
**PROPOSED MERGER OF
PITTWATER 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**



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 Pittwater 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 'Bob Sendt'.

RJ Sendt
Chairperson
1 May 2016

1. Summary of Local Government Boundaries Commission comments

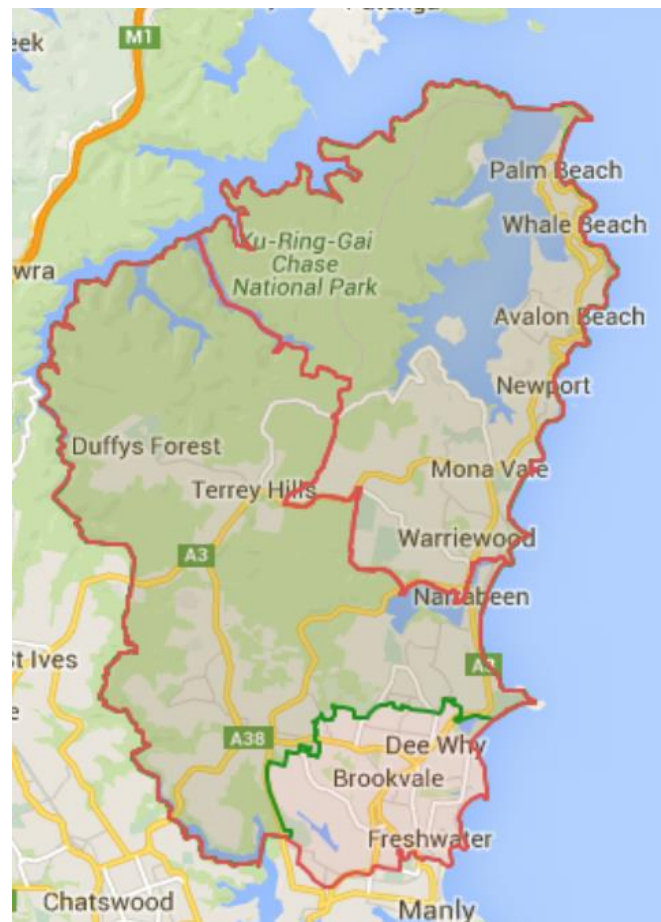
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Pittwater Council and part of Warringah Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government Act 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 factors listed under subsections 263(3)(e2) (employment impacts) and 263(3)(e5) (diverse communities), 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 6 January 2016, the Minister for Local Government referred a proposal to merge the local government areas of Pittwater Council and 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).



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

Council	2016	2031
Pittwater Council	63,900	77,600
Warringah Council (part)	77,343	89,400
Merged entity	141,243	167,000

Source: NSW Department of Planning & Environment, 2014 NSW Projections (Population, Household and Dwellings), and NSW Government, January 2016, Merger Proposal: Pittwater Council and Warringah Council (part), p8.

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 be approved and proceed.

The Delegate also made the following recommendations:

- *"The suburbs of Frenchs Forest, Forestville and Killarney Heights be excluded from the merger of Pittwater and Warringah (part) councils and included in the merger of Mosman, Manly and Warringah (part) councils. This should occur either prior to implementation of the merger or as an early amendment in the life of the new council,*
- *There be nine councillors on the new council,*

- *Subject to legal advice regarding practicality, the allocation of Warringah Council staff to the new council be done on an interim basis and fully resolved during the establishment phase of the new council and the related southern council,*
- *The new council area be divided into three wards with three councillors in each ward,*
- *The new council works with the new southern council as a matter of priority to bring forward a reciprocal car parking scheme (with as few restrictions as possible) early in the life of the new council,*
- *The new council investigate the boundary anomalies contained in Appendix 3 of Warringah Council's submission as an early priority in consultation with the southern council and initiate mutually agreed boundary adjustments if appropriate,*
- *Any decision on this merger proposal (and the related southern council merger proposal) await finalisation of the examination of the alternate single northern beaches council proposal currently underway."*

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 4,912 written and verbal submissions from the public, community and other organisations and councils.

