
**PROPOSED MERGER OF
MANLY, MOSMAN MUNICIPAL AND WARRINGAH
(PART) 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 Manly, Mosman Municipal and Warringah (part) 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
29 April 2016

1. Summary of Local Government Boundaries Commission comments

The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Manly Council, Mosman Municipal Council and part of Warringah 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 factor listed under subsection 263(3)(e2) (employment impacts), 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 Manly Council, Mosman Municipal Council and the southern part of Warringah 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 Manly, Mosman and Warringah (part)

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

Council	2014	2031
Manly Council	44,786	-
Mosman Council	30,276	-
Part Warringah Council*	77,946	-
New Council	153,800	179,000

Source: NSW Government, January 2016, *Merger Proposal: Manly Council, Mosman Municipal Council, Warringah Council (part)*, pp 8 and 15.

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 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:

"... that the proposed merger of the Manly, Mosman Municipal and southern area of Warringah local government areas could proceed as the resulting new council would be stronger financially than the current council arrangements. It is noted however, there are strong community attitudes around a single northern beaches council and that Mosman more closely aligns with North Sydney."

Other recommendations by the Delegate were:

- "A decision **should not be taken** on the merger proposal described in the NSW Government document *Merger Proposal: Manly Council, Mosman Municipal Council,*

Warringah Council (part) ...until after the merger proposal for the creation of a Northern Beaches Council by merging Pittwater, Warringah and Manly Councils, and the proposal to merge Mosman, North Sydney and Willoughby Councils have been considered."

- *"Should the proposed merger be approved, the Council should have 9 Councillors, including the Mayor, and not be divided into wards.*
- *Should the proposed merger be approved, consideration should be given to the minor boundary adjustments put forward by Warringah Council ...*
- *Should the merger proposal proceed, it is recommended that how high value assets that are utilised by residents across the northern beaches such as Brookvale Oval are allocated, is the subject of detailed discussions between the new merged council and the adjoining council."*

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 5,209 written and verbal submissions from the public, community and other organisations and councils. An additional 262 written submissions were not considered as they were duplicates, incomplete, damaged by post, incorrect, or were received as a newspaper article or flyer with no other comments.

The inquiry hearings were held over two sessions at the Manly Golf Club on 2 February 2016. In the second session that day, not all registered speakers could be heard within the time allocated. All the speakers who could not speak during the second session were contacted and provided the opportunity to address the Delegate in a private meeting to express their views. These follow up sessions were held in Harbord Diggers and in Mosman Art Gallery on 24 and 25 February 2016 respectively, allowing an additional 11 speakers to address the Delegate.

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 the Delegate adequately considered all the factors, with the exception of employment impacts on staff.

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 considered financial forecasts provided in the proposal documents and other financial analysis. The Delegate considered the NSW Treasury Corporation (TCorp) reports on sustainability of the individual councils, and the Independent Pricing and Regulatory Tribunal (IPART) assessment.

The Delegate also considered the financial forecasts provided in the proposal document which found that the proposed merger has the potential to generate net present value of financial savings of \$47 million to the new council over 20 years.

The Delegate noted that a number of submissions, including Council submissions, highlighted concerns with the assumption used by KPMG of population being used to allocate revenue and costs as well as area for the splitting of assets, in the modelling of the merger proposal.

In particular, the Delegate noted Warringah Council’s submission that *“a single council on the northern beaches is the model best able to deliver on the NSW Government’s plans for efficient, effective and sustainable local government”* and that *“splitting Warringah Council into two components and combining one component with Manly Council and the other component with Pittwater Council to form two new Councils was the worst option examined for local government reform on Sydney’s northern beaches, as it provided the least savings and the highest transition costs ...”*

The Delegate noted Warringah Council’s submission that three financial studies had concluded that the creation of a single council on the northern beaches by combining Manly, Pittwater and Warringah Councils was the best option as it provided the most savings and the best net benefit. The Delegate also noted that the proposal to split Warringah could have significant financial and other impacts on major infrastructure projects already underway such as the work being undertaken on Brookvale Oval. He recommended that, in the event of the merger proceeding, detailed discussions between the new merged council and the new adjoining council to the North be held to determine how these costs are allocated.

