
**PROPOSED MERGER OF
MANLY, PITTWATER AND WARRINGAH
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**



MAY 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, Pittwater and Warringah 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
3 May 2016

1. Summary of Local Government Boundaries Commission comments

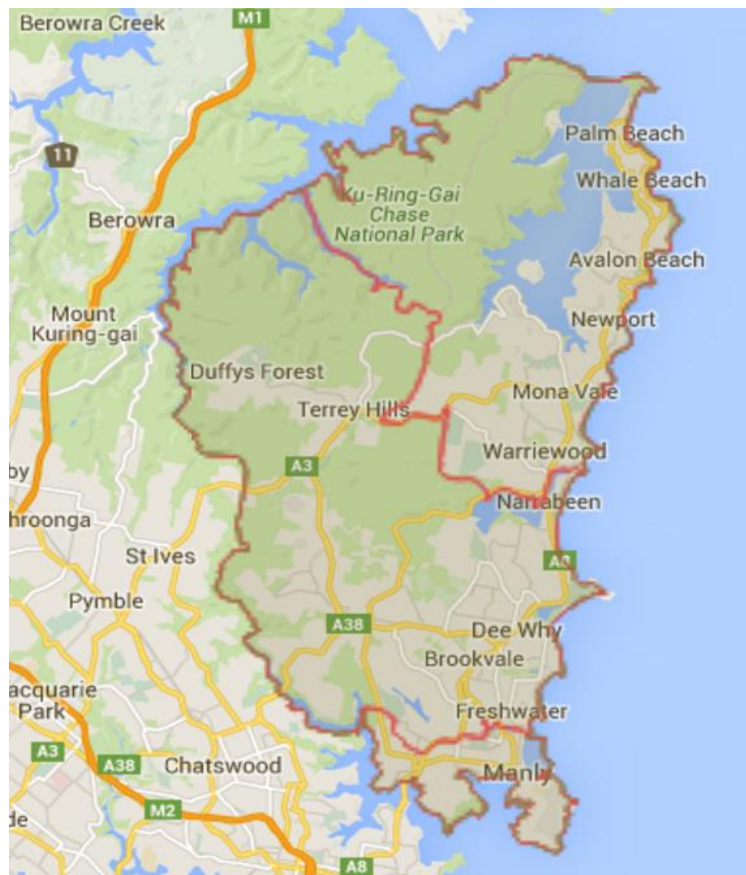
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Manly Council, Pittwater Council and Warringah Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government 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, and
- the Delegate's recommendation in relation to the proposed merger is supported by the Delegate's assessment of these factors.

2. Summary of the merger proposal

On 25 February 2016 the Minister for Local Government referred a proposal from Warringah Council to merge the local government areas of Manly, Pittwater and Warringah 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
Manly Council	44,950	53,600
Pittwater Council	63,900	77,600
Warringah City Council	156,400	179,600
New Council	265,250	310,800

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 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 merger proposal proceeds.

The Delegate also recommended:

- *"There be 12 councillors on the new council*
- *The new council establish a strong network of community reference groups and other committees to ensure community representation on an appropriate geographic basis (possibly aligned to wards) to provide input into setting the new council's strategic directions and other key strategic and operational matters.*

- *The new council conduct an audit of local place-specific services currently provided by the three councils with a view to identifying how those services can continue to be effectively provided by the new council.*
- *The new council area be divided into wards (potentially four wards with three councillors in each) following consultation with the community on proposed ward boundaries.*
- *The new council investigate the boundary anomalies contained in Warringah Council's submission and any other boundary issues identified by Pittwater and Manly councils as an early priority in consultation with adjoining affected councils and initiate mutually agreed boundary adjustments if appropriate".*

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 18,994 written and verbal submissions from the public, community and other organisations, and councils.

The Delegate held three public inquiries on 21, 22 and 23 of March 2016 at the Mona Vale Golf Club, the Many Golf Club, and Dee Why RSL respectively.

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 believes 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 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 KPMG analysis of the proposal estimated net financial savings of \$136 million over 20 years. Following a detailed analysis of this and other financial modelling, the Delegate indicated that although there were significant differences in the results of the various analyses, he was convinced that the financial benefits of the merger proposal were better than the status quo.