The Delegate held two public inquiries on 2 February 2016 at the Mona Vale Golf 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, with the exception of employment impacts 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 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 considering the Financial factors of the proposal the Delegate noted that:

- A significant number (23%) of written submissions and verbal presentations raised the financial impacts of the proposal in both a positive or negative way,
- views were expressed that unless the merger proposal can be conclusively shown to deliver the precise financial advantages modelled by KPMG in the Minister’s merger proposal, it should not proceed, and
- there were views that financial advantages were all that were needed to recommend the proposal proceed.

The Delegate noted the financial advantages and disadvantages of the merger proposal as stated by KPMG in its modelling, and the criticisms of that modelling as contained in a number of submissions.

The Delegate discussed recent reports that relate to the merger proposal including the NSW Treasury Corporation (TCorp) report, Department of Premier and Cabinet Division of Local Government Infrastructure Audit and the Independent Pricing and Regulatory Tribunal (IPART) Fit for the Future Assessments.

The Delegate concluded that overall, the reports indicated that while both councils were performing at a satisfactory financial level, there were challenges ahead in relation to infrastructure backlogs which made the proposal worthy of consideration.

The Delegate then discussed the merger proposal and the KPMG modelling noting that the proposal indicated the potential for a \$49 million benefit from the merger proposal over 20 years based on:

- net financial savings of \$29 million, and
- a NSW Government funding package of \$20 million comprising \$10 million to manage the merger transition and \$10 million to invest in community infrastructure projects.

The Delegate also discussed criticisms of the merger proposal including that the:

- assumptions used in KPMG modelling were unrealistic and estimated savings would not be realised,
- costs of the merger are understated and would consume most if not all of the savings made, and
- alternative merger option of a single council for the northern beaches would yield much higher benefits than the merger proposal.

The Delegate noted Warringah Council’s view that a proposed split merger option will result in a comparatively wealthy northern council and a less wealthy southern council and concluded that the

Government's proposals are designed to create a higher density, more urbanised southern council and a lower density northern council.

The Delegate also discussed the issue, raised in a number of submissions, of rate increases. The Delegate outlined the protections against extravagant rate increases.

The Delegate concluded overall that the financial benefits of the merger proposal are better than the status quo and on that basis there was no reason why the merger should not proceed on financial grounds.

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 Delegate noted that this factor as one of the most significant issues that was raised in relation to the proposal, and that contrasting views were expressed in submissions. The contrasting views were that there is either a strong community of interest which would be brought together under this merger proposal, or that the proposal had the potential to divide existing communities of interest.

The Delegate defined community of interest and geographic cohesion as a geographically connected population which shares common social and economic interests.

The Delegate also noted that the communities affected by the merger proposal are bound by their sense of place as a coastal and suburban area and their shared identity as part of the Northern Beaches community. The Report explains that the proposal cites examples of shared regional services and facilities that span the northern beaches, as well as ways in which Pittwater and Warringah Councils have collaborated on infrastructure and service delivery initiatives, most notably through the Shore Regional Organisation of Councils (SHOROC).

The Report stated that the impact of the merger proposal on communities of interest was raised in 20% of written submissions and was also a dominant theme at the public inquiry meetings. The Delegate noted views opposing the merger included:

- the proposal would split existing communities of interest by splitting the current local government area of Warringah,
- the northern beaches is one geographically and socially coherent unit,
- there is a separate proposal for the three northern beaches councils to merge which is being separately examined and reported on,
- strong views expressed from residents of Warringah Council's western suburbs, especially residents of Frenchs Forest, Forestville and Killarney Heights, that they do not feel a community of interest with Pittwater, and

- supporting views that included that the merged council will be geographically and socially cohesive, and that key environmental features will be brought together in the one local government area

The Delegate discussed three key considerations:

1. that there are very significant demographic, housing market and socio-economic similarities between the people of Pittwater LGA and the people of northern Warringah LGA which make them readily suited to a merger proposal.
2. that there is a very similar development/environmental “feel” between the two areas, characterised by low density housing in a bushland/waterways setting.
3. that geographic cohesion is enabled by the ability to manage large tracts of bushland, waterways and coastline as a result of the inclusion of significant areas of national park and other vegetation and catchments in the one local government area.

