
**PROPOSED MERGER OF
BURWOOD, CITY OF CANADA BAY AND
STRATHFIELD MUNICIPAL 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 Burwood, City of Canada Bay and Strathfield Municipal 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 'RJ Sendt'.

RJ Sendt
Chairperson
22 April 2016

1. Summary of Local Government Boundaries Commission comments

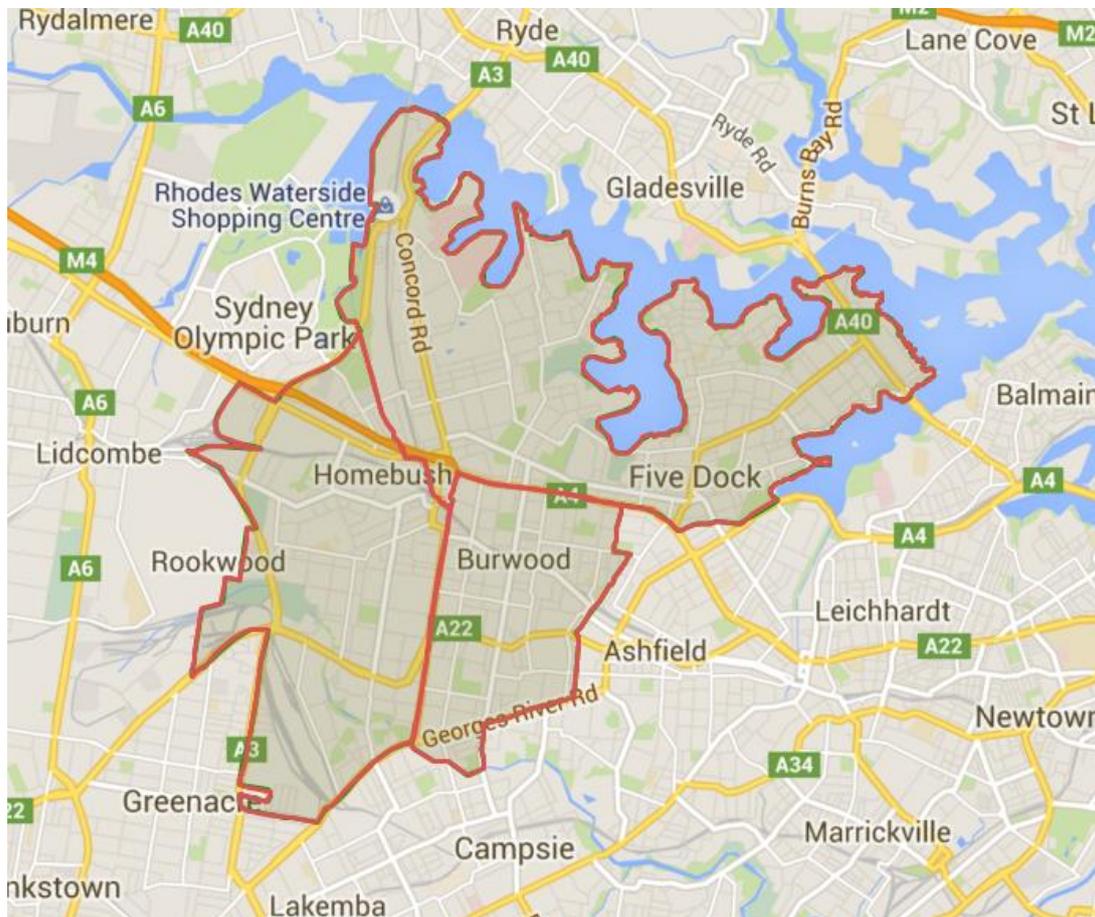
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Burwood Council, City of Canada Bay Council and Strathfield Municipal Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required 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, with the exception of the factors listed under subsections 263(3)(a) (finance), 263(3)(b) (communities of interest) and 263(3)(e5) (diverse communities), and
- the Delegate's recommendation in relation to the proposed merger is supported by the Delegate's assessment of the factors.

2. Summary of merger proposal

On 6 January 2016, the Minister for Local Government referred a proposal to merge the local government areas of Burwood Council, City of Canada Bay Council and Strathfield Municipal 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).



