
**PROPOSED MERGER OF
MOSMAN MUNICIPAL, NORTH SYDNEY AND
WILLOUGHBY 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**



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 Mosman Municipal, North Sydney and Willoughby 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
3 May 2016

1. Summary of Local Government Boundaries Commission comments

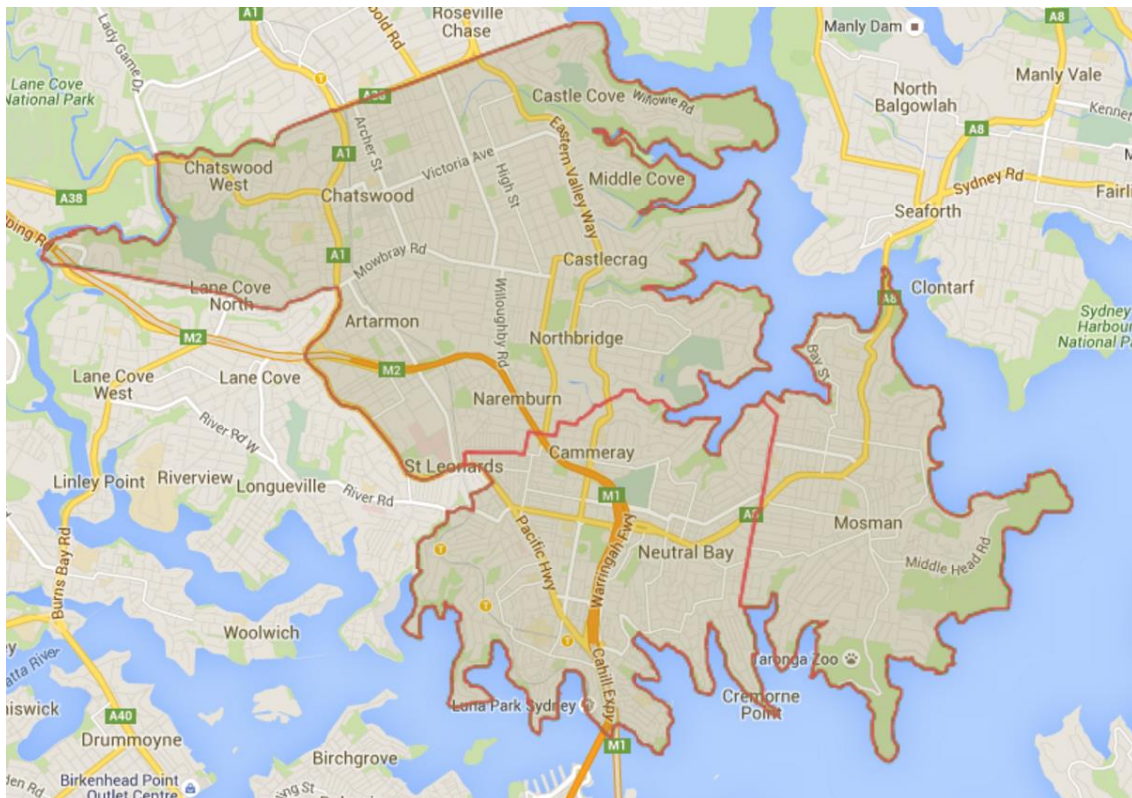
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Mosman Municipal Council, North Sydney Council and Willoughby City Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under 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, with the exception of the factors listed under subsections 263(3)(e1) (service delivery) and 263(3)(e5) (diverse communities),
- 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 25 February 2016 the Minister for Local Government referred a proposal to merge the local government areas of Mosman, North Sydney and Willoughby 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
Mosman Municipal Council	30,500	35,350
North Sydney Council	71,550	85,750
Willoughby City Council	76,200	90,300
New Council	178,250	211,400

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 none of the factors listed under section 263 (3) of the LG Act present an impediment to the proposed merger of the North Sydney, Mosman Municipal and Willoughby local government areas."

The Delegate made the following other recommendations:

- *"It is considered appropriate that the new merged Council should have City status under the LG Act, and it is recommended that the LGA's name should be the City of the Lower North Shore."*

- *The Council should have 15 Councillors, including a Mayor elected by the Councillors, and be divided into wards.*
- *Separate consideration should be given to the minor boundary adjustments put forward as outlined ... in the report."*

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

The Delegate held one public inquiry on 22 March 2016 at the Chatswood Club and one public inquiry on 23 March 2016 at the Mosman Club.