The Delegate identified two issues with the proposed transfer of these Frenchs Forest, Forestville and Killarney Heights to the proposed new ‘southern’ council:

1. that the scale of change would represent a new proposal rather than the amendment of an existing proposal and it would trigger the need to recommence the merger assessment process, including the need for a fresh public inquiry.
2. to move the three suburbs would unbalance the two proposed new councils from a population perspective as it would reduce the northern council to 115,000 people which is below the Government’s scale criterion to be considered fit for the future.

The Delegate concluded that while the reduction in scale of the northern council was an important consideration, the relocation of the suburbs from the northern council to the southern council is necessary to ensure that community of interest and metropolitan planning issues are properly resolved.

The Delegate recommended that if the merger proposal proceeds, the suburbs of Frenchs Forest, Forestville and Killarney Heights should be excluded from the merger of Pittwater and Warringah (part) councils and included in the merger of Mosman, Manly and Warringah (part) councils. The Delegate further recommended that this should occur either prior to implementation of the merger or as an early amendment in the life of the new council.

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 described the impact of the merger proposal on historical and traditional values as not a significant issue raised in submissions, with only 3% of written submissions raising the issue. The Report also provided a brief history of the Pittwater and Warringah Council areas.

The Delegate concluded that that there would be no reason why the existing historical and traditional values of Pittwater LGA will not be preserved in a new merged council given the substantially similar demographic and socio-economic characteristics of the Warringah LGA suburbs being added. The Delegate also noted that the Pittwater LGA has only been in existence since 1992 so its history as a stand-alone LGA is very short.

The Delegate stated that while the merger proposal and the related southern council merger proposal would result in the splitting of Warringah LGA, the impact of this on historical and traditional values of the area was not strongly raised.

The Delegate noted that while a merged entity would, over time, need to move to a single local environmental plan, this would be a community consulted process and one where existing heritage protections would need to be carefully considered and, in all likelihood, in most cases preserved.

Overall, the Delegate considered there was no impediment to the merger proposal proceeding on the basis of historical and traditional values.

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 attitude of residents and ratepayers is only one factor in his consideration of the merger proposal.

The Delegated noted from submissions that:

- from a sample of one-third of all submissions received, only 8.1% of people expressed support for the proposal, while 54.9% expressed a preference for a single northern beaches council over the Minister's merger proposal,
- where submissions supported the merger proposal, they were often from Pittwater LGA residents who felt that the merger proposal would best ensure that the environmental/sensitive development focus of Pittwater Council is preserved, and
- the majority of people who participated in the two public inquiry meetings expressed their opposition to the merger proposal.

The Delegate noted that there were a number of surveys undertaken by the councils the subject of this merger proposal and concluded that the surveys did little more than confirm the findings of this public inquiry.

The Delegate identified two prevalent attitudes among residents and ratepayers regarding the merger proposal:

1. Strong opposition to the proposal from residents and ratepayers of Warringah LGA, often motivated by a sense of grievance that their council area is being split in two and that an alternative single council option should be pursued.

2. Support for the proposal from residents of Pittwater LGA in the event that the existing Pittwater Council will not be allowed to stand alone, primarily because it is considered the best option to preserve the environmental and low density attributes of Pittwater LGA.

The Commission's view is that the Delegate adequately considered the issues under this factor, while noting that some of the analysis undertaken by the Delegate relied on a sample of submissions received from residents and ratepayers rather than a consideration of all submissions.

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 impact of the merger proposal on elected representation was an issue raised in only about 4% of submissions made.

The Delegate also noted that the residents per councillor ratio in the merged council would be 1:14,068 which is a similar ratio to that of The Hills Shire (1: 15,642) and Hornsby Shire (1:16,861). The Delegate further noted that these Councils are the subject of merger proposals which would increase these numbers.

The Delegate recommended that the number of councillors be set at nine, consistent with the current number of councillors on Pittwater Council and noting that this would enable the creation of three wards with three councillors in each.

