

---

**PROPOSED MERGER OF  
CITY OF BOTANY BAY AND ROCKDALE 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 Toolé MP  
Minister for Local Government  
Level 17 NE  
52 Martin Place, SYDNEY NSW 2000

Dear Minister

**Proposed merger of City of Botany Bay and Rockdale 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  
3 May 2016

## 1. Summary of Local Government Boundaries Commission comments

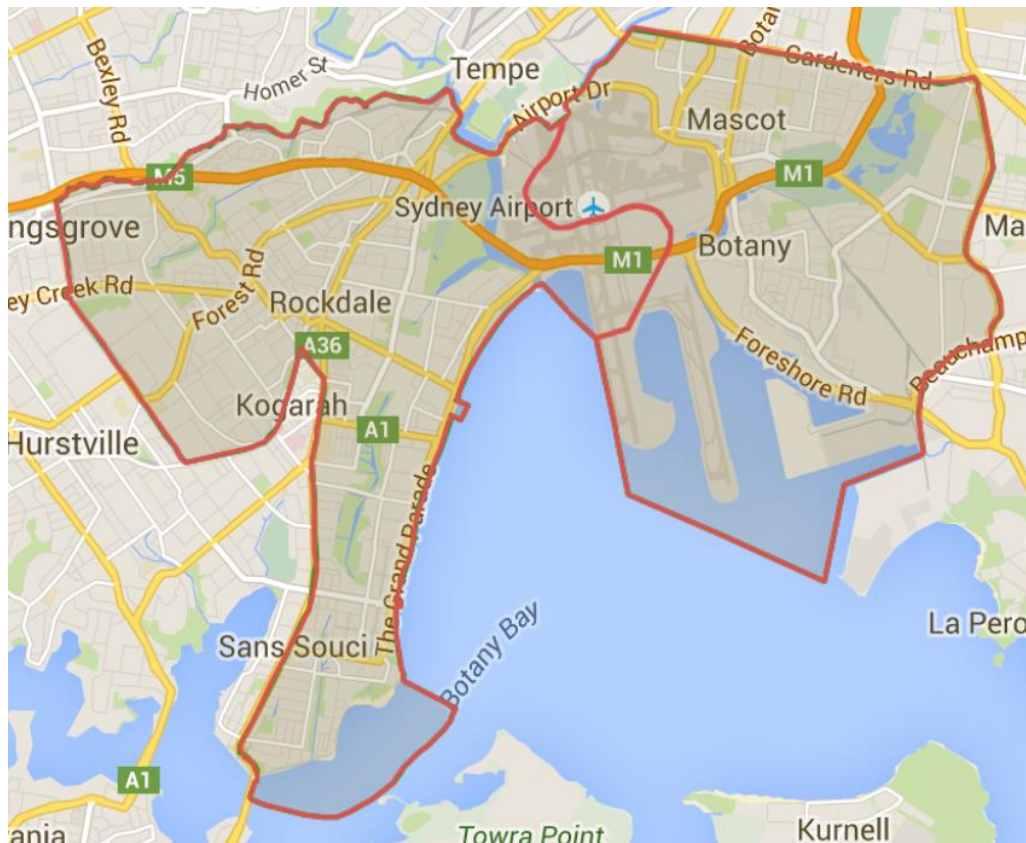
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of City of Botany Bay Council and Rockdale City Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government 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 factor listed under subsection 263(3)(e5) (diverse communities), 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 the City of Botany Bay Council and Rockdale City Council to the Acting Chief Executive of the Office of Local Government for examination and report under the Act. The following image shows the map of the proposed new council area (shaded in green).



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

Council	2016	2031
City of Botany Bay Council	45,300	56,050
Rockdale City Council	113,400	134,350
New Council	158,800	190,400

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 the proposed merger of the City of Botany Bay Council and Rockdale City Council proceed subject to consideration by the Boundaries Commission and approval by the Minister for Local Government."*

The Delegate also outlined additional matters for attention and consideration:

- a. *"That the NSW Government includes the boundary of the new LGA within the central planning region of the Greater Sydney Commission.*
- b. *Recognising that the City of Botany Bay operates with a popularly elected mayor and single-councillor wards, and that Rockdale City operates with a mayor elected by councillors and multi-councillor wards, that a new council consults with its community regarding the most*

appropriate structure of wards and format for electing a Mayor, and holds referendums in accordance with section 16 of the Local Government Act 1993.

