tour boat operates daily all year round, carrying passengers to and from the river mouth. The site has heritage values.

The precinct has been a holiday destination, as I mentioned earlier, continuously for almost 100 years, and there is a very strong connection with the earliest pastoral activities. Leases for cattle

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grazing were granted to pioneering families, including the Bussell family of the Vasse area and the

Scott family of the Nannup area in 1861. The Bolganup hut, six kilometres south of the boat landing, is one of the last remaining pastoral camps in the area; it has been formally classified as having high heritage significance. It was built in the late 1800s and was almost lost in the recent fire. In fact, DEC had to dump a load of fire retardant on top of the hut from a helicopter to protect

it; there was not any maintenance around it, in terms of firebreaks or anything, so it was almost lost

in that fire, but it was not. Town communities have funded boats for communal use to access the river estuary for camping. The heritage point is illustrated by a couple of pictures. This particular boat is loaded for a journey; that is a photograph from about 1924. In this other photograph, a family has its boat on board, dog and all! These days, you cannot take a dog into national parks, so I

think the dog would have stayed at home if that was yesterday's photo instead of earlier days!
Nora

Palmer wrote to us in 2005, when we were gathering information on the heritage of the site. She is

now 92. According to my notes, she wrote —

“Round about 1922-23 Manjimup had a progress association of which my father, Don McKay, was President. They raised money and bought two boats which were left at the landing ... these boats were for anyone who wished to have a holiday at the Donnelly mouth. Of course they had to row the 10 miles as no one had motors.

“In about 1923-24 (my dad) rowed us down the river for a holiday. (We) camped in a ti tree shelter which was available to all. It was in a gully near to where Chadwick's hut is today. I remember it well as I was 7 years old at that time. I remember eating mouldy bread—that sticks in my memory ...

“I believe that the Dick family had a holiday even before us. They stayed two weeks, ran out of food and shot crows to eat”.

Government policy to remove squatter shacks has seen most of them removed. Many other coastal

camping sites from the early twentieth century have been lost to developers; we read about it regularly—the caravan parks are disappearing, and so on and so forth, and grey nomads have to look a bit harder for caravan sites. The Donnelly River precinct represents one of the few remaining

low-cost coastal camps in Western Australia. Huts have remained largely immune to modern technological developments; they are refuge from them, and owners demonstrate the innovation that

typified early settlers by adapting and making do with whatever materials were available. The committee may have seen these pictures of typical huts. The fireplaces catch my eye, but that is a typical hut. This one is now a storage shed; it looks like one, does it not?

The CHAIRMAN: It looks like it was used for something else before!

Mr Lush: Yes, obviously a storage shed! This is another hut. We think these huts have heritage value, especially since there is very little of this sort of thing that reflects camping in the 1920s and 1930s.

We have a number of recommendations on the policy that I would like to quickly go through. The association would prefer the state government to amend its existing policy to recognise the significant differences between circumstances and shacks in different locations. The current policy

has achieved its purpose of halting construction of random and ragged shacks and the removal of many of them. The association recommends the policy be amended to recognise that some shacks are associated with our earliest endeavours to settle and develop rural Western Australia; that it recognise that shacks were constructed to accommodate family recreation at a time and place where

affordable holiday accommodation did not exist; and that it recognise that many existing shacks and

shack locations have significant heritage value, and that settlements of shacks provide valuable community benefit. The association also recommends that the policy recognise that shack communities facilitate responsible management and protection of natural and heritage values, as well as ongoing care and maintenance of the surrounding environment, and that the policy recognise that shack communities facilitate an ongoing caretaking presence in isolated locations.

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[10.00 am]

Further, that the policy require site-specific management plans be prepared in consultation with key

stakeholders, endorsed by the vested authority and implemented in a cooperative and shared way; that construction and/or upgrade of dwellings—and the gazebo thing would be an example here—meet regulatory requirements, especially health and safety, without compromising the sense of place and original purpose. The usage of shack settlements is inclusive, meaning that access is available in a controlled and sustainable way to the wider public to provide equity, and that heritage

and other values specific to shack settlements is communicated to all users through appropriate interpretative and visitor information facilities.

There are seven further proposals in the event that government policy for the management of squatter shacks is amended to recognise and protect the heritage and other community values.