The Report also considered a number of submissions that raised concerns about the potential impacts on rates and service levels.

The Delegate concluded that the financial advantages of the proposed merger outweigh the disadvantages, and therefore the merger could proceed. However, the Delegate was also aware that financial analysis indicated that a single Northern Beaches Council and Mosman merging with North

Sydney and Willoughby would be financially stronger than a council created under the current proposed merger.

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

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”.

The Delegate noted that there are strong geographic and demographic similarities between the three council areas proposed for merging and that the new entity will comprise large expanses of national parks, beaches and reserves. The Delegate stated that the geographical nature of the area potentially leads to interest around the management of catchment areas and parklands, and issues such as controlling beach erosion, flood mitigation and bushfire management.

The Report further noted that the communities share transport issues, including limited connections to greater Sydney, and enjoy above average incomes, with a highly educated population.

The Delegate also noted that themes from the community of interest factor within submissions refer frequently only to the community around the northern beaches, and that Mosman is considered a separate community. The Report stated that the northern beaches are commonly understood by Sydneysiders and others to include those areas with a shoreline to the Pacific Ocean and beginning somewhere on the northern side of Middle Harbour. The Spit Bridge, which carries traffic between the Mosman and Manly local government areas, provides a structural link between the two land masses on either side of Middle Harbour but has also traditionally been seen as the boundary between Sydney's 'north shore' and 'northern beaches'.

The Delegate further noted that there was a strong theme expressed in the submissions that Mosman is a separate identity in relation to Manly and Warringah, or as an area it is more aligned with Sydney's North Shore region.

In conclusion, whilst acknowledging the geographic cohesion of the northern beaches peninsular, the Delegate considered there is no strong impediment to a proposed merger with regard to the community of interest and geographical cohesion factor.

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 provided an overview of the historic and traditional values of the area, obtained from Council websites, which noted historical traditions associated with the Guringai and Borogegal people, and the early days of the Colony. During the 19th and early 20th centuries the region became popular as a seaside holiday resort.

The Report also provided a history of each of the LGAs. The Delegate noted that Manly and Warringah share many similar characteristics, with Mosman having a greater link to the Harbour and North Shore. The Delegate concluded that the limited historical connections do not preclude the merger as proposed, however they did highlight the differences of the areas.

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 noted that most of the submissions (91.7%) were seen as relating to this factor. From the analysis of submissions, support for a "One Northern Beaches Council" (a potential alternative merger between Manly, Warringah and Pittwater councils) was the strongest additional factor theme with around half of all submissions supporting this alternative merger.

The request that Warringah should not be split or that Warringah should continue to stand alone was identified in over a third (38.1%) of submissions and was identified in almost half (45.5%) of the submissions from Warringah.

The Report also noted that almost a third of submissions raised financial issues for the new council. The Delegate concluded that it was clear through the analysis of the public submissions that there is significant support for a "One Northern Beaches Council," and that a majority regard Mosman as a separate area or more closely aligned to the North Shore/ North Sydney.

The Delegate also acknowledged the clear high levels of "customer satisfaction" of residents as expressed by the community surveys quoted.

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

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 Delegate noted that the ratio of residents to elected councillors in Manly and Mosman councils is similar (1:4,976 and 1:4,325) but is about one-third that of Warringah Council (1:15,529). The proposed merger will increase the ratio of residents to elected councillors to match a similar resident per councillor ratio (1:15,301) as that of Warringah.

The Delegate noted that only a small proportion of submissions raised concerns around elected representation. However, the Report noted that each council made suggestions on the number of councillors. The Delegate outlined the submissions of the Councils in relation to this factor.

In conclusion, the Delegate recommended that if the merger proceeds, the newly merged council should have nine elected representatives including a Mayor who is chosen by the councillors. The Delegate noted that nine councillors will give a ratio of 1:17,000, which is larger than the current Warringah Council ratio but smaller than the Blacktown Council ratio of 1:21,000.