The Delegate noted that in 2013, the NSW Treasury Corporation (TCorp) found that all three councils had a ‘Sound’ Financial Sustainability Rating (FSR). The Report also outlined the Independent Pricing and Regulatory Tribunal (IPART) 2015 finding that all three Councils were ‘Not Fit’, as part of its ‘Fit for the Future’ review. While IPART found all three Councils satisfied the financial criteria, the Delegate noted that none of them satisfied the ‘scale and capacity’ criterion.

The Delegate analysed the previous government reports, financial modelling, submissions, grants, savings, rates and infrastructure and concluded that there were significant benefits to the residents and ratepayers of the area from the merger proposal.

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

The Commission notes that the Delegate’s analysis relied on the assumption that the new council would receive the \$25 million in NSW Government grants that apply to Ministerial-initiated merger proposals.

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 the three Councils comprise Sydney’s northern beaches with all three having significant coastal boundaries.

The Delegate conducted analysed the demographic factors in the three Councils, noting that population profiles and household size are very similar, whereas there are differences in household incomes, unemployment rates and other economic indicators. The Delegate was not convinced that any of these were so markedly different that they would suggest likely insurmountable incompatibilities between the constituent councils.

The Delegate concluded that, while there are certainly different communities and different communities of interest which would be brought together if this merger proposal proceeds, there

are also some very important shared values and aspirations which could potentially be very effectively advocated for by a single northern beaches council. Equally, the Delegate did not consider the communities to be brought together to be so different on objective grounds that they could not co-exist. Homogeneity should not be the aim with merger proposals, but rather compatible difference and in the Delegate's view this exists for this merger proposal. Finally, the Delegate considered the geographic scale of the proposed council to be cohesive and manageable provided representation and organisational issues are resolved.

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 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 all three had commonalities in terms of Indigenous history and European settlement. The Delegate noted that only about 2% of submissions addressed this factor.

The Delegate indicated that many of the concerns raised by Pittwater and Manly Councils and their residents in relation to historical and traditional values reflected concerns that the areas would be under-funded under a single merged council, as the attention of the new council focuses on the southern areas of Warringah LGA (Dee Why-Brookvale and Frenchs Forest in particular).

The Delegate also noted concerns that the character of the areas would be lost as a result of the introduction of planning and development controls which did not suit the areas. The Delegate stated that while the concerns expressed by Pittwater Council and its residents, in particular, were understandable given the comparatively recent history that led to the secession of Pittwater, the reality is that neither concern should come to pass in a responsible modern local council.

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 “attitudes of residents and ratepayers” was the highest factor raised in written submissions; identified in around 44% of submissions. Results were fairly evenly divided between support for (49.4%) and opposition to (48.2%) the proposal. This increased to 66% for and 30.1% against if council campaign submissions are excluded.

The Delegate noted that all three Councils had undertaken a large number of surveys citing mixed results.

The Delegate concluded that the public inquiry process identified considerably different attitudes towards the merger proposal across the region and no particular consensus regarding the 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 that the proposal, if implemented, would change the representation ratios when compared to those currently applicable with the new entity (assuming the recommendation by Warringah of 13 councillors) having a ratio of 1:20,262, a significant increase on the current ratios of 1:4,976 in Manly, 1:7,038 in Pittwater and 1:15,529 in Warringah.

The Delegate noted that elected representation was identified in 11% of written submissions and discussed the different approaches taken to the issue of representation by councils.

The Delegate concluded that accessibility to elected officials could be somewhat addressed by having 12 councillors rather than 10 as suggested in the KPMG modelling, by introducing a ward system and by undertaking some strategic community engagement.

The Delegate also addressed the issue of a popularly elected mayor and considered that this should be a matter for the new council in due course.