The

association proposes that the leases be continued indefinitely to maintain and protect the cultural heritage of the settlement and the hut communities, especially the Donnelly River. The hut precinct

is subject to a detailed, site-specific management plan prepared by the association in consultation with key stakeholders, and that is consistent with the national park management plan and the vested

authorities and policies. We propose that the hut precinct management plan be endorsed by the vested authority and periodically audited by an independent third party; that the Bolganup hut be relocated to a suitable and protectable site in or near the Donnelly hut precinct; that wider public use of the precinct be developed by provision of short-term—that is, overnight—camping facilities

consistent in design and amenity with existing structures; that interpretation and visitor information

be provided to raise awareness of the unique natural and heritage values of the lower Donnelly River; and, finally, that costs of development and maintenance works be shared between the vested

authority and the association, that financial costs of proposed works are kept within the means of hut owners and that hut owner effort in kind be recognised as a fair contribution. Thank you.

The CHAIRMAN: Thanks, Alan. You have raised a few questions for the committee. Before I open it up to the committee for questions, you mentioned some letters. I am just wondering whether

you can make those letters of support and letters of evidence of other users of your huts available to

the committee. I would just like to see that evidence of other use of those huts.

Mr Lush: Would you like them identified for Hansard purpose?

The CHAIRMAN: Yes.

Mr Ryan: There are some other groups. If you want me to —

The CHAIRMAN: That is if they are all available now. If you have to gather the information —

Mr Ryan: Some are available now. Did you want me to go on with the groups that are using the Donnelly River?

The CHAIRMAN: You can just identify the material, and that will be sufficient. We will look at those letters later.

Mr Ryan: I have three or four letters with me that I have brought, but I have a list of a lot of groups

that use the Donnelly River.

Mr Lush: They would like copies of the letters, so just the ones you have got letters for.

The CHAIRMAN: We can do it later, but if you just identify them for Hansard at this stage.

Mr Ryan: Do you want me to identify them now?

The CHAIRMAN: Yes, please.

Mr Ryan: There is a letter from the district manager, Donnelly district.

Mr Lush: That is DEC.

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Mr Ryan: There is the fire and rescue letter, and the other letter I have got is from Perth Legacy. The other one is from Apex club. The one I was referring to was the newsletter with Donna Faragher at the site we want to build the shelter.

The CHAIRMAN: Okay, thank you for that. My first question—I know members have got others—but you said when you were going through recommendations to government, you stated that you believe that you are different to other shack settlements. Can you explain why you think you are different to, say, Wedge and Grey or any other shacks?

Mr Lush: I have not visited those sites. Access is clearly unique. The huts are family holiday huts.

Yes, the Grey and Ledge Point, Green Island—they would be holiday families as well. I think the Donnelly, spread out along the river, is a unique situation. Formal association or the work they do in

conjunction with DEC—I think there are a number of unique things that are different.

I think all of them share the holiday place. I am sure all of them were established way back when people on the hinterland would go to the coast, and that was the nearest bit of coast. There were communities, I think, a lot of them along the south coast and certainly the west coast—and the west

coast ones are mostly gone. There are a few that you are hearing about or that you have heard from.

I am on camp right now at Hamelin Bay with my grandchildren and my wife. Hamelin Bay was a settlement. That is now national park, leased. That is one of the only camping areas. There is a caravan park. The chalets are moving in. There have been six more put in since we were there last year, so there are fewer campsites, which is what we use. There are not too many of those around.

Certainly the association, in addition to the huts, is looking at providing campsites in conjunction with DEC. We would not want it to be a huge, expansive camping ground that would take away from the nature of the place. I think there are a number of differences there.

The CHAIRMAN: I just have one other—I cannot help it; it is the farmer in me. Fires scare me, and you mentioned fires. I do not know how close this fire got to you. It is a beautiful setting, but it

is covered with bush. What anti-fire measures do have in place?

