
**PROPOSED MERGER OF
ASHFIELD, LEICHHARDT MUNICIPAL AND
MARRICKVILLE COUNCILS**

**Comments by the NSW Local
Government Boundaries Commission
on the Report by the Delegate
of the Acting Chief Executive Officer
of the Office of the Local Government**



APRIL 2016



Local Government Boundaries Commission
GPO Box 5341
Sydney NSW 2001

The Hon Paul Toole MP
Minister for Local Government
Level 17 NE
52 Martin Place, SYDNEY NSW 2000

Dear Minister

Proposed merger of Ashfield, Leichhardt Municipal and Marrickville councils

The Local Government Boundaries Commission provides its comments on the Delegate's Report into the above merger proposal under section 218F(6) of the *Local Government Act 1993*.

Yours sincerely

A handwritten signature in black ink that reads 'Bob Sendt'.

RJ Sendt
Chairperson
22 April 2016

1. Summary of Local Government Boundaries Commission comments

The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Ashfield Council, Leichhardt Municipal Council and Marrickville Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government Act 1993* (the Act).

The Commission has assessed that:

- the Delegate's Report shows that the Delegate has undertaken all the processes required by section 263 of the Act,
- the Delegate's Report shows that the Delegate has adequately considered all the factors required by section 263(3) of the Act, and
- the Delegate's recommendation in relation to the proposed merger is supported by the Delegate's assessment of the factors.

2. Summary of the merger proposal

On 6 January 2016, the Minister for Local Government referred a proposal to merge the local government areas of Ashfield Council, Leichhardt Municipal Council and Marrickville Council to the Acting Chief Executive of the Office of Local Government for examination and report under the Act. The following map shows the proposed new council area (shaded in green).



The proposal would have the following impacts on population across the three councils.

Council	2016	2031
Ashfield Council	45,550	53,400
Leichhardt Municipal Council	58,150	67,550
Marrickville Council	85,550	102,300
New Council	191,266	225,281

Source: NSW Department of Planning & Environment, 2014 NSW Projections (Population, Household and Dwellings).

The Chief Executive delegated the function of examining and reporting on each of the proposals to a number of people, known as 'Delegates'. Delegates were required to examine and report upon each merger proposal rigorously and fairly. The examination process included Delegates calling for submissions and holding a public inquiry on each proposed council merger. Delegates prepared a report on the proposal and provided that report to the Local Government Boundaries Commission.

3. Role of the Local Government Boundaries Commission

The Local Government Boundaries Commission is an independent statutory authority constituted under section 260 of the Act. The Boundaries Commission examines and reports on any matter referred to it by the Minister in relation to the boundaries of local government areas and the areas of operation of county councils.

The Boundaries Commission has several functions under the Act. In the current context (where the Minister has elected to refer the proposal to the Office of Local Government, rather than the Boundaries Commission, for examination), the most relevant Commission functions are set out in section 218F(6) of the Act. This section requires:

- the Chief Executive to furnish the report on the examination of the merger proposal to the Boundaries Commission for review and comment, and
- the Boundaries Commission to review the report and send its comments to the Minister.

The Commission's role does not involve re-examining the advantages and disadvantages of the proposed mergers, accepting submissions or holding public inquiries.

4. Delegate's recommendations

The Delegate's key recommendation is:

"I consider that the proposal should proceed to implementation."

The Delegate made the following other recommendations:

- *The use of Wards in a merged council is supported, with ward boundaries to be developed by the new council to promote cohesion and community representation in the enlarged LGA,*
- *A minor boundary adjustment relating to the Presbyterian Ladies College Sydney should be made,*
- *Other boundary changes submitted to the Delegate and discussed in the Delegate's Report should be considered in any future boundary adjustment process.*

5. The Commission's detailed comments

5.1 Review of the process followed by the Delegate

Under the Act, the Delegate is required to undertake certain processes in examining a merger proposal. These processes include holding an inquiry, allowing members of the public to attend meetings as part of the inquiry and calling for submissions. As part of its review of the Delegate's Report, the Commission has looked at whether these processes were followed.

In total the Delegate considered 755 written and verbal submissions from the public, community and other organisations and councils.

