PROPOSED MERGER OF HAWKESBURY CITY AND THE HILLS SHIRE (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

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APRIL 2016

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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 Hawkesbury City and The Hills Shire (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

Bob Sendt

RJ Sendt
Chairperson
22 April 2016

1. Summary of Local Government Boundaries Commission comments

The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Hawkesbury City Council and The Hills Shire Council (part) to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government Act 1993* (the Act).

The Commission has assessed that:

- **the Delegate's Report shows that the Delegate has undertaken all the processes required by section 263 of the Act,**
- **the Delegate's Report shows that the Delegate has adequately considered all the factors required by section 263(3) of the Act, and**
- **the Delegate's recommendation in relation to the proposed merger is supported by the Delegate's assessment of the factors.**

2. Summary of the merger proposal

On 6 January 2016, the Minister for Local Government referred a proposal to merge the local government areas of Hawkesbury City Council and The Hills Shire Council (part) 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
Hawkesbury City Council	67,650	80,650
The Hills Shire Council (part)	170,931	237,873
New Council	238,581	318,523

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:

> "It is recommended that the proposal not be implemented."

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

The Delegate held four public inquiries on 4 February 2016 at the Castle Hill RSL Club (1pm – 5pm and 7pm – 10pm), on 5 February 2016 (1pm – 5pm) and 22 February 2016 (7pm – 10pm) at the Hawkesbury Race Club.

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

5.2 Review of the Delegate's consideration of the factors specified in the Act

Under section 263(3) of the Act, the Delegate is required to have regard to a range of factors when considering a merger proposal.

Overall, the Commission's view is that the Report shows the Delegate adequately considered all the factors.

The Commission has formed this view based on its review of the discussion presented in the Delegate's Report. The Commission specifically considered whether the extent of that discussion adequately canvassed the range of issues raised in the written submissions made to the Delegate, the views expressed at the public hearings and other information that would have been available to the Delegate.

The Commission makes the following comments relating to each factor:

5.2.1 Financial factors

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

> *"the financial advantages or disadvantages (including the economies or diseconomies of scale) of any relevant proposal to the residents and ratepayers of the areas concerned".*

In his Report, the Delegate noted the 2016 KPMG analysis that estimated potential savings of around $54 million over 20 years to the new council if the merger proposal was implemented. The KPMG analysis also projected an annual operating surplus of over $7.2 million from 2020 onwards. With regard to IPART, the Fit for the Future assessments determined that Hawkesbury was "not fit" as it did not meet key financial benchmarks, specifically the criterion for sustainability. The Hills was determined as "fit".

The Delegate considered detailed financial submissions put forward by both Councils, including adjusted KPMG modelling provided by Hawkesbury. The Delegate also considered community submissions addressing the financial aspects of the proposed merger, noting that submissions were, in the main, from residents living within the Hawkesbury local government area.

The Delegate noted the issue of rating, and the misconception in submissions that differing land value in Councils will lead to an increase in Council rates.

The Delegate summarised that significant financial benefits of the proposal were gross savings through:

- the removal of duplicate back office and administrative functions,
- streamlining of senior management roles,
- efficiencies through increased purchasing power of materials and contracts, and
- a reduction in overall number of elected officials.

The Delegate summarised that significant financial detriments of the proposal were:

- both Councils dispute the projected savings due to region specific factors significantly increasing merger costs,
- the projected loss of an urbanised part of The Hills Council is forecast to diminish overall financial resources required to support the new entity,
- projected savings are insufficient to fund the revenue shortfall which contributed to Hawkesbury City Council being assessed as unfit and it is therefore estimated that a merged council will be subjected to at least ten years of operating losses,
- a merger may well simply cause the resulting council to suffer a reduced financial position which would, under the same assessment guidelines, deem it to be similarly 'not fit', and
- there is no clear evidence that the identified infrastructure backlog could be addressed without some reliance on a SRV and increased borrowing to deal with urgent asset works.

The Delegate noted that while he has relied on financial projections submitted by The Hills using Long Term Financial Plans of both Councils which are in the public domain, these projections have not been independently verified nor provided to Hawkesbury Council for its consideration and rebuttal. Nevertheless, the Delegate's opinion was that such projections warrant strong credibility.

The Commission's view is that the Delegate adequately considered the issues under this factor, while noting the content of the Delegate's Report for this factor consists largely of direct quotes from Council submissions.