Mr Ryan: We have got a fire plan that has only just been implemented. At the moment it is with DEC in Pemberton; they are just saying that they want to finetune a few things on it before they can

put that plan into place. Where we live is not really as much of a fire danger as it looks. I am a farmer too, and I have had a fair bit of experience with bush fire brigades, probably as you would have had yourself. So it is not really a danger in the fact that we have got good firebreaks. A lot of

people mow around their huts with lawnmowers and cutters, and all the bushes are kept back to a bare minimum, so we have a fair bit of room there. We have got fire-based motors on the river, and

heaps of hoses. Instead of having a fire truck, we have a boat fire brigade. So we have got the motor

in the boat. We have suction in the biggest reservoir, which is bigger than Sydney Harbour.

Mr Lush: When the bar's broken!

The CHAIRMAN: It is a fair bit of water.

Mr Ryan: It is a fair bit of water. And that is what we do—that is how we get it. I was at the last fire of 1988. That time the river was open and the road was open, whereas this time they closed the

road, closed the river—different scenario. It is not real good to be down there when all this is on. We just upgraded firebreaks, had the water and we were waiting—that was all our job was. Never in danger since the last fire—even the fire of 1988, we were never in danger. All we had to do was

wait for the word where the containment line was sort of—

Mr Lush: Breached.

Mr Ryan: Fired across, where we could burn back, and that was about it; there was no danger at all.

It was just a matter of waiting the time. We worked well with DEC. We have a nice letter here from

the district manager, Donnelly, stating all that—for putting his people up, feeding them, for looking

out for them, transporting them; all those things are in that letter. They are very appreciative of that.

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Because they had daytrippers and they had campers there as well, so it is their duty of care to look

after those people.

Hon LYNN MacLAREN: I have a couple of questions I wanted to ask. It does sound very interesting what you are describing and is probably one of the things that makes Western Australia

unique in being able to enjoy the beautiful environment that we have in the way that you do. I guess

one of the issues that comes up is equity, because one of the things that we are looking at in relation

to shacks sites is: because it is a national park, how does the stewardship of the huts pass hands through the generations? I wanted to know how that was passed on if somebody decided they no

longer wanted to be a custodian there.

Mr Serafini: In 1984 when we had an agreement with DEC that we had permission to stay on a lease basis within the national park, there was a criteria that we had to fill in. On our lease agreement we had an option to write those people of six within the family that would continue that

lease sign. If something happened to me, for example, I have my brother and his nephew on the lease—a document that entitles them to continue that lease until the new management plan was out—to be 2005, I think it was. That was the agreement within that 20-year lease agreement with DEC—at the time it was CALM. And that is the arrangement at the moment.

Personally, for equity for me, to be responsible for a person who has no idea what it is to have a hut

down there is very dangerous, because we are playing around with kerosene fridges, lighting plants.

I think it would be a nightmare on equity, opening the huts to people of the public without knowing

who we are inviting in there—it is very delicate.

Hon LYNN MacLAREN: The other thing that was mentioned is opening up access to campers, for

instance—people who are tenting. It reminds me a bit like the huts that are along the Bibbulmun that allow hikers to sleep overnight. Is that the kind of facility that you are talking about having down there?

Mr Serafini: That is right.

Hon PHIL EDMAN: Just to follow on from the Hon Lynn Maclaren, since the shacks have been there for 100 years or roundabout—

Mr Lush: Camping for that length of time.

Hon PHIL EDMAN: That is fine. Have any of the shacks ever in the last 100 years ever been sold

or changed hands, or has it just been handed down from generation to generation? If there has been

a shack been sold, then what has been that average price?

Mr Serafini: They really are not allowed to sell them. The lease agreement states that we cannot sell them.

Hon PHIL EDMAN: So in the last 100 years there has never been a shack been sold?

Mr Serafini: It would have been, but we are talking about 20 years since the management plan. I was introduced to the Donnelly when I was about nine. My father took me down with a person who

was interested to sell his boat and shack down there, and that is how we acquired that. That was in

1971—maybe earlier than that. At nine—I am 57 now, so it is a long time ago.

Hon PHIL EDMAN: So in the last 20 years, though, nothing has been sold or changed hands?

Mr Serafini: We cannot say that for sure, because it is not supposed to happen. But if it does happen, all I can say on that scenario is: you are not buying a lease, you are buying a salvage right

to a place. The same situation, if the management plan goes ahead, giving us six years, and we have

to demolish our huts—the person who has the right on that salvage right has the same right in getting rid of that hut as the leaseholder would have had at the time.