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 service delivery received a large level of interest with around 13% of written submissions identifying service factors. Overall, there was a general view expressed that each of the existing councils are performing well on service delivery and concern that services might decline under a new single council. In particular, the Report noted a concern that very local or area-specific services or facilities might decline as the new council takes on a more regional focus to service delivery. For balance, it was noted by the Delegate that this is not a universal view and concerns were expressed in some submissions regarding current service delivery by the council

The Delegate conducted a detailed analysis of the spending of each of the councils on services and concluded that the proposed merger should enable the existing high levels of local service provision

to continue and strengthen and to potentially provide improved services across a range of more regionalised services. As noted by the Report, the one area of concern is in relation to the very localised and place-specific services currently provided by the three councils and highlighted by Manly and Pittwater councils in their submissions. The Delegate made a specific recommendation as to the conduct of a service audit.

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 both Pittwater and Manly Councils challenged the projected savings because of the legislative protections. Concern was also expressed as to a likely increased demand for council services.

The Delegate concluded that the views of Pittwater and Manly Councils that staff savings in the order of those predicted by Warringah Council in its merger proposal and by KPMG in its financial analysis should not be accepted. The Delegate stated that while it is agreed that there can be a demand under a new council for services to be “equalised up”, there will be considerable opportunities to find the relatively modest staff savings proposed under a council with operating revenue of \$373m by 2019-20. The Delegate also stated that it is accepted that a large part of these savings will not be achieved until 2019-20 at the earliest as a result of Local Government Act protections.

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

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 as Pittwater, Manly and Warringah Councils are within metropolitan Sydney, this factor is not relevant to the proposed merger.

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 both Pittwater Council and Warringah Council currently have a wards system, with three wards each. Manly Council does not have wards. He also noted that all three Councils indicated support for a wards system in the event that the merger proposal proceeds, although both Pittwater and Manly Councils opposed the four ward system proposed by Warringah Council on the basis that “it would undoubtedly polarise Pittwater and Manly elected representatives and community, resulting in poor decisions and, based on recent history, disrupt good governance practices”. Warringah Council in its submission proposed that any decision on ward boundaries be made by the new council on the basis of extensive consultation with its constituents.

The Delegate stated that, while a wards system can foster a more parochial representation mind-set in councillors with the need to only represent the people in the ward and perhaps against the broader interests of the new council, it is considered desirable to introduce a wards system for the new council.

The Delegate recommended that the new council area be divided into wards (potentially four wards with three councillors in each) following consultation with the community on proposed ward boundaries.

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 that both Pittwater and Manly Councils highlighted the importance of their networks of community reference groups and committees in giving a voice to their diverse communities, with Pittwater Council indicating that it has 49 groups registered on its Community Register each with a minimum membership of 1,000 residents. Manly Council identified 19 special purpose committees and five external committees operating in its area. Warringah Council noted that all three Councils have been formally recognised for their commitment to community engagement and considered this a strong foundation for a new council.

The Delegate concluded that given the strong credentials all three councils appear to bring to the table on this issue there was not considered to be any impediment to the merger proceeding from this perspective.

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”.

Strategic influencing. The Delegate considered that a single northern beaches council would represent a regionally significant population of 263,413 people (rising to 310,000 people by 2031), with an asset base of \$1.54 billion, and it is only logical that state and federal governments will be more receptive to the role a merged council can play in determining regional priorities on housing, employment and infrastructure. He stated that it was therefore unquestionably the case that a merger would be of immense benefit to the residents of the northern beaches from a strategic capacity viewpoint.

Protecting Pittwater’s environment. The Delegate noted a strong view from residents of Pittwater LGA that a single northern beaches council would result in the erosion of the environmental values of the area as higher density housing is extended northwards under a new council. The Delegate indicated that he did not consider it necessary to establish a local council on the basis that it only included areas of similar development character.

Council car parking permits. A number of submissions expressed concern regarding the impact of the proposal on council car parking permits. The Delegate indicated that this would be an issue for the new council.

Council name. The Delegate considered an appropriate name would be the Northern Beaches Council.

Boundary issues. Warringah Council in its submission identified a number of minor boundary anomalies related to its current boundaries which would not be resolved with the creation of a single northern beaches council. The Delegate also noted that there may be similar issues with Pittwater and Manly LGA boundaries which should also be examined. He recommended that these boundary issues be examined and resolved early in the life of a new council if it proceeds, in consultation with adjoining affected councils.

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

The Commission notes that the name of a new council and suggested boundary adjustments are matters for the Minister.