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

The Commission notes that the Report (page 24) included a quote attributing a statement concerning councillor numbers in new councils to the Boundaries Commission. These comments were in fact made in a 2004 boundary adjustment proposal by the then Minister for Local Government.

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 reported that 20% of submissions received identified issues relating to this factor. One of the themes was concern about any potential effect on beach parking permits. Another theme was the concern of the ability to pay for services or having to raise rates to pay for services/infrastructure from other councils.

The Delegate reported that Manly Council has identified a number of issues related to harmonising services, noting that it operates its own domestic garbage collection, street sweeping, recycling and other services unlike either Mosman or Warringah. The Delegate also noted a statement included in Mosman Council’s submission regarding high levels of staff and resident satisfaction with the services provided by the current council.

The Delegate further noted that one of the major themes regarding service issues being discussed in submissions from Warringah residents was around the potential loss of beach parking permits.

The Delegate considered that if the merger is implemented the new Council financially should be in a position to at least maintain the levels of services provided by the current Councils and that, with regard to beach parking, the issue could be resolved by the new entity entering into discussions around sharing permits. Overall, the Delegate considered there was no impediment to the proposed merger occurring based on this factor.

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

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 Delegate noted the proposal document estimated potential savings from the removal of duplicate back office and administrative functions and streamlining of senior management roles at around \$42 million, and that there are a number of employment protections included under the Act for non-senior staff.

The Delegate further noted that workforce planning is an important part of the Integrated Planning and Reporting provisions under the Act which requires councils to identify current and predicted workforce issues.

In conclusion, the Delegate stated that the review found no impediment to the merger proposal on this factor.

The Commission's view is that the Delegate did not adequately consider 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 that although the area is not considered a traditional rural area, some submissions have identified rural factors around issues such as the parklands/national parks in the area and bush-fire management.

The Delegate noted that the arrangements around fire management will need to be discussed as part of the transitional arrangements if the merger proposal proceeds. However, he found no impediment to the merger proposal on this factor.

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 Delegate noted that only a small number of submissions addressed the issue of wards. However, he noted that both Mosman and Warringah Councils recommended the creation of wards covering the three current council areas and that Manly Council suggested that wards may be the best way to ensure effective representation in the areas that make up the new merged entity.

The Delegate also reviewed the ILGRP Report regarding the advantages and disadvantages of using wards to ensure effective local representation.

In conclusion, the Delegate did not recommend the use of wards. His strong opinion was that the creation of wards in the new area if the merger proceeded has the risk that the previous council areas will be maintained rather than establishing a council with councillors who are responsible for the whole of the new council area. In recommending this approach, the Delegate stated his understanding that the new council may decide to introduce wards at some stage.

The Delegate considered place management could be used to ensure areas such as Mosman maintain their identity.

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 Delegate considered the diverse backgrounds of the three existing LGAs.

He also noted Manly and Warringah Councils' submissions, including recognition of the needs of diverse communities, and potential for the establishment of strategic operational committees, robust community engagement and effective customer service and engagement.

The Delegate concluded that the proposed new council would contain a similar demographic profile with respect to the diversity of the community and, should the merger proposal proceed, the

Delegate considered the new council will be able to engage with and provide the representation, service, facilities and community events that the community requires. The Delegate further noted that the new council should ensure it continues to represent the diverse communities beyond the predominant ancestry background.

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 a number of other matters raised by councils in their submissions.

Mosman raised the issue of “contiguity of land”, arguing that because there is no shared land boundary between it and Manly, the proposal may not comply with section 204 of the Act. However, the Delegate believed this would have been considered during the merger proposal formulation and recommended this is confirmed should a merger proceed. The Delegate further noted Mosman’s preparedness to consider a one-to-one merger with North Sydney.

Warringah Council also raised some technical boundary adjustments as part of its submissions. The Delegate considered the technical boundary changes identified by Warringah Council have merit and recommended that they should be subject to negotiation between the new council and adjoining councils should the merger proposal proceed.

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

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