The CHAIRMAN: Does the salvage right increase in value?

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Mr Serafini: Good question; it is not a thing that we really get ourselves involved with as an association, because it is a private business. Today you have a mutual agreement between two people and it is legally binding between two people and is not against the law. It is open for that.

We do not profess that to be the right thing, but it does happen.

Hon LYNN MacLAREN: The other issue that we have raised is health and if you are meeting the requirements of the health act in relation to effluent and waste management. Would you explain again how that works? Do the huts have drop dunnies? How do you actually manage your waste? Do you just make it the responsibility of the individual hut owners to transport waste off site?
[10.15 am]

Mr Serafini: Well, most of the system that was designed within the management plan in 1984 was that we had to comply to a system where we did not have drop toilets. The system is a degradable system—flush water systems, showers. They were all part of conditions for the agreement to happen before our lease agreements were signed. So, we had to comply within a certain safety and health reason at the time before we signed our lease agreements, so it is practice that everyone has a proper toilet and shower down there at the moment.

Hon LYNN MacLAREN: So is it a composting toilet?

Mr Serafini: Decomposing toilets, yes.

The CHAIRMAN: Can you just give us the numbers: how many people are permanent there? Are they all holiday or —

Mr Ryan: None.

The CHAIRMAN: There are no permanents?

Mr Lush: No permanents.

Mr Ryan: There was one, but you see there—that was his wake.

The CHAIRMAN: Oh, right.

Mr Serafini: He is in the river.

Mr Ryan: He is there permanently now.

The CHAIRMAN: On average how many weeks or days of the year would these huts be occupied?

Hon KATE DOUST: Or is there a maximum number of nights that you can stay in the huts?

Mr Ryan: I know someone is staying there now for a month—one family. Another family is staying there for a week. I mean, it varies. I do not think anyone would stay there for two or three months at a time—not this late. But I say a month is a reasonable time for someone to stay.

Hon KATE DOUST: We asked that because in a number of other shack sites where agreements are

in place with local governments—for example, Naval Base, I think they can only stay there for 120 nights a year. They can go down every weekend or every day but in terms of staying overnight—I was just wondering if that was the same sort of arrangement for you.

Mr Serafini: No, there is not.

Mr Lush: There is nothing.

Hon KATE DOUST: So there is no restriction at all?

Mr Lush: There is nothing in the lease.

Mr Ryan: A lot of people would like to live there.

The CHAIRMAN: So, most of the year it is not being used.

Mr Lush: Well, there is always somebody there.

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Mr Ryan: Yes.

Mr Serafini: Yes.

The CHAIRMAN: Okay. I would like you to clarify also: in your recommendations, point 8, you are saying —

Usage of “shack settlements” is inclusive, meaning that access is available in a controlled

and sustainable way to the wider public ...

Do you mean in that recommendation the right to rent the property or are you talking about just other people coming in and camping there? Which way do you —

Mr Ryan: I think that is regarded more friends of the family and other descendants of the family and people —

Mr Lush: My understanding is that for general public use there would be some sort of camping facility provided, similar to the Bibbulmun hut sort of shacks, and that people would use those. If there was an overflow from that sort of facility, I expect it to fall back to the verandas again, but I have not heard—and Tony had better clarify this—any mention in my association with different members of people leasing or renting or subleasing their huts to holidaymakers.

Mr Ryan: I am not aware of that.

The CHAIRMAN: So that would be in conflict with what the local government wants?

Mr Serafini: I do not think so.

The CHAIRMAN: No?

Mr Lush: Tony, can you comment on what the local governments, you think, are thinking for wider public use?

Mr Ryan: I do not know. The talks I have had with the shires, really, they would just be happy to see us have a plan, say, have a lease for 20 or 21 years and a management plan that we abided by. I

do not think they want—they have not really got into any more specifics than that.

The CHAIRMAN: This is something that I did read from one of the shires. It seemed to want more, I suppose, equity and it mentioned something about that management arrangements exist for the promotion of access for short-term rental.

Mr Ryan: See, that has been more comments from DEC. DEC would like us to have—originally this is what they have been saying—five, six, seven, eight or however many huts available for that use. That is what they are saying.

The CHAIRMAN: This is from the Shire of Manjimup actually.

