
**PROPOSED MERGER OF
BANKSTOWN CITY AND CANTERBURY 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



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 Bankstown City and Canterbury 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 'Bob Sendt' in a cursive script.

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 Bankstown City Council and Canterbury 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 Bankstown City Council and Canterbury 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
Bankstown City Council	201,500	240,800
Canterbury City Council	152,600	181,500
New Council	354,100	422,300

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 are 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 are to prepare a Report on the proposal and provide 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 should proceed.”*

The Delegate also recommended that:

- *“there be 14 or 15 councillors depending on whether the council wants a popularly elected Mayor;*
- *for the sake of simplicity of transition, the new entity should continue with the existing seven wards in the area, at least for the first election;*
- *as the ward system has both advantages and drawbacks; a new council should decide whether it prefers to keep it or not;*

- *if the new merged entity is formed, it should be provisionally called Bankstown-Canterbury and that the new council arrange for a public competition for a new name, which could include the suggestion of the City of Cooks River.”*

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 747 written submissions (of which 35 were duplicates, contained corrupt files, were illegible or not specific to the merger proposal) and 82 oral submissions from the public, community and other organisations and councils.

The Delegate held two public inquiries on Tuesday, 2 February 2016, at the Bankstown Sports 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 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”.

In making his assessment, the Delegate considered additional information included in NSW Treasury Corporation (T-Corp) assessments, 2014-15 audited financial statements, the Fit for the Future (FFTF)

assessments undertaken by IPART and the KPMG analysis of the potential merger benefits, for both Councils.

The Delegate noted that under the T-Corp assessments, Bankstown City Council was given a Moderate FSR and a Neutral/Positive Outlook based on three different scenarios in its Long-Term Financial Plan (LTFP). The Positive rating, he noted, was predicated on a proposed rate increase through a special rate variation (SRV). Canterbury City Council was given a Moderate FSR with a Negative Outlook. The Delegate noted that T-Corp's assessment of Canterbury Council was undertaken before the Council's successful application for a 24.23% SRV in 2014. The Delegate indicated that the Council's financial position has since improved.

In assessing the Councils' 2014-15 audited financial statements, the Delegate noted that Canterbury's reported net operating result before capital of 5.7% (as a percentage of total revenue before capital) places it in a stronger financial position than Bankstown which reported an operating deficit of 1.5%. However, the Delegate also noted that Canterbury's result is assisted by its successful SRV in 2014. Furthermore, the Delegate noted that Canterbury demonstrates a greater reliance on grants revenue at 28% of total revenue compared to 14% for Bankstown. In terms of operating expenditure, the Delegate found that both Bankstown and Canterbury's operating expenditure per capita could be considered low at \$764 and \$673 respectively. He considered that this may signify that the Councils have limited ability to generate revenue and/or that they are efficient.

The Delegate stated that analysis undertaken by IPART suggested that while Bankstown and Canterbury's operating expenditure per capita is low in comparison to many other Sydney metropolitan councils; both met industry benchmarks for key financial indicators (with the exception of Bankstown's operating performance ratio).

In relation to IPART assessments of the Councils' ability to meet the scale and capacity criteria set down by the Independent Local Government Review Panel, the Delegate noted that Bankstown City Council was assessed as "fit" and its preferred option to stand alone was consistent with the ILGRP recommendation of "no change." Canterbury was assessed as "not fit" as its proposal to stand alone would not achieve the same benefits as the ILGRP's recommended merger (albeit a merger with St George councils). Notwithstanding the above, the Delegate indicated that both Councils were assessed as satisfying the financial criteria overall. The Delegate also indicated that during the FFTF process, IPART noted that independent consultants Ernst and Young had calculated a merger between Bankstown and Canterbury City Councils could produce net benefits of \$86 million over 20 years, based on available public data.

The Delegate's Report noted that the KPMG analysis commissioned as part of the merger proposal estimated net financial savings of \$74 million over 20 years (not including the NSW Government's \$20 million funding, should the merger proceed); improved council performance with a projected 103 per cent increase in annual operating results within 10 years; and \$7 million in net savings on average every year from 2020 onwards. The Delegate noted the argument by Canterbury that due to

the size of the proposed merger, there would be diseconomies of scale. The Delegate stated his view that this argument does not hold in a merger of two Sydney metropolitan councils.