The Delegate held two public inquiries on Tuesday, 2 February 2016 at the Wests Ashfield Leagues Club.

The Commission's view is that the Delegate has met the relevant requirements.

5.2 Review of the Delegate's consideration of the factors specified in the Act

Under section 263(3) of the Act, the Delegate is required to have regard to a range of factors when considering a merger proposal.

Overall, the Commission's view is that the Report shows that the Delegate adequately considered all the factors.

The Commission has formed this view based on its review of the discussion presented in the Delegate's Report. The Commission specifically considered whether the extent of that discussion adequately canvassed the range of issues raised in the written submissions made to the Delegate, the views expressed at the public hearings and other information that would have been available to the Delegate.

The Commission makes the following comments relating to each factor:

5.2.1 Financial factors

Section 263(3)(a) of the Act requires the Delegate to have regard to:

"the financial advantages or disadvantages (including the economies or diseconomies of scale) of any relevant proposal to the residents and ratepayers of the areas concerned".

The Delegate noted that the IPART 'Fit for the Future' assessments deemed all three councils *not-fit* on Scale and Capacity but they all satisfied the financial criteria. The Delegate concluded that recent examinations of the financial positions of Ashfield, Leichhardt and Marrickville councils by NSW Treasury Corp and IPART found these councils to be in sound financial condition.

The Report examined submissions that raised concerns about lack of information/accuracy of information in the merger proposal, potential increases in rates for some residents, underestimation of staff redundancy payments and minimal savings which do not justify the change.

At the Delegate's request, KPMG recast their modelling using a 10 year timeframe and discount rate of 7% (matching Morrison and Low's timeframe and discount rate). This resulted in KPMG identifying a lower level of financial benefit, \$51 million, less than the \$75 million financial benefit identified by Morrison and Low. In effect, a high level business case commissioned by the three councils identifies more financial benefits from a merger than the modelling commissioned by the Minister.

The Delegate found that the research available suggested a financial benefit would arise from the merging of Ashfield, Leichhardt and Marrickville Councils.

The Commission's view is that the Delegate adequately considered the issues under this factor.

5.2.2 Communities of interest

Section 263(3)(b) of the Act requires the Delegate to have regard to:

"the community of interest and geographic cohesion in the existing areas and in any proposed new area".

As noted by the Report, Ashfield, Leichhardt and Marrickville Local Government Areas are located in Sydney's inner west. Ashfield Council's submission suggested that while there are many similarities between the three areas, there are differences that make their communities distinct and unique and it is the difference between communities which define them. Leichhardt Council's submission suggested that there are no shared communities of interest or geographic cohesion between Leichhardt, Ashfield and Marrickville. Marrickville Council's submission suggested that there are some shared communities of interest between the three "at a broad planning level – not in the streets and neighbourhoods where lifestyle and values are actively experienced".

The Delegate concluded that the communities of Ashfield, Leichhardt and Marrickville share a lot in common; they demonstrate a very high level of similarities between who they are, how they live, work and recreate and the values which drive them and shape their local environment.

It was her view that the communities of Ashfield, Leichhardt and Marrickville are well connected across the 35 square kilometres of the proposed new council area. People move easily and readily across the three communities, via heavy and light rail, bus networks, cycling networks and walking.

The Delegate was satisfied that the proposed merger of Ashfield, Leichhardt and Marrickville councils would not diminish existing communities, indeed these communities fit together cohesively both geographically and through a shared sense of identity and behaviour which points to an ability to successfully integrate the three councils.

The Commission's view is that the Delegate adequately considered the issues under this factor.

5.2.3 Historical and traditional values

Section 263(3)(c) of the Act requires the Delegate to have regard to:

"the existing historical and traditional values in the existing areas and the impact of change on them".

The Report stated that all three councils have their origins in the late 1800s.

The Delegate noted that suburbs across all three councils have changed substantially since Europeans first occupied the area. Large estates and farmland were replaced by housing and industry before changing technology, markets and demographics led to gentrification with industrial sites becoming residential or open space and higher density dwellings built to provide new and affordable housing close to major transport links.