Mr Ryan: Is it? All right. So they are saying they want —

The CHAIRMAN: There just seems to be a little bit of confusion between you —

Mr Ryan: I have been there quite a few times, Brian, and I have not heard it mentioned they would want that. They have written that submission without our knowledge, I would say.

Mr Lush: I think the association is keen that wider public use happens in a sustainable way; that whatever facilities for camping are available that fits in with the tone of the place. At one stage, different huts if they became available, they could be made available for camping, but then you have got the issue of kerosene fridges and all sorts. So I can imagine if a hut becomes available and

there is nobody interested in keeping it going, you would get rid of the hut and you would replace it

with a camping shelter, which allows people to have a roof and some warmth, and there is water and a reasonable toilet available. I think that is for the hut owners. People camping on the veranda they need to go toileting: if the toilet is a camp toilet, the people might prefer to go in the bush at the back. Now, that is not a good idea and none of the hut owners want that. Sometimes a lot a hut

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owners might use their toilets as their lockable storage. It is awkward and clearly the association wants to talk with DEC and the local authorities and develop a plan that facilitates those sorts of things. But, you know, it is a national park, it is DEC's responsibility and there needs to be some talk with them.

Hon COL HOLT: I think I read also in something from DEC about at the end of the potential lease

period of six years or whatever it was to say, “You’ve got to pack up and go”, that they were interested in taking over some of those huts for campers or day users or anything like that.

Mr Ryan: And tourism. “Commercial ventures” it says. I could tell you a little bit there because I think that it is still written in the management plan that the day that the minister signs the agreement

off, we have six years and we have got to then sign to say that we will demolish after six years; if you do not sign, they are gone straightaway.

The CHAIRMAN: This is the 2005 management plan you are talking about?

Mr Ryan: Yes.

Mr Lush: This is the national parks management plan.

Mr Ryan: So that is still with us, as far as I know, because the last visit we had with Donna Faragher, we had Jim Sharp pushing his paper over and asking her to sign it, “Please sign it, please

sign it”, and that was the story then. They are still looking to that today and that is the big deterrent

we have had. How can you get someone to do something to the hut? How can you get some improvements done knowing as soon as that is signed you have got six years and out. I mean, people are not silly. We said, “Just change the wording; change ‘six’ to ‘20’ and ‘not be demolished’. Those are the only two things you need to change and we will walk away from there very, very happy.”

The CHAIRMAN: Have you had that input into the new management plan that was proposed?

Mr Ryan: We have no input; only through public submission. But that is still with us today and it is

just: how do you get people to do things and make an improvement?

Hon LYNN MacLAREN: I actually was just trying to think through some of the issues around people going down there and camping, and it actually would apply at any camping site; the public liability, so if somebody trips over on your veranda or something. I guess I have two worries: one is

how do they get out of there quickly and what are the implications for liability? Who has got that liability?

Mr Serafini: We all individually should have a public liability insurance to cover ourselves. We all

have. That is one of the conditions that we had to apply within having the agreement with the leases. It was a part of an agreement.

Mr Ryan: It would be a hut owner who would have to run her or him back. That is for sure. We have done that quite a few times.

Hon LYNN MacLAREN: And there is always somebody onsite?

Mr Ryan: There is always someone getting hurt.

Hon LYNN MacLAREN: And always someone onsite—to help, I mean?

Mr Ryan: Well, not always but —

Mr Serafini: No, that is the thing about public liability. That scares us when you start opening it to

the public—where it becomes a nightmare—and something does happen within your hut and public

liability then comes into place. But that is a scary thing about opening the hut itself up to the public,

for us.

Hon LYNN MacLAREN: I suppose DEC would have that as well with the Bibbulmun, you know,

if somebody injured themselves at one of the huts—fell over in the middle of the night.

Mr Ryan: Or I could get injured going out and walking out here. I could get injured walking out here going to my car.

Hon LYNN MacLAREN: Yes, and they would be remote spots as well with no caretaker, so it is probably, you know, for a site which is managed by DEC, it is not an issue.