- c. That this review considers a warded structure to offer the most appropriate form of representation for the area, with three councillors per ward and the potential to place two wards within the current Botany Bay and three wards in the current Rockdale boundary
- d. That the Boundaries Commission and the Minister for Local Government give consideration to a boundary adjustment to relocate 100% of Sydney Airport and Port Botany within the new boundaries of a merged LGA involving the City of Botany Bay and Rockdale City.
- e. That the Minister, in consultation with the Minister for Planning, facilitate more consistent and effective planning controls on the operations of Port Botany through the implementation of a specific State Environmental Planning Policy consistent with the NSW Ports Master Plan.
- f. That the Minister for Local Government consider a minor boundary adjustment to align the boundary with Wollie Creek in the area surrounding Hartill-Law Avenue in accordance with the submission by Rockdale City Council.
- g. That the Minister for Local Government consider a minor boundary adjustment to realign the boundary at Kingsgrove Avenue Reserve with the M5 Motorway in accordance with the submission by Rockdale City Council.”

## 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 150 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 Georges River 16ft Sailing Club.

***The Commission’s view is that the Delegate has met the relevant requirements, while noting there is no evidence in the Report 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 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 considered the KPMG analysis, as well as analysis undertaken by Morrison Low, in light of matters raised by the Councils.

The Delegate stated a larger rate base will provide a merged council with increased scale in considering financial decisions. He also noted that there was no evidence that the costs associated with ICT will be significantly higher than that modelled by KPMG. Savings were then considered by the Delegate, including procurement and staffing costs, and opportunities presented by those savings.

The Delegate noted that Botany Bay carries no debt and has not received any Special Rate Variations (SRVs), while Rockdale City Council carries debt and has made use of SRVs. The Delegate indicated that it is appropriate for a new council to consider how it uses debt. The Report outlined that Botany Bay residents would benefit from a focus on addressing the infrastructure backlog, and a manageable amount of debt is a legitimate means for council to do so.

Submissions raising concerns regarding rates were considered by the Delegate. He concluded that, together with the Government’s four year freeze on rate paths, the increased scale of the proposed council and savings to be generated could be said to place downward pressure on rates.

The Delegate conducted a detailed analysis of financial performance indicators. The Delegate concluded that the modelling undertaken by KPMG, Morrison Low and Ernst & Young demonstrated there are significant savings to be realised by a merged council. The Delegate considered how each of the savings and costs had been modelled, and concluded that KPMG had taken a conservative approach in estimating \$52 million in savings over a 20 year period. Furthermore, he stated, the NSW Government payment of \$20 million to a merged entity would support funding implementation costs. He considered that the financial advantages and disadvantages gave weight to the view that the proposal be supported.

The Delegate concluded that the savings identified by KMPG were robust and represented a significant benefit arising from the merger proposal to the residents and ratepayers of Botany Bay and Rockdale City.

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

### 5.2.2 Communities of interest

Section 263(3)(b) of the Act requires the Delegate to have regard to:

*“the community of interest and geographic cohesion in the existing areas and in any proposed new area”.*

The Report noted that the impact of the Sydney airport is a common feature in submissions related to communities of interest and geographic cohesion, with some arguing that the airport acts as a barrier between the communities, whilst some argue that the communities are connected through their proximity to the airport and Port Botany.

The Delegate noted the submission from Botany Bay which stated that the airport creates *“a distinct lack of geographic cohesion between the City of Botany Bay and Rockdale City ... there are no pedestrian access points or cycleways linking the proposed merged area. The road infrastructure and car centric gateway acts as a physical and social barrier for community interaction and the formation of communities of interest”*. The Delegate considered that this geographic barrier would present challenges for a merged council, however the airport could also be said to connect the two communities.

The Delegate noted the two Local Government Areas are currently in separate NSW Government strategic planning areas, and it would be prudent for there to be harmonisation should mergers proceed. He also noted the limited public transport linkages between the areas. The Delegate also considered a range of socio-economic measures to evidence very similar statistical commonalities and a community of interest.