Proposed merger of Burwood, Canada Bay, and Strathfield

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

Council	2016	2031
Burwood	37,850	47,500
City of Canada Bay	90,250	111,350
Strathfield Municipal	39,750	50,900
Merged Entity	167,850	209,750

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

The Acting 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 includes 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 that:

“The merger proposal described in the NSW Government document, Merger Proposal: Burwood Council, City of Canada Bay Council and Strathfield Municipal Council, be approved.”

The Delegate also recommended:

- *“If the proposed merger is approved, the new council should have 12 Councillors, including the Mayor, and not be divided into wards; and*
- *The minor boundary adjustment relating to PLC detailed in Figure 6.11.1 of the report, be made.”*

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 205 written and verbal submissions from the public, community and other organisations and councils.

The Delegate held two public inquiries on 4 February 2016 at the Canada Bay 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 Delegate has adequately considered all the factors, with the exception of finance, communities of interest, and diverse communities.

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 the 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".

With regard to this factor, the Report stated that the Delegate considered financial forecasts provided in the proposal document, information provided by councils affected by the proposal, submissions received that addressed this factor and publicly available information. The Report stated that the Delegate has considered and compared this information and has concluded that the proposed new entity would provide greater advantage than disadvantage to the residents and ratepayers of the affected areas.

The Delegated stated:

“The proposal, which relies on the results of KPMG’s modelling, describes a financial advantage of the proposal to the new council as a net financial saving of \$60 million over 20 years (including savings of \$5 million per year from 2020 onwards. Other financial advantages in the new council area include a \$25m funding package provided to newly merged councils to assist with the costs of the merger.”

A table is included in the Report to demonstrate the operating results of the three councils. The Delegate stated:

“Table 6.1.1 compares the sum of the affected councils’ operating results for 2014-15 against the sum of the affected councils’ operating results contained in the proposal document for 2013-14. The results show improvement in 2014-15 and that the new council, if approved, can achieve an operating surplus (including capital grants). This supports the conclusion that the financial advantages arising from the proposal are realistic.”

Given regard to the ongoing operating results of the affected councils and the financial advantages forecast in the proposal document, the Delegate concluded that, on balance, the proposal would have greater advantages than disadvantages for residents and ratepayers.

The Commission’s view is that the Delegate did not adequately consider the issues under this factor.

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”.

The Delegate noted that there were 14 submissions discussing the perceived cultural, identity and values differences and similarities between residents in different areas of the proposed new council area.

The Report noted:

“The Delegate has chosen to define ‘communities of interest’ as formal, organised communities (eg, schools, religious or sporting organisations) whose members have a common interest that is affected by the proposal. A small number of submissions (four) raised concerns relating to this factor. One example is the future availability and amenity of facilities for community organisations, particularly where those organisations have made contributions to, or had a long association with, the facilities in the past...If the proposal is approved, the Delegate recommends that the newly merged council shows good governance by quickly addressing the concerns of communities of interest in a fair and equitable way.”

The Report also stated that the Delegate considered matters of geographic cohesion. The Report noted that the area covered by the proposal is 41 square kilometres situated in the inner west of

Sydney. The Delegate stated that the area covered by the proposal is relatively small, and contained within reasonable travel distances.

The Commission's view is that the Delegate did not adequately consider the issues under this factor.

5.2.2 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 Delegate reviewed the historical and traditional values of the areas affected by the proposal and concluded that these did not preclude the approval of the proposal. Brief timelines of how each council area developed were included in the Report.

The Report noted that the areas were developed in proximity to each other and share similar rates of progress over time. The Delegate noted that a common theme in the histories of the areas is growth through better transport connections to both Sydney and Parramatta. He stated that this is consistent with the potential increased scale and capacity, arising from the proposed merger, to facilitate major infrastructure projects such as WestConnex and the redevelopment of Parramatta Road.