The Commission's view is that the Delegate has met the relevant requirements.

The Commission notes there is no specific evidence in the Report to support the Delegate's assertion that reasonable public notice was given for the public inquiries.

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 service delivery and diverse communities.

The Commission has formed this view based on its review of the discussion presented in the Delegate's Report. The Commission specifically considered whether the extent of 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 \$95 million over 20 years.

In his Report, the Delegate considered information from TCorp on each individual Council's sustainability rating as well as the Independent Pricing and Regulatory Tribunal (IPART) 2015 findings as part of its 'Fit for the Future' review.

The Delegate also considered current debt levels of all 3 Councils and their potential impact on a merged entity. The Delegate noted that a number of submissions expressed concern regarding the level of debt currently held by Willoughby Council. Willoughby Council stated that its debt was largely associated with The Concourse precinct. The Delegate considered that the debt levels were not unreasonable and that one of the functions of a new merged Council would be to develop strategies to manage debt levels.

The Delegate noted that a number of submissions, were critical of the modelling undertaken by KPMG. In examining the approach used to model the potential benefits, the Delegate considered these views and the KPMG Technical Paper. Based on his analysis, the Delegate found that the KPMG modelling approach was based on reasonable assumptions in the circumstances and represented a potentially lower bound estimate of the net present value of benefits to be derived from the proposal.

Having had regard to the financial advantages and disadvantages of the proposal to the residents and ratepayers of the Mosman Municipal, North Sydney and Willoughby City LGAs, the Delegate found that that this factor did not pose an impediment to the merger proceeding.

The Commission's view is that the Delegate adequately considered the issues under this factor, while noting the lack of discussion of economies and diseconomies of scale.

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 stated that 55% of written submissions commented on this factor, noting that themes included differing approaches to urban density and the greater demographic diversity in Willoughby LGA.

The Delegate also noted the geographic proximity of the existing LGAs and their transport connectivity. He stated that all three LGAs are considered to be in the north shore of Sydney within driveable distance of each other.

The Delegate concluded that while there are differences between the communities in terms of development styles and demographic profiles, combining the three areas could deliver additional robustness to local government by broadening its community base and strengthening its role in

delivering planning outcomes both for the local area and the broader Sydney Region. The Delegate did not consider that existing lifestyles would be expected to be compromised by a merger.

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

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 areas, the Delegate found that all three have commonalities in terms of Indigenous history and European settlement. The Delegate noted there were around 20% of submissions identifying this factor and expressing concern that a merger would lead to a diminishing of the emphasis placed on historical and traditional values.

The Delegate concluded that the proposed merged council has a broader North Shore history with common features and values in each existing council area. The Delegate considered the proposed merged council would provide an opportunity to recognise and celebrate those values, particularly the unifying historical and traditional values of the broader North Shore region, and the ongoing traditions of local participation in various forms.

Having had regard to the historical and traditional values in the existing LGAs, and in the proposed merged LGA, the Delegate found that there was no impediment to the proposal proceeding, with respect to this factor.

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 stated that the “attitudes of residents and ratepayers” factor was the highest factor identified in written submissions and one of the highest factors mentioned at the public hearings.

The Delegate noted Mosman Council’s submission citing the consistent opinion of Mosman residents supporting an independent Mosman through surveys over many years. The Report stated that North Sydney Council’s submission highlighted consistent polling by the Council over many years, showing residents in it and the other two LGAs, rejecting amalgamation. Willoughby Council’s submission, the Delegate noted, indicated concern that the timing of the proposal had not allowed consultation with its community on this particular merger proposal.

The Delegate stated that, given his conclusions relating to the various factors set out elsewhere in his Report, that community attitudes could be addressed as part of the operations of a merged entity.

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 councillor to population ratio. Based on the recommendation by Willoughby Council of 13 councillors, the Report indicated that a ratio of 1:13,497 would be a significant increase on the current ratios of 1: 4,325 in Mosman, 1:5,463 in North Sydney and 1: 5,705 in Willoughby.

The Delegate stated that elected representation was identified in 47% of submissions. He noted the themes presented in this factor were the potential loss of representation, loss of access by residents to elected representatives and the potential for political parties to dominate larger councils.

The Delegate concluded that accessibility to elected officials could be somewhat addressed by improvements in internet-based services and social media. Nevertheless, the Delegate recommended that a new merged council should have the maximum number of 15 Councillors allowable under the Act.

