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**PROPOSED MERGER OF  
SHELLHARBOUR CITY AND WOLLONGONG CITY  
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**

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Local Government Boundaries Commission  
GPO Box 5341  
Sydney NSW 2001

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

Dear Minister

**Proposed merger of Shellharbour City and Wollongong City 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  
26 April 2016

## 1. Summary of Local Government Boundaries Commission comments

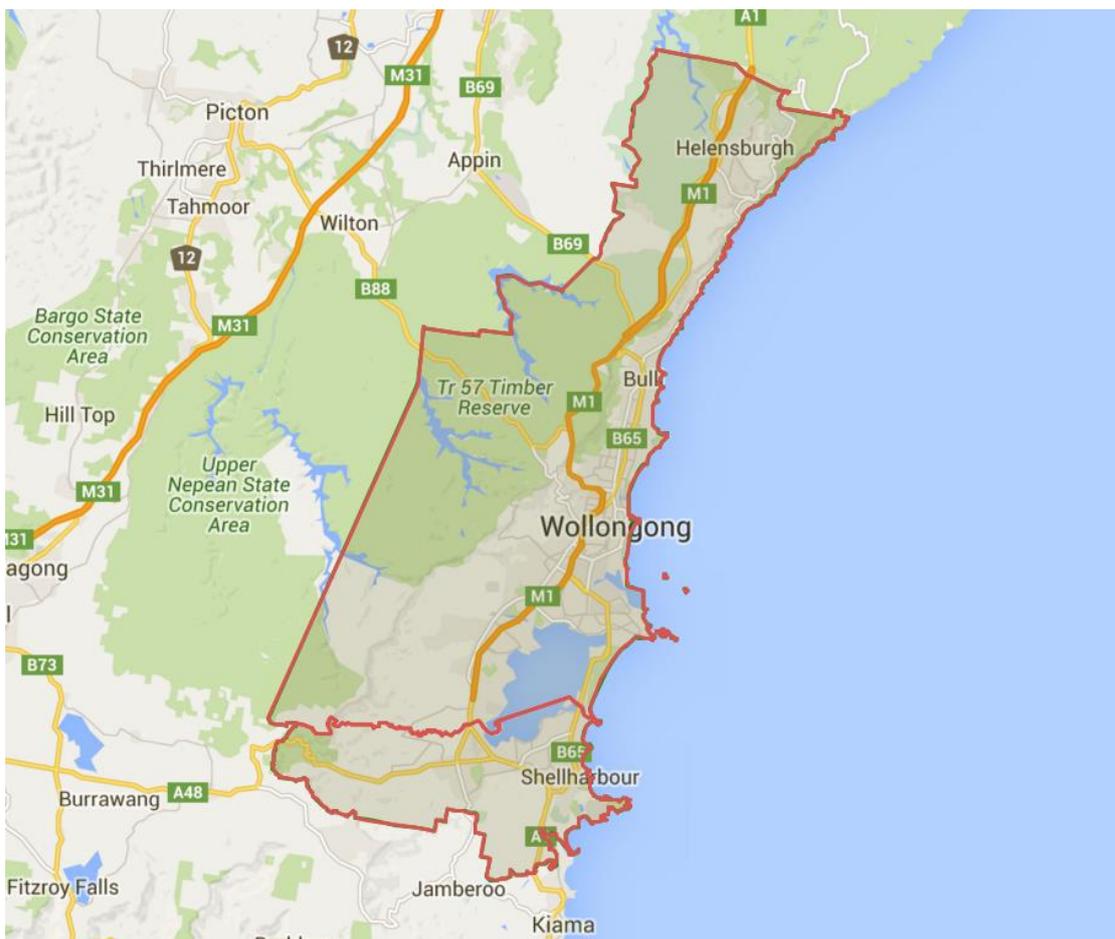
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Shellharbour City Council and Wollongong City Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government 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 Shellharbour City Council and Wollongong City 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 two councils.