In the view of the Delegate all three Councils impose planning controls to protect heritage, including the protection of entire suburbs as Conservation Areas. Councils' Local Environmental Plans (LEPs) are similar in terms of building heights and floor space ratios, reflecting a shared community interest in maintaining a similar character in their neighbourhoods, sensitive to preserving historical sites.

The Delegate concluded that, from an examination of historical and traditional values of the affected areas, there was no impediment to the boundary alteration proposal presented.

The Commission's view is that the Delegate adequately considered the issues under this factor.

5.2.4 Attitudes of residents and ratepayers

Section 263(3)(d) of the Act requires the Delegate to have regard to:

“the attitude of the residents and ratepayers of the areas concerned”.

The Delegate reported that 81.4% of submissions received opposed the merger. All three Councils' submissions revealed a high level of opposition to forced council amalgamations. As noted by the Delegate, this opposition was based primarily on attitudes, financial concerns, a belief that there is little or no community of interest among the council areas and concern that a merger could result in a loss of services.

The Delegate stated she had assessed the opposition stemming from financial and loss of service concerns and a belief in a lack of community of interest, against the evidence and found those concerns to be unwarranted.

The Delegate indicated that emotion appears to underpin much of the opposition expressed, with attitudes shaped not by the contents of the merger proposal so much as the process by which the merger is being considered.

The Commission's view is that the Delegate adequately considered the issues under this factor.

5.2.5 Elected representation

Section 263(3)(e) of the Act requires the Delegate to have regard to:

“the requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as

it considers relevant in relation to the past and future patterns of elected representation for that area”.

The Report noted that the ratio of residents to elected councillors in each of the three Councils is not dissimilar. Ashfield has 12 councillors with a resident representation ratio of 1:3,708. Leichhardt has 12 councillors with a resident representation ratio of 1:4,845. Marrickville has 12 councillors with a resident representation ratio of 1:6,946. A merged council with 12 councillors would have a resident representation ratio of 1:15,499. This is a significant increase but not unreasonable when compared with, for example, the City of Sydney which has a resident representation ratio of 1:19,192.

The Delegate concluded that use of wards in a merged council is supported, with new boundaries to be developed by the new council to promote cohesion and community representation in the enlarged LGA.

The Commission’s view is that the Delegate adequately considered the issues under this factor.

5.2.6 Service delivery and facilities

Section 263(3)(e1) of the Act requires the Delegate to have regard to:

“the impact of any relevant proposal on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities”.

The Delegate noted that Ashfield Council’s submission suggested that there are key differences between all three Councils’ service offerings and delivery models, reflecting different needs and community priorities. Leichhardt Council’s submission suggested that a merger with Ashfield and Marrickville would jeopardise the high level of service delivery that the residents of Leichhardt have become accustomed to and Council is able to afford. Marrickville Council’s submission advised that all three councils provide a range of services (some unique) and that service standards between the councils vary considerably.

The Delegate concluded that the services delivered by the Councils were very similar in terms of scope, scale, standards/quality and frequency. Councils suggested services are likely to be harmonised if a merger proceeds, citing the experience of council mergers in Queensland and Auckland where this was seen to have occurred, with services harmonised at higher, not lower levels, with residents and ratepayers ultimately able to access better, more frequent or new services. The Report suggested such harmonisation erodes potential merger savings, and this could occur.

The Delegate noted that ultimately, the mix and quality of services provided by any council is developed in response to its community’s wants and needs. The similarity between the service offerings of Ashfield, Leichhardt and Marrickville Councils suggested a significant similarity of community wants and needs; these similarities will inform and likely sustain, and perhaps enhance, the services and accessibility of services delivered under a merged council.

The Delegate concluded that a merger of Ashfield, Leichhardt and Marrickville Councils is likely to result in better, more accessible services to residents and ratepayers.

The Commission's view is that the Delegate adequately considered the issues under this factor.

5.2.7 Employment impacts on staff

Section 263(3)(e2) of the Act requires the Delegate to have regard to:

"the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned".