The Delegate noted that the selection of Mayor is a matter which will ultimately be the responsibility of the new council and its constituents.

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 there were no metrics available to readily analyse whether a council is performing or not from a service delivery perspective, while, mentioning measures collected by the Office of Local Government that provide some gross measures of “effort” in service delivery.

The Delegate considered one measure, per capita expenditure, to compare the two Councils. The measure showed some variation in expenditure but the Delegate did not consider this as significant or of concern.

The Delegate also noted general satisfaction with service provision by both councils in submissions, and concern that this would decline under a merged entity. This view was supported by survey results referenced in Pittwater Council's submission, which showed similar satisfaction ratings (51% Pittwater; 49% Warringah) for the quality of services delivered by each council.

The Delegate concluded that, apart from concerns with the ability of the merged entity to provide optimal regional strategic planning services, due to the splitting of strategic centres between the two LGAs, the proposed merger would enable the existing high levels of service provision to continue and strengthen and for a larger council to potentially provide improved services across a range of areas including environmental management.

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:

- this factor was raised in only 1% of submissions, including from the two affected councils and the United Services Union (USU),
- Pittwater Council was supportive of the proposal from a staffing viewpoint,
- Warringah Council was, by contrast, concerned about the impact on its Council staff, and
- The USU submission stressed the importance of legislative staffing protections in the Local Government Act being applied and also requests that an industrial working party be formed by any new council to assist in managing the impact of the merger on staff.

The Delegate also noted the legislative protections in the Act which seek to minimise merger related staff impacts.

The Delegate discussed specific concerns raised by Warringah Council about the allocation of its staff to either the northern or southern council, and the potential for misalignment. The Delegate recommended that, should the merger proposal proceed and subject to legal advice regarding practicality, the allocation of Warringah Council staff to the new councils be done on an interim basis and fully resolved during the establishment phase of the new council.

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 concluded that as the merger proposal is located within the Sydney metropolitan area, it would not impact on rural communities.

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 1% of submissions commented on the factor of wards. He also noted that both Pittwater Council and Warringah Council currently have three wards and support their introduction for the new council, and the only area of difference between the two Councils was that Warringah Council stated there should be a popularly elected Mayor.

The Delegate concluded that it was desirable to introduce a ward system for the new council because it would help to mitigate the dilution in representation, which would occur for Pittwater residents in particular, as well as the fact residents in both council areas are used to a ward system and it may assist with transition to a new merged council.

The Delegate recommended that the new council area be divided into three wards with three councillors in each ward.

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 Warringah Council submissions highlighted similar approaches to engagement with their communities, including the use of reference groups and committees. He concluded that there was no impediment to the merger proceeding with regard to this factor.

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 discussed several issues under this factor.

Metropolitan Strategic Planning

The Delegate did not consider that the merger proposal was supportable on metropolitan strategic planning grounds and recommended that the suburbs of Frenchs Forest, Forestville and Killarney Heights be relocated from the northern to the southern council so that both northern beaches strategic centres are located in the one LGA.

Protecting Pittwater’s environment

The Delegate noted that support for the merger proposal was most often from Pittwater LGA residents who saw it as enabling the current low density environmental feel of Pittwater.

Council car parking permits

The Delegate noted that a significant number of submissions raised concerns regarding council car parking permits. The Delegate recommended that if the merger proceeds, the new northern council works with the new southern council as a matter of priority to bring forward a reciprocal car parking scheme (with as few restrictions as possible) early in the life of the new council.

Boundary issues

The Delegate noted that Warringah Council’s submission highlighted a number of boundary anomalies and recommended that any new council investigate these as an early priority and initiate mutually agreed boundary adjustments if appropriate.

Council name

The Delegate noted community concerns regarding the name of a new merged council and considered that some of the concern could be alleviated by perpetuating the Warringah name in either the name of a new northern council or southern council. The Delegate also stated it would be possible to call the new northern council “North Warringah”.

The Commission’s view is that the Delegate adequately considered the issues under this factor, while noting that the name of a new council is a matter for the Minister.