The Delegate concluded that the proximity of Sydney Airport and Port Botany created a clear community of interest that would benefit from this proposal. The Delegate considered, through an analysis of submissions received, a new council will be in a position to leverage connections and relationships with these two nationally-important pieces of infrastructure to support the economic development of the communities and mitigate against environmental impacts created by their operation.

***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 stated that Botany Bay and Rockdale LGAs have similar histories and timelines. It was noted in the Report that submissions disclosed a separation of sporting loyalty in that many resident of Botany support the South Sydney Rabbitohs while the Rockdale area generally supports the St George-Illawarra Dragons.

The Delegate noted submissions received which suggested that the existing LGAs share historical and traditional values with other areas of Sydney. These values were expressed in submissions detailing historical connections to sporting clubs and the environment, as well as the broader communities of interest discussed in the preceding chapter. However, The Delegate stated that no evidence was presented during the review to suggest that a merged LGA would be disruptive to these connections or values.

The Delegate concluded that the historical connection between the two LGAs associated with their shared location proximate to Sydney Airport and Botany Bay does provide a basis for a newly merged entity to build on historical and traditional values for the benefit of the community.

***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 Botany Bay Council conducted a community poll to support its submission, with approximately 8,000 residents voting (approximately 18% of residents within the LGA), with 98% of residents participating voting against the merger proposal. He stated that Botany Bay campaigned vigorously against the proposal and framed the poll as an opportunity for residents to voice their opposition rather than consider both the benefits and disadvantages of the proposal. The Delegate indicated that “Council were at liberty to campaign against the proposal, but to do so while conducting a poll and failing to provide a balanced treatment of the merits or defects of that proposal limits the value of that poll in the context of this public inquiry process”.

The Delegate considered submissions received during the consultation period. He also noted that Rockdale Council presented 103 comments from residents in favour of fostering closer links with the airport through a potential merger with Botany Bay Council.

The Delegate concluded that the opposing views received in submission to the review expressed important attitudes for the Minister for Local Government to consider.

***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 ratios (assuming the recommendation as to the election of the maximum 15 councillors) to a ratio of 1:10,188, whereas the current ratios are 1:6,392 in Botany Bay and 1:7,205 in Rockdale.

The Delegate highlighted Botany Bay's submission on this factor, and noted that many councils in Sydney currently operate with a higher ratio than that proposed. He considered that wards could be used to address any concerns about the ratio of councillors to residents in Botany Bay.

The Delegate noted submissions received expressing concerns about the impacts on elected representation. Given that many current councils in Sydney such as Blacktown City Council have a higher ratio, the Delegate did not consider the proposed increase in the ratio of residents to councillors in the merger proposal to be unreasonably high.

The Delegate also addressed the issue of a popularly elected Mayor, noting that the City of Botany Bay currently operates with a popularly elected Mayor and that Rockdale City elects its Mayor annually through a councillor vote. The Delegate indicated that such a decision is properly taken by a new council in consultation with its community in accordance with the Act.

***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 both Councils have differing philosophies in delivering services to residents, with The City of Botany Bay providing more services 'in-house' and deriving income from commercial contracts, while Rockdale City outsourced many of the services it provides to its community.

The Delegate considered Botany Bay's commercial contract work that supports significant infrastructure and commercial operations within the LGA (for example, the Council has contracts to provide maintenance services to Sydney Airport). He noted Botany Bay's submission stating that there was no guarantee that the contract could be passed through a merged council. The Delegate, however, stated that a merged Council would likely be in a stronger position to negotiate and enter into contractual arrangements with Sydney Airport and other entities.

The Delegate considered it important that services and the provision of facilities are not disrupted by the implementation of a new council. He considered a new entity presents the opportunity to review the methods used by both Councils in delivering services, and to ascertain whether residents and ratepayers are receiving the best possible service for the best value. Given the different approaches to service delivery, the Delegate suggested that such a review could identify savings by considering the appropriateness of both models for delivering each particular service. The Delegate noted that Rockdale City has submitted its desire to undertake such a service review.

The Delegate concluded that the need to harmonise services to residents across two geographically-close LGAs is not in itself an argument against a merger, and that a well-managed service review provided the opportunity to explore the most efficient and effective means of service delivery

***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 Councils highly value their employees. He highlighted that modelling undertaken by Morrison Low estimated that 60 positions would be lost from Botany Bay Council for the purposes of achieving the savings projected by KPMG, and that job losses were mentioned in a number of submissions received. The Delegate pointed to a study of NSW councils merged in 2004, resulting in employment growth of 11.7% following the mergers.