The Report stated that Ashfield Council has a significantly lower ratio of staff to population compared to Leichhardt and Marrickville, indicating that it is a much leaner organisation (with one staff member for every 242 residents compared to Leichhardt's one staff member to 128 residents). Ashfield also has a much lower employee cost per capita, \$351, significantly lower than Leichhardt, \$650, and Marrickville, \$556. The Report indicated that these figures reflected Ashfield's service model of contracting out as opposed to service delivery primarily through in-house staff (which Leichhardt and Marrickville tend to do). Average employee costs are similar across the Councils; Leichhardt has the lowest at \$82,991 per employee, Marrickville the highest at \$88,200.

The Delegate noted that Leichhardt Council extended to five years for its staff the employment protections provided to them under the Act (which, under legislation are set for three years).

The Delegate concluded that the impact on staff of a merger of Ashfield, Leichhardt and Marrickville Councils was manageable, has been mitigated via legislated employment protections and does not, therefore, preclude the merger of these councils.

The Commission's view is that the Delegate adequately considered the issues under this factor.

5.2.8 Rural impacts

Section 263(3)(e3) of the Act requires the Delegate to have regard to:

"the impact of any relevant proposal on rural communities in the areas concerned".

The Delegate noted the area covered by the proposal is within urban Sydney and there are no rural communities impacted by this proposal.

The Commission's view is that the Delegate adequately considered the issues under this factor.

5.2.9 Wards

Section 263(3)(e4) of the Act requires the Delegate to have regard to:

"in the case of a proposal for the amalgamation of two or more areas, the desirability (or otherwise) of dividing the resulting area or areas into wards".

The Report noted that all three councils utilise an electoral system incorporating four wards with three councillors from each. Council submissions all confirm support for the use of wards to be maintained should a merger occur, with ward boundaries broadly following existing LGA boundaries. A majority of submissions also supported the continued use of wards.

The Delegate concluded that the use of wards in a merged council is supported, with new boundaries to be developed by the new council to promote cohesion and community representation in the enlarged LGA.

The Commission's view is that the Delegate adequately considered the issues under this factor.

5.2.10 Opinions of diverse communities

Section 263(3)(e5) of the Act requires the Delegate to have regard to:

“in the case of a proposal for the amalgamation of two or more areas, the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented”.

The Report noted elsewhere that all three Councils have relatively high proportion of residents born overseas.

The Delegate indicated that 75 submissions were received under this factor.

Marrickville Council submitted details of its Local Committees as an effective means of enabling diverse communities to voice their views to Council, participate in grass-roots activities and influence elected representatives. The Delegate concluded that this was an effective way to ensure diverse communities receive a direct voice to inform council planning and decisions.

The Commission's view is that the Delegate adequately considered the issues under this factor, while noting the limited analysis provided.

5.2.11 Other issues

Section 263(3)(f) of the Act requires the Delegate to have regard to:

“such other factors as it considers relevant to the provision of efficient and effective local government in the existing and proposed new areas”.

The Delegate considered the following other issues in the Report:

- *Strategic Advantages:* The Delegate noted concerns raised by councils and the community in regards to a potential loss of effective council representation during a period of councils merging, coinciding with the NSW Government making major decisions on infrastructure and urban renewal projects which affect the Inner West community (e.g. WestConnex, Parramatta Road Corridor Urban Renewal). The Delegate stated that the NSW Government should ensure that effective community engagement and consultation in regards to these

projects is not diminished during any period of transition associated with the creation of a new council.

- *Transition Arrangements:* Leichhardt Council included in its submission a copy of the proclamation of Canada Bay Council in 2000 as an example of a preferred means of transitioning to a new council.
- *Recommended Boundary Adjustments:* The Delegate recommends the boundary of Ashfield LGA be adjusted to consolidate the Presbyterian Ladies College Sydney (PLC) owned properties into the Burwood LGA
- *Other Boundary Adjustments:* The Delegate reported on a number of boundary adjustments for future consideration: Ashbury and Hurlstone Park into the new council boundary; removing the Cooks River Intermodal Terminal from the new Council boundary; and removing the land occupied by the Sydney Airport Corporation from the new boundary.

The Commission's view is that the Delegate adequately considered the issues under this factor.

The Commission notes that the suggested boundary adjustments are a matter for the Minister.