The Report considered other community participatory mechanisms currently within North Sydney and Willoughby Councils and saw no reason why these would be threatened in a merged entity but also that these structures would be a matter for a new council to consider.

The Delegate addressed the issue of a popularly elected Mayor and considered that electing the Mayor from among the Councillors would provide enhanced stability for the first period of the new council.

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 stated that service delivery received a large level of interest with around half of written submissions identifying service factors. He noted the themes presented in this factor included

differing levels of satisfaction with current service delivery, concerns over loss of services in a merged entity, local community service involvement (“volunteerism”) and the different needs of the different council areas.

The Delegate stated that under Government policy for merged entities, the service level trajectory would be fixed for four years. Beyond that time, the Delegate considered that service levels would be a matter for any new merged Council to determine in consultation with its community as part of the Integrated Planning and Reporting process including consideration of the maintenance of an administrative presence at North Sydney, Chatswood and Mosman. The Delegate also concluded that volunteering would not be expected to decrease in the event of a merger.

The Commission’s view is that the Delegate did not adequately consider 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 that estimated savings are modelled partly from the removal of duplicate back office and administrative functions and streamlining of senior management roles (\$87 million over 20 years).

The Delegate considered Council submissions on this factor and noted Mosman Council’s high level of staff engagement and Willoughby Council’s submission that urged the Government to protect senior staff during a transition phase.

The Delegate referred to the statutory employment provisions, concluding that the creation of a new entity would provide the opportunity for good employment practices from existing councils to be incorporated into the new administration. He also stated that changes in staff profiles and numbers would be considered by the new entity in consultation with its community through its IP&R process as future service levels are defined.

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”.

As North Sydney, Mosman and Willoughby Councils are within metropolitan Sydney, the Delegate considered this factor was 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”.

It is noted in the Report that Mosman currently has no ward structure with six councillors and that North Sydney and Willoughby both have four wards with three councillors in each. The Delegate stated that representation should be maximised in the first instance and recommended a ward system dividing the area into five wards, each served by three Councillors.

To help ensure suitable representation levels, in drawing ward boundaries the Delegate considered that the following principles should be used as far as possible in addition to the population criterion in the Act:

- new wards should cross existing Council boundaries, and
- to the maximum extent possible, suburbs and centres should not be divided by ward boundaries.

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

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 conducted an analysis of statistical demographic data which demonstrated significant commonality of ancestry profiles of the three council areas.

The Delegate concluded that that service delivery to diverse communities would likely be enhanced by a larger and better-resourced merged Council, by accessing efficiencies and economies of scale; for example, producing one set of literature in community languages, rather than multiple sets. The Delegate also noted that recognition of Indigenous heritage could also be enhanced in a merged entity arising from a greater access to resources to carry out desired programs.

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

- *Planning and development concerns:* The Delegate considered a number of submissions and presentations to the public hearings expressing concern that the merging of the three councils would lead to a weakening of planning controls resulting in potentially significant overdevelopment in styles unsympathetic to existing built forms and localities. The Delegate considered this to be a matter for a new council.
- *Scale and Capacity:* The Delegate considered that the new Council would enhance the key role of the North Sydney and Willoughby Councils as part of the Global Economic Corridor in pursuing outcomes set out in 'A Plan for Growing Sydney'. The Delegate stated that, along with the existing Mosman Council area, the new Council would be able to more actively and strongly participate in delivering these outcomes as it would have greater financial capacity and critical mass.
- *LGA name and Interim Administration:* The Delegate considered it appropriate that the merged new Council should have City status under the Act, and recommended that the LGA's name should be the City of the Lower North Shore. The Delegate further recommended that the Minister should also give consideration to the appropriate length of time for an interim administration to be in place, to help ensure a stable foundation for the transition to a new merged Council, in light of the challenges of amalgamating the three Councils.
- *Boundary Variations:* The Delegate noted the following boundary adjustments:
 - Both North Sydney and Willoughby suggested including the whole of the suburb of St Leonards in the new council, part of which is currently in the Lane Cove LGA. Willoughby council suggested the inclusion of part of Roseville Chase which is currently part of Ku-ring-gai LGA.

The Delegate considered it inappropriate in the circumstances to consider the boundary variations proposed by the Councils as part of examining the current proposal, but recommended that their merit should be considered separately in due course.

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

The Commission notes that the suggested name for a new council, interim administration arrangements, and suggested boundary adjustments are matters for the Minister.