In his Report, the Delegate found while that the current financial position of each Council could allow them to “stand alone” on a ‘business as usual’ basis, rate increases would likely be required in order to remain financially sustainable and to address their infrastructure requirements in the mid to long run. The Delegate noted that the KPMG and Ernst and Young estimated net benefits from a merger of \$74 million and \$86 million (respectively) over 20 years could be reinvested to improve infrastructure, enhance service delivery and reduce pressure to increase rates. The Delegate concluded that there are financial advantages from a merger, and this is a factor in favour of the merger proposal.

The Commission’s view is that the Delegate adequately considered the issues under this factor, while noting the limited discussion about diseconomies of scale.

The Commission notes that the KPMG assumption of three year employment contracts for senior-staff is incorrect as Canterbury City Council’s submission indicates that it has placed staff on five year contracts. However, it is the Commission’s view that this does not materially impact upon the Delegate’s consideration.

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, notwithstanding many public submissions claiming otherwise, the communities of Bankstown and Canterbury share many important cultural and socio-economic characteristics, such as a higher than average proportion of residents born overseas, languages spoken in the home, and religions in the area.

The Report noted that the socio-economic indicators of both communities are also similar with lower than average levels of residents with tertiary qualifications and higher proportions of low income households. Both Councils also had similar levels of high income households and in both cases this was significantly lower than the metropolitan average.

The Delegate noted that the two areas share a major natural feature in the Cooks River, as well as sharing major infrastructure, such as the Bankstown train line and the planned Sydenham to Bankstown Urban Renewal Corridor.

The Delegate highlighted that one negative aspect may be that the size of the new merged entity would mean that social and geographic cohesion may be difficult to achieve in an area with a population of more than 350,000 people (and likely to grow to over 400,000) spread across 110 square kilometres, and that some residents felt their natural community of interest would be with the inner-west rather than southwest.

The Delegate noted the merged entity would encompass two sub-districts under the Greater Sydney Commission expressed his view that the sub-districts could be changed to coincide with the new LGA, if formed.

The Delegate concluded that, on balance, the factors under community of interest and geographic cohesion that favour the merger proposal are more significant than those against it.

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”.

In examining the historical and traditional values in the existing area, the Delegate found that the Bankstown and Canterbury areas have similar histories and timelines. The Delegate considered the common values and local business and employment profiles of the areas.

The Delegate concluded that the proposed merger would not impact on either traditional or historical values 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 the feedback from the public consultation process indicated that the attitude of residents and ratepayers of the areas who participated in this process is largely against the merger proposal, although there was evidence of some support for a merger among the written submissions.

The Delegate stated that as a proportion of the 350,000 residents in the area, only a minority attended the public inquiry (around 250 people). Additionally, he stated that approximately 730 written submissions received represents only 0.2% of the population (or 0.6% of ratepayers).

The Delegate highlighted that Bankstown and Canterbury Councils both carried out opinion surveys in 2015 and 2014 respectively, the responses to which showed opposition to a merger. However, the Delegate noted that response rates to these surveys were generally low and therefore he did not consider that too much importance could be placed on them. Additionally, in a subsequent Bankstown survey, 62 per cent of respondents were in favour of a merger if it meant this would off-set any rate increases.

The Delegate accepted that on the evidence presented through submissions and public inquiries, the majority of residents and ratepayers participating in the process would prefer the two areas to stand alone. However, he noted that there does not appear to be a high level of engagement with the issue of council mergers among ratepayers.

The Delegate noted his own experiences of visiting the communities as part of the process had revealed that there was a lack of general knowledge about the proposal and that many who were not engaged with the process expressed either indifference or support. However, on the basis of the submissions received through the formal process, the majority would prefer the areas to stand alone. The Delegate found that the facts under this factor were against the merger proposal.

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 (elsewhere in his Report) that the merged entity would be the most populous council in NSW. He noted that the proposal, if implemented, would change the representation ratios compared to those currently applying at Bankstown and Canterbury with the new entity having a ratio of representative to resident of almost one to 24,000; a significant increase on the current ratios in both existing councils of one to 16,700. The Delegate considered submissions in relation to this factor, as well as a comparison of representation ratios with surrounding entities.