Council	2016	2031
Wollongong City	201,350	232,450
Shellharbour City	70,650	84,250
Merged entity	272,000	316,700

Source: [Profile.id.com.au/Shellharbour/population-estimate](http://Profile.id.com.au/Shellharbour/population-estimate) & [Profile.id.com.au/Wollongong/population-estimate](http://Profile.id.com.au/Wollongong/population-estimate)

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 proposal warrants proceeding to implementation.*

The Delegate makes the following other recommendations:

- *"That the Minister and the Boundaries Commission note this report's findings and the issues identified for further investigation*
- *That the proposal warrants proceeding to implementation*
- *That if the proposal proceeds, the new Local Government Area should be served by 15 councillors*
- *That if the proposal proceeds, the new Local Government Area should have a 5 ward system*

- *That if the proposal proceeds, the Mayor of the new merged entity should be elected by the councillors*
- *That if the proposal proceeds, the proposed new Local Government Area should be named Illawarra Council*
- *That if the proposal proceeds, the Minister should seek separate legal and other advice as to the options and ability to retain the Lord Mayoral status that has been granted to Wollongong City Council*
- *That if the proposal proceeds, a public information campaign be undertaken to address resident concerns and to better inform the community about the proposed merger*
- *That if the proposal proceeds, the new council give consideration to the establishment of an Independent Hearing and Assessment Panel under the new merged entity*
- *That if the proposal proceeds, the new council should give careful consideration to arrangements to harmonise rates and their related structures and processes over time, with advice and support from the Office of Local Government (OLG) and/or the Independent Pricing and Regulatory Tribunal (IPART)*
- *That the Minister should give consideration in due course to a minor boundary adjustment to a property at the end of Darkes Forest Rd through the established processes*
- *That if the proposal proceeds the new merged council give consideration to commencing discussions with the USU and related trade unions with a view to establishing an industrial working party”.*

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

The Delegate held one public inquiry on 2 February 2016 at the Shellharbour Club and two public inquiries on the same day at the Sage Hotel Wollongong.

***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.***

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”.*

It was noted by the Delegate that Shellharbour City Council was not found to be “Fit and that Wollongong City Council were found to be financially ‘Fit for the Future’ by IPART in 2015.

The Delegate noted the KPMG modelling which estimated that the merger is expected to lead to more than \$75 million in net financial savings over 20 years.

The Delegate examined submissions provided during the public inquiry including detailed analysis of the KPMG assumptions by Shellharbour City Council and considered both the disadvantages and advantages of the merger proposal.

The Delegate concluded that overall the creation of the new proposed council has the potential to bring about a number of significant financial and economic benefits, including establishing a more viable and robust entity that will have the capacity and opportunity to deliver improved management, infrastructure, and services across a range of critical local government functions. The Delegate also considered that this factor is not an impediment to the merger proposal proceeding.

***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”.*

The Report noted that both Local Government Areas (LGAs) share a number of similarities and are significantly alike in their demographic and geographic profiles. He further noted that there are many crossovers in residents' pursuit of leisure, recreational and sporting activities at a local and regional level.

The Delegate viewed Shellharbour and Wollongong as forming part of the broader Illawarra region that is strongly defined by its geographical boundaries, with the sea to the east and the Illawarra Escarpment to the west as well as sharing the Illawarra coastal environment and Lake Illawarra.

The Delegate concluded that the community and geographic characteristics of these two local government areas are sufficiently similar and aligned, and that this is acknowledged by both Councils. He then stated that he considered the proposal met the requirements of this factor and that he did not consider there to be an impediment to the merger proposal proceeding.

***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 Delegate noted the similar the historic, geographic and cultural background of the two LGAs. The Delegate acknowledged some variations between the two but concluded that this factor is not an impediment to the merger proposal proceeding.

***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”.*

With regard to this factor, the Delegate noted that:

- by comparison to the total number of residents in each of the local government areas, the number of attendees and speakers at the public inquiry sessions was small,
- both the Public Inquiry sessions, held at different times of the day and evening, at Shellharbour and Wollongong had very few speakers, and
- the number of submissions received was small compared to the total population of the local government areas.

The Delegate concluded that there was a high level of indifference from Wollongong residents and business owners, towards the amalgamation proposal. He stated that the Shellharbour residents who lodged submissions or who spoke at the public inquiry were much more strongly opposed to the merger (as shown in the residents survey), in most cases fearful of a loss of autonomy and identity. The Delegate concluded that the factor is not considered to be an obstacle to the proposed merger.

***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 Delegate noted that Shellharbour City Council’s concern that it will be disproportionately disadvantaged under the merger proposal in terms of representation. He noted that the current Shellharbour Council has seven Councillors.

