

Proposal to Amend the City of Joondalup District Boundary at Hillarys Boat Harbour



City of Joondalup - Submission to the Local Government Advisory Board

Proposal to Change the District Boundary of the City of Joondalup under Schedule 2.1 of Local Government Act 1995

1. Summary

The City of Joondalup seeks to change its district boundary by making a proposal under Schedule 2.1 of the Local Government Act 1995 to encompass development within the Hillarys Boat Harbour currently outside the City district boundary.

The proposal is consistent with the Guiding Principles published by the Local Government Advisory Board (LGAB) in particular:

- Community of Interest - by ensuring that land and developments which would otherwise be rateable and able to access services if within the City of Joondalup, are rateable and able to access services, especially in relation to other rateable property in the Harbour,
- Economic Factors - by ensuring that relevant land and developments are valued and rated, and that services are delivered by the City of Joondalup consistent with other land and developments in the City, and
- History of the Area - almost all of the Harbour developments are currently within the City district boundary.

The proposal would also be consistent with other similar or proposed marine developments which are wholly contained within a local government district boundary:

- Ocean Reef Marina (City of Joondalup),
- Mindarie Quay (City of Wanneroo),
- Barrack Street Jetty precinct (City of Perth - which includes part of the Swan River within its boundaries as well),
- Red Herring restaurant (Town of East Fremantle – which includes part of the Swan River within its boundaries as well).

2. Current District Boundary and Implications

The existing City district boundary encompasses almost all of the above water developments within the Hillarys Boat Harbour, except the boardwalk and jetty extension completed in 2009, the various developments associated with the boat pens and associated infrastructure and the sub-sea leases (refer dotted black line on Attachment 1).

The part of the boardwalk and jetty currently outside the City district boundary includes several restaurants/cafes which ought to be within the City to ensure commonality of approach with the other businesses in the Hillarys Boat Harbour including the application of local government services and responsibilities and the liability for local government rates and charges.

The City currently has no jurisdiction in relation to:

- applying its Planning Scheme,
- applying the Health Act (other than under formalised agency service agreements),
- applying the Building Code of Australia (other than under formalised agency service agreements),
- applying valuations and rates to land and developments which would otherwise be rateable property and,

- the application of various other legislative instruments that it enforces within the rest of the City (City of Joondalup Local Laws, Dog Act, Litter Act etc).

3. The Proposal - Amend the City of Joondalup District Boundary to Encompass the Entire Hillarys Boat Harbour

With the exception of a small portion of the very end tip of the southern groyne the Hillarys Boat Harbour sits within Reserve 39197. Not all of Reserve 39197 however is within the current City district boundary. The proposal is to change the City district boundary so that it aligns with the border of Reserve 39197 for that portion of Reserve 39197 that extends over the ocean with a small deviation to encompass the very end tip of the southern groyne (refer Attachment 1 dotted black line for current City district boundary and solid red line for Reserve 39197 border and proposed new district boundary).

The advantages include that:

- the proposed district boundary would coincide with that of the Harbour, making jurisdictional issues easy to reconcile,
- the proposed district boundary would ensure future developments were within the City's district boundary,
- the proposal may be able to be dealt with by the LGAB as a minor one under Clause 3. (3) of Schedule 2.1 of the Act, if the LGAB so determines.

The effect of the Proposal is to include within the City district boundary:

- all of the Hillarys Boat Harbour, including all of the over water developments and structures,
- the boat pens,
- any sub-sea leases within the Harbour.

4. Implications of Proposal

The City has assessed its capacity to deliver services to the areas subject to this Proposal and is able to do so at a level comparable with similar areas elsewhere in the City.

The City has not determined the full cost implications of providing such services as there may need to be negotiations with some State Government agencies, however, they are expected to be of a similar nature and extent to those provided elsewhere in the City. The City will be able to apply values and a rating system to the area of the boardwalk and jetty extension completed in 2009 and currently outside the City of Joondalup district boundary.

The City has identified the need to consider legal and policy issues before applying values and a rating system to the boat pens and any sub-sea leases. These will be considered by the Council if and when the proposal is approved by the LGAB and the Minister.

The City also acknowledges that the application of its Planning Scheme (and other relevant statutory processes) will be a matter for negotiation with relevant State Government agencies given the Crown has effective ownership/control of the Hillarys Boat Harbour.

5. Consultation

The Local Government Act sets out at Schedule 2.1 the need for consultation to take place with affected electors, affected local governments and affected electors of other local governments, unless a proposal is a minor one.