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

5.2.3 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 stated he received 168 written submissions and held two public inquiries at which 37 speakers were heard. The Report noted that 39 submissions (or 19%) indicated support for the proposal and 147 submissions (or 72%) opposed the proposal, and the remaining 9% of submissions received were neutral. The Delegate noted that:

"Many concerns raised relate to the provision of services (103 submissions) and the level of rates (49 submissions) should a merger occur. Burwood Council has an approved cumulative special rate variation of 17.4% over a four year period from 2014-15, and Strathfield Council intends to request a one-year special rate variation of 7.5% in 2017-18, indicating that two of the three affected councils are currently or planning to raise rates by more than the rate peg. This suggests that submitter's concerns are valid. The proposal is an opportunity for residents to gain a greater range of services and infrastructure for their locality, and to reduce their council's need for special rate increases.

The Delegate stated that he recognised that residents identify with their localities, including suburbs. However, he noted that communities are comprised of not only geographical areas, but also

common values, interests and connections made through institutions such as schools, sporting associations and volunteer groups. He concluded that *“the primary function of Local Government is the provision of services and infrastructure and the Delegate considers that the proposal does not, in practical terms, diminish residents’ identity or sense of community”*.

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

5.2.4 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 Delegate noted that, of the 205 submissions made during the consultation period, 74 raised concerns regarding the factor.

The Delegate also considered how the Independent Local Government Review Panel (ILGRP) reviewed the issue of councillor numbers. The Delegate quoted a discussion paper from the ILGRP which stated the factors that should be considered when determining councillor numbers.

The Report concluded that:

“The Delegate recommends that the newly merged council should have 12 elected representatives including a Mayor, who is chosen by the councillors. This will increase the number of residents represented by each councillor in each of the affected areas. This reduces related cost. Representation can be improved through enhanced consultation, community groups and devolving service delivery.”

The Delegate stated he does not recommend a popularly elected Mayor, given the disadvantages.

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

5.2.5 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 Report stated that the Delegate received and considered 103 submissions addressing the factor. Of these, 74 were concerned service levels would decrease, 25 expressed that services would improve and 4 were neutral on the issue of service delivery by the proposed new council.

The Delegate included a comparison of operating expenditure per capita of each council. He noted that the current Strathfield Municipal and Canada Bay Councils have similar operating expenditure per capita while the current Burwood Council has a higher figure. He stated that the proposed merger should provide higher expenditure per capita levels to around 126,961 residents, before allowing for savings outlined in the proposal document. For this reason the Delegate concluded that consideration of service levels supported the proposal.

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

5.2.6 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 Delegate stated that he received 38 submissions that raised concerns regarding the impact of the proposed merger on employment of staff and the possibility of redundancies.

The Delegate accepted that the proposal is likely to have an impact on employment of council staff, but in his view this will be within the guidelines and protections contained in the Act, relevant awards and enterprise agreements. He noted that the Act provides a three year protection against redundancies for general staff.

The Delegate concluded that the protection provided by the Act for staff in a merged council answers these concerns.

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

5.2.7 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 Report noted that the area covered by the proposal is entirely within the Sydney metropolitan area. The Delegate concluded there are no impacts on rural communities arising from the proposal.

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

5.2.8 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 Delegate stated he considered issues raised in 29 submissions that expressed a preference for or against wards in the proposed new council. In addition, the Delegate stated he considered guidance provided by the Australian Centre of Excellence for Local Government (ACELG).

The Delegate recommended that the new entity have 12 councillors and no wards. He stated that the merger of a new council without wards would help facilitate the cohesion of the new council.

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

5.2.9 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 stated that the area includes culturally diverse communities, and a small number of submissions addressed this factor by *"affirming this diversity in a positive way"*.

The Delegate acknowledged that the proposal area is comprised of diverse communities and the effective leadership shown within the community by Local Government to date. He concluded:

"If the proposal is approved, the Delegate recommends that the newly merged council continues to show good governance and leadership by recognising and respecting the opinions of diverse communities in a fair and equitable way."

The Commission's view is that the Delegate did not adequately consider the issues under this factor.

5.2.10 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 Report noted that a suggested boundary adjustment was received from the Presbyterian Ladies College Sydney (PLC), stating the boundary between the proposed new council and Ashfield Council runs through PLC's site. The Delegate stated that this would cause numerous issues for the school. The Delegate recommended that the boundary adjustment be made.

The Commission's view is that the Delegate adequately considered the issues under this factor.
The Commission notes that boundary adjustments are a matter for the Minister.