Given modern communications technology, the Delegate did not believe that implementation of the proposal would adversely affect the representational rights of electors in the proposed new area. He did, however, concede that the high level of disadvantage and proportionately lower socioeconomic characteristics of the area were a factor to be considered. He noted that while the facts under this criterion are not in favour of the merger proposal, they did not constitute a significant argument against it.

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 found that although many submissions raised concerns that the larger entity would lead to a reduction in services, both Councils were currently spending less than other comparable councils in most service categories, including asset maintenance expenditure.

He noted that the merger proposal would provide an opportunity for both Councils to share skills, further improve services and extend them to a larger number of people. The Delegate considered submissions received, as well as a comparison of current services levels. He also considered opportunities for improved services and infrastructure, as well as improved strategic capacity for planning and innovation, and that savings generated from the merger would allow the new council to invest in improved service levels and/or a greater range of services.

The Delegate concluded that the large size of the new entity will not have an adverse impact on the services currently enjoyed by the residents and ratepayers of the area. On the contrary, he indicated that it is likely to enhance the capacity of the council to provide a greater range of services for the community and that therefore, the possibilities and potentials under this criterion reinforce the case for the merger proposal.

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 that staffing levels at both Bankstown and Canterbury are higher than other comparable Group 3 councils and it was likely that a number of these staff will lose their positions, after the staff protections provided under section 354F of the Act expire.

The Delegate concluded that it was likely that a merger would lead to a loss of employment for Bankstown and Canterbury staff and that most staff reductions will occur in office jobs since the need for staff to maintain parks and other infrastructure will remain the same.

However, the jobs of non-senior staff will be protected for at least three years, and probably for five years, under current Council arrangements and thus job losses are likely to lead to a minimum of social disruption. The Delegate considered that the facts under this criterion are in favour of the merger proposal.

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

The Commission notes that Canterbury Council stated that it utilises five year contracts for senior staff rather than the three years assumed in the KPMG modelling.

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”.

As the merger proposal involves two Sydney Metropolitan councils, the Delegate concluded there are no rural communities in the area to which this criterion would apply.

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 there are arguments both for and against wards and that while Bankstown City Council’s submission made no suggestion as to whether the new entity should be divided into wards, Canterbury City Council submitted that with the large number of electors per councillor of the proposed new council. The Delegate also noted that ward system has both advantages and drawbacks.

In conclusion, the Delegate recommended that the new entity, if formed, continue with the existing seven wards in the two local government areas, at least for the first election, in order to simplify the process of transition. It should be a matter for the new council, if established, to decide whether to continue with the ward system or change it. This issue was deemed to be neither in favour nor against the merger proposal.

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”.

In examining this factor, the Delegate found that both Councils provide excellent lines of communication with their residents from diverse language groups, though Canterbury provides information in more languages than Bankstown.

The Delegate did not accept the view in Canterbury City Council’s submission that the expertise in communicating with ethnic communities will be damaged in a large entity. The Delegate found that

by pooling their resources, each Council will be able to benefit from the experience of the other. The Delegate concluded that facts under this factor favour the merger proposal.

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 raised an additional issue which was a common theme in the public response – that the population of the new entity would be 350,000 and may rise to between 400,000 and 500,000 by 2031. This would make the proposed merged entity the most populous local government area in the State.

However, the Delegate did not consider that being the largest local government area in the State would be a disadvantage. He noted that if Bankstown-Canterbury ends up being the largest council, it could also have the potential to attract the best and most specialised professionals to its staff due to its size; to be a partner to both the State and Federal Governments in infrastructure projects and to become one of the most influential councils in NSW.

He concluded that the larger population of the new entity and its potential for significant growth was a factor in favour of the merger proposal.

In a separate section of his Report (outside his discussion of each of the factors), the Delegate recommended that if the merged council is formed, it should be provisionally called ‘Bankstown-Canterbury’ and that the new council should arrange for a public competition for a new name. The Delegate indicated his preference for the merged entity to be called the City of Cooks River.

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

The Commission notes that the name for a new council is a matter for the Minister.