Rockdale Council stated that its staff are its most important asset in delivering quality services, and outlined important factors that should be considered by a merged council. The Delegate noted that the protection of jobs is addressed through the three year employment protection period in the Act. Travel burdens and savings were also noted by the Delegate.

The Delegate concluded that savings generated by a merged entity could be made available to provide new and improved services to residents. Evidence considered by the Delegate suggested that merged councils often increase employment numbers to provide more front-line staff to deliver increased service levels. The Delegate considered that a merger would not necessarily lead to a reduction of overall job numbers.

***The Commission's view is that the Delegate adequately considered the issues under this factor, while noting the lack of discussion regarding the impacts on senior staff.***

### **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”.*

Given the proposal relates to a metropolitan area of Sydney with no rural communities, the Delegate did not consider there to be any rural impacts that could prevent the merger proposal from being implemented.

***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 Report noted the City of Botany Bay and Rockdale City currently operate under a ward structure. It was also noted that Botany Bay has six wards with one councillor in each, and a popularly elected Mayor and that Rockdale has five wards, each with three councillors and a Mayor elected from amongst the councillors.

The Delegate noted a 2014 discussion paper prepared by the Victorian Electoral Commission as highlighted by Botany Bay, as well as submissions received on this factor. Recognising concerns regarding the level of representation in Botany Bay, the Delegate considered that a multi-councillor ward system may deliver the best system to provide representation across the new council, with the potential for two three-councillor wards in the existing Botany Bay LGA and three wards in the existing Rockdale LGA.

The Delegate concluded that whilst he considered a ward structure to provide both benefits and familiarities to a new council, ultimately the structure of wards would be a matter for the council in consultation with its community.

***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 statistical data which demonstrated similar percentages for diverse ethnicities and religious affiliations across the two LGAs.

The Report noted that Botany Bay submitted that it operates within an effective governance structure and that community “has benefited from a stable, experienced, progressive civic leadership team to deliver community outcomes”. This statement was supported by one submission to the review, which listed the events and activities held by the Council in support of its multicultural community, including the City’s multicultural fair and Chinese New Year celebrations. The Delegate noted that Rockdale City also holds numerous multicultural events throughout each year.

The Delegate stated that that both the City of Botany Bay and Rockdale City have similar demographics, each with diverse multicultural communities, noting that each Council celebrates these communities each year through a variety of functions and events.

The Delegate further stated that there is no reason to conclude that support for diverse communities would cease under a merged council.

***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 noted the following other issues regarding this factor:

- *Sydney Airport and LGA boundaries:* The Delegate considered a submission from the Sydney Airport Corporation Limited (SACL) stating that the airport should be located within the one local government area. The Delegate noted that both the City of Botany Bay and Rockdale City councils made submissions supportive of the airport being placed in one LGA. The Delegate recommended that the Minister consider a boundary adjustment to include the 6 per cent of Sydney Airport currently in the Marrickville LGA within the newly merged entity encompassing the City of Botany Bay and Rockdale City.
- *Port Botany and LGA boundaries:* The Delegate considered that, similar to Sydney Airport, Port Botany is split between local government boundaries, with half in Randwick LGA, and half in Botany Bay LGA. He also considered a submission by NSW Ports (supported by both Councils) requesting that certain areas under its control also be contained within one LGA. The Delegate recommended that the Minister give consideration to implementing a boundary adjustment to include the entirety of Port Botany in the same LGA as Sydney Airport
- *Boundary realignments:* The Delegate noted that Rockdale City Council included three further potential boundary realignments in its submission as part of this review. The Delegate considered these to be out of scope and suggested that they could be subject to a boundary adjustment proposal by a merged council.
- *Alternative proposals:* The Delegate noted an alternative proposal made by Botany Bay Council to expand its boundaries to cover 100 per cent of Port Botany and Sydney Airport, as well as residential areas up to and including South Coogee and Green Square. The Delegate considered these to be out of scope.
- *Council name:* The Delegate noted that Rockdale Council has resolved to indicate its preference that a newly merged council be given the name Bayside (City) Council, with other options including Southern Sydney Council and Botany Bay Council.

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

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