Mr Lush: I think that is certainly an area that would be worked on—the public safety of each of the

areas. One of the things the association is trying to do is to get more work done on the huts. The hindrance is the fact that there is this “get out and demolish your hut in six years’ time”, so some people are saying, “Blow that! I’m going to do what I can anyway and hope the hell that the policy

changes”, and others are saying, “Well, I don’t know.” The prevailing actions are positive that we will still do what we can to improve what we have and take our chances on the policy changing. I think as soon as/if the policy does change, you will see the association go up another notch and do a

lot more to make the place safer and to help facilitate more public usage. I mean, the proposals put

to DEC sit on the shelf because DEC cannot go and say, “All right, build a camping facility” and at

the same time say in the management plan “Demolish your huts in six years”, so that is probably the

reason they are sitting. If this shack policy that you are looking at facilitates an extension of huts, with whatever conditions you put on them, then we would expect DEC would need to comply with

that government policy and then you would be going to get a different attitude towards improving public safety and providing canoe facilities, especially the launching at the congested ramp, helping

to do something about huts. If a hut becomes vacant, maybe that gets demolished by the hut owners

and that becomes another site for a camping shelter. I do not know, but there are a lot of opportunities once that hindrance is removed.

Hon KATE DOUST: Look, there has obviously been a lot of discussion amongst the people who use the huts in your area about what the future may hold. If the decision was taken in due course that all the huts would be demolished, where does that leave you? What are the other options for people who have been using the huts for so long and who have enjoyed that facility? I mean, where

would you go then?

Mr Ryan: That is something we would—but it would be an environmental disaster for us to take materials that are already down there back out. It would be an environmental disaster. I do not think

that would ever happen. They just could not afford to do that. Yes, I think that most people would be devastated. All these groups—I have got some more to mention—that have been using it for 30

and 40 years for recreation, for meetings, for training runs and all those things, they would be devastated. I do not want to think that way.

Hon KATE DOUST: No, but I wanted to hear what you thought would happen.

Mr Ryan: Oh, it would just be—and grandchildren. My grandchildren have written stories at school that I did not even know about and their mums brought it up. I did show some to Donna Faragher when she came down; she was a bit touched by some of them. And there are things that, you know, grandfathers and kids do down that stage, in the bush and learning to fish and marron and all those things you do, they stay with kids forever and a day; they remember that for a lifetime.

It is pretty important.

Mr Lush: I think one of the bigger impacts will be the older people and the very young probably will not get that experience. If they are just back to tents or camp in a shelter; you will just bring it

back to a handful of people who are outdoors-orientated. The older people especially will not go there; you will not get the mixed generations in camp.

Mr Ryan: I mean those 60 Legacy kids would have a fair memory, wouldn't they? They were there for quite a few days; they would remember that.

The CHAIRMAN: Just along the same issue, I suppose, I have to ask the question about equity. To

the public who wish to go there but cannot use your huts and you did not buy the huts, how do you

justify that you should keep them?

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Mr Lush: I think then the visitor information, the interpretative facility, needs to explain that these

are a part of a past heritage; start to tell people that families used to camp on the coast.

Hon LYNN MacLAREN: There is certainly precedent, Alan, in the heritage houses like Tranby On Swan and Gallop House et cetera where there are caretakers in them that have never paid for them but they are part of our state heritage, so I do not know if you think about Donnelly in those terms.

[10.30 am]

Bridgetown and Manjimup boy scouts; what better place would there be for boy scouts to be down

there training? Bunbury Cathedral College, Albany High School, Outward Bound; Outward Bound

are always there. Pemberton Camp School, and that incorporates a lot of schools, but Pemberton has

got a very good name for being the camp school there. There is the Pemberton ladies social club canoe group canoe down and Manjimup fire and rescue, Manjimup Bowls Club and local football clubs. There are a lot of people using this place. I call that equity. That is the equity.

Mr Lush: I think having the hut and people that are down there regularly with their boats gives you

that bit of first aid, that emergency care. If these visitors have an incident, you have got the local knowledge and there tends to be somebody there most of the time that can help them out.

The CHAIRMAN: Unless there are any pressing questions, I think we will have to wind it up. We

have gone overtime anyway. I really do thank you for coming in and putting your case and our deliberations are still continuing. Thank you once again. We will break now.

Mr Lush: Thank you for the opportunity.

Mr Ryan: Thank you very much for having us.

Hearing concluded at 10.30 am