The Report noted that Wollongong City Council submitted a preference for 13 councillors under any new council.

The Delegate accepted arguments in support of an odd number of Councillors as persuasive. He considered factors such as population, community diversity, workloads, and geographic span to determine an appropriate number of elected representatives.

The Delegate recommended 15 councillors, including the Mayor, should the proposal proceed. He noted that this recommendation would lead to a ratio of 18,370 residents to each councillor. The Delegate also noted this number is less than some existing councils across the wider metropolitan area such as Blacktown City Council who have a resident to Councillor number of 21,676.

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

### 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 through the use of surveys both Councils “can lay claim to some quite high levels of resident satisfaction” and that both Councils, through submissions or other published information, appear to have continued to evolve and adjust their service offerings to meet the changing needs of residents.

The Delegate concluded that:

- although there appears to be some differences in the service offerings and arrangements across the two current Councils, there is not a great disparity between them,
- if this proposal is to be implemented, aligning and harmonising services between the current two councils should not present any unreasonable nor insurmountable difficulties, and

- if the apparent level of staff commitment and professionalism across both councils is synonymous with their approach to service delivery and innovation, this would allow for a reasonably smooth process.

The Delegate concluded that the factor is not an impediment to the merger proposal proceeding.

***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 Delegate noted the three year protection under the Act for council employees. However, he also stated there “will no doubt be some concerns about the potential loss of expert knowledge and corporate history through the rationalisation of senior staff positions”.

The Delegate concluded that any new positions created following management re-structuring would likely attract very strong fields of capable candidates that would make up for any losses of senior staff. He also stated that other necessary staff reductions should be able to be reasonably managed through natural attrition and retraining staff for alternative roles.

The Report found merit in an industrial working party to assist in employment transition arrangements.

The Delegate determined this factor was not considered to be an impediment to the merger proposal proceeding.

***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 considered that there were no rural impacts relevant to this proposal and therefore this factor was not considered to be an impediment to the merger proposal proceeding.

***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 Wollongong City Council is divided into three wards with four councillors per ward. Shellharbour City Council stated in its submissions that it supported the ward system.

The Delegate considered the advantages and disadvantages of a ward system. He noted the significant concern from Shellharbour residents at a perceived loss of representation.

The Delegate concluded that a ward system would be the preferred option. He went on to state that while ward boundaries must be consistent with the Act, where possible and practical any flexibility in boundaries or elector numbers should go in favour of current Shellharbour residents.

***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 noted the similarities in both council areas' demographic characteristics and socio-economic profiles. The Report stated that neither council in their submissions raised any particular concerns about cultural diversity factors. It noted that both LGAs have shared involvement with the Multicultural Communities Council of the Illawarra.

The Delegate concluded that this factor is not an impediment to the merger proposal proceeding.

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

### **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 merits of a popularly elected mayor, noting that Wollongong City Council supported this process in its submissions. The Delegate recommended that if the proposed new council is formed, the Mayor be elected by the councillors.

The Delegate considered the following issues with regard to this factor:

- *Lord Mayor:* The Delegate considered the position of Lord Mayor, and noted that only four Councils in NSW have Lord Mayoral status, this includes Wollongong City Council. The Delegate's view was that this issue is a matter of protocol and he recommended that the Minister should seek separate legal and other advice as to the options and ability to retain this Lord Mayoral status if this merger proposal is to proceed.

- *New Council Name:* The Delegate acknowledged Wollongong City Council preferred to retain the word “Wollongong” in the new council. Shellharbour City Council did not address the name of a new council in its submissions. The Delegate recommended that the new council be named ‘Illawarra Council’.
- *Boundary Change:* Wollongong City Council proposed a minor boundary adjustment to the property at the end of Darkes Forest Road. The Delegate recommended that the Minister consider in due course this minor boundary adjustment.
- *Planning Panel:* The Delegate also noted that a number of submitters stated their concerns about the planning decisions of one or another of the current Councils. The Delegate recommended that, if the proposed new council is implemented, the new council establish an Independent Hearing and Assessment Panel.

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

*The Commission notes that the suggested boundary adjustment, the name of a new council and the issue of the Lord Mayoralty are matters for the Minister.*