In considering the proposal the City noted that the proposal does not involve any common district boundary with any other local government and therefore there is no impact for any other local government or the electors of any other local government. It was identified that potential affected City of Joondalup electors could comprise:

- the lessees (and/or owners) of property which would become rateable under the proposal, in particular the shops and other premises on the boardwalk and jetty extension who may or may not be residents of the City of Joondalup,
- the lessees (and/or owners) of the boat pens who may or may not be residents of the City of Joondalup,
- the lessees (and/or owners) of any sub sea leases and who may or may not be residents of the City of Joondalup, and
- the Department of Transport (Marine and Harbours)

In consideration of the potentially affected electors the City publicly advertised the proposal in the West Australian, local newspapers and its website during November 2011 inviting comment within 21 days. No comments were received by the City during this period.

The City separately wrote to the Department of Transport (Marine and Harbours) and invited them to be briefed and to make comment on the district boundary change proposal. Subsequent to the closing of the period for comment the Department of Transport (Marine and Harbours) forwarded two responses it had received from stakeholders. The City also met with the Department of Transport (Marine and Harbours) who subsequently provided a written response to the district boundary change proposal. A full copy of the report considered by Council, when determining to make this submission, together with the report attachments which includes a schedule summarising the responses is at Attachment 2.

In essence all three responses opposed a district boundary change that would encompass all of Hillarys Boat Harbour. Two responses supported a change that only takes in the boardwalk and jetty extension completed in 2009 (refer solid yellow line on Attachment 1).

The City's view is that a district boundary change that only takes into account the boardwalk and jetty extension completed in 2009 addresses a current problem but does not adequately take account of possible future developments. It leaves open the requirement to make further district boundary changes should there be any further developments within the Harbour in the future, notwithstanding that the Department of Transport (Marine and Harbours) believe that the Harbour water areas are now at capacity.

A district boundary that encompassed the whole of Hillarys Boat Harbour would provide a simpler more clearly defined district boundary that would not require any future change as a result of any new developments inside the Harbour.

6. Proposal as a minor one

Clause 3 (3) of Schedule 2.1 of the Local Government allows the LGAB to determine that a proposal is of a minor nature and not one about which public submissions need be invited and may recommend to the Minister that the proposal be accepted or rejected.

This approach has merit when considering that the proposal does not involve any common district boundary with any other local government and therefore has no impact for any other local government or the electors of any other local government. This approach would ensure an expeditious assessment of this proposal by the LGAB and assuming it was recommended to the Minister for acceptance, it could be implemented speedily.

Schedule of Submissions - Proposal to Change the District Boundary of the City of Joondalup

No.	Organisation	Position on Proposed Boundary Change	Summary of Response
1	McGees Property (on behalf of Sorrento Quay Boardwalk)	Do not support.	<ul style="list-style-type: none"> • Financial burden to retailers and boat owners currently outside the boundary. • Department of Transport already supply services therefore no need for the City to duplicate. • Unusual that a local City Council can include the ocean as a municipal responsibility, not aware of any comparable. • Sorrento Quay Boardwalk and Harbour stakeholders not advised of City's intentions. • City should allow reasonable time to consider the proposal. <p><i>Officer Comment</i></p> <ul style="list-style-type: none"> • <i>Those businesses and properties currently outside the boundary do not pay rates and therefore do not contribute to any of the City provided infrastructure and services that support Hillarys Boat Harbour.</i> • <i>There is no proposal to duplicate services but as referred to in the report there are a number that the Department of transport is not able to provide.</i> • <i>This is not unusual and a number of examples re referred to in the report.</i> • <i>The proposal was publicly advertised for 21 days.</i> • <i>As above.</i>

2	Hillarys Yacht Club	Do not support.	<ul style="list-style-type: none"> • Accept the intention to extend the existing rateable area to include the new Sorrento Quay development. • Concern around increased amounts of rates if no significant increase in services provided by the City. • Expect public and business to be concerned if costs to attend the Harbour increase. • Increase in rates would require increase in fees for groups and community users who use Hillarys Yacht Club facilities. <p><i>Officer Comment</i></p> <ul style="list-style-type: none"> • <i>No comment.</i> • <i>The only additional rates that would be levied would be on those properties where currently no rates are able to be charged. This would simply put those properties on the same footing as most of the others within Hillarys Boat Harbour.</i> • <i>As above</i> • <i>As above.</i>
3	Department of Transport	Do not support.	<ul style="list-style-type: none"> • Preference is for boundary change to be limited to southern jetty and boardwalk extension completed in 2009 and not water within harbour. • No opportunity for further redevelopment within the water areas (now at capacity). <p><i>Officer Comment</i></p> <ul style="list-style-type: none"> • <i>No comment.</i> • <i>Noted.</i>