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 highlighted Hawkesbury Council's submission that the proposal correctly acknowledges that Hawkesbury and The Hills Councils are both situated to the 'north-west of the Greater Sydney Metropolitan region'. The Council also suggested that the proposal seemingly overlooks the inherent differences between a predominantly urbanised Hills local government area and the peri-urban characteristics of the Hawkesbury LGA with its distinctive blend of rural localities, villages and townships.

The Delegate summarised the main themes from the Hawkesbury Council submission. The Report replicated the table from the Hawkesbury submission charting the socio-economic similarities of the Hawkesbury LGA and its neighbouring LGAs, which the Council argues demonstrates that

Hawkesbury shares the highest number of socio-economic attributes with the Blue Mountains (59% of measured attributes) and Penrith (55%). By contrast the correlation between Hawkesbury and The Hills is substantially less (27%).

The Delegate noted that The Hills Council submitted that the two areas were very similar in many ways, especially with regard to their rural areas, that are sparsely populated with large road/asset networks. The Delegate included information regarding the Council's Economic Development Team's interrogation of the census and demographic profiles of the LGA, indicating that none of the data would suggest a merger would be incompatible on 'community of interest' grounds.

The Delegate noted that the majority of submissions from the community were from the Hawkesbury local government area expressing a variety of views with most feeling that The Hills residents are seen to be more directly connected to urban Sydney whereas Hawkesbury comprises 17 towns and villages in a predominately rural setting.

The Delegate highlighted that several speakers at the public inquiry together with numerous submissions from residents in suburbs south of the M2 currently part of The Hills Shire Council indicated their community of interest does not lie with Parramatta.

The Delegate concluded that

> *"a recurrent theme was the significance of the Hawkesbury's primary connections and communities of interest being on a north/south axis rather than in an easterly manner. Hawkesbury City Council draws attention to this north/south alignment through the NSW Government aligning the Hawkesbury, Penrith and Blue Mountains Councils within a District grouping in its own metropolitan strategy. They also submit that it would be contrary to the District Plans that the Greater Sydney Commission has been charged with implementing".*

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

The Commission notes that the LGAs of Hawkesbury and The Hills are currently in two different sub-districts of the Greater Sydney Commission, and that the Minister should note this potential anomaly.

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 Report described in detail the history of each Council area included in the proposal, and ways in which each Council supports the historic values of it area.

The Delegated noted that speakers at the public inquiry and many of those who made written submissions highlighted the role of the Hawkesbury Regional Museum, the Regional Gallery, and the District Library Service in community life and the fact that these facilities are managed so effectively thanks to a strong and active volunteer workforce.

The Delegate noted the similarities between the areas, particularly with regard to their origins, rural lifestyle and richness in both Aboriginal and European history.

The Delegate concluded there was no impediment to the merger proposal from an historical or traditional value perspective.

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 attitudes of the residents and ratepayers of the areas concerned".*

The Report provided an overview of submissions and stated that of the 376 written submissions received by the Delegate, 81% opposed the proposal, most of these coming from the Hawkesbury community. In addition speakers at the Public Inquiry indicated overwhelming opposition to the proposal.

The Delegate summarised the current attitudes from residents in the Hawkesbury LGA as generally opposing the merger.

The Delegate noted that both Councils had surveyed their residents on a number of occasions. The Delegate noted Hawkesbury's November 2015 survey which sought residents' views as to which LGAs were viewed as having more in common with the Hawkesbury. While 70% of respondents considered the Hawkesbury was unique, 23% identified an affinity with Penrith and the Blue Mountains and only 7% identified with The Hills.

The Delegate noted the Hills Council view that the survey results clearly show that the residents of the area south of the M2 strongly object to being moved to Parramatta. The Delegate noted that most residents from The Hills who made submissions were supportive but only on the basis of a whole of council merger. The Delegate highlighted The Hills Council submission that noted that some residents are now expressing a view that if the Parramatta proposal succeeds then the Hawkesbury proposal should not proceed and that Council has indicated it supports that view.

The Delegate concluded that despite the majority of submissions expressing opposition, the submissions were only marginally representative of the total population.

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 Report noted that if the proposal is implemented, the ratio of population per councillor would change compared to the existing Councils. It also noted that a number of submissions raised concerns that the merger would result in a loss of representation for smaller towns and villages, particularly in the Hawkesbury region. Hawkesbury Council is currently geographically the largest LGA within the metropolitan region with a total area of 2,775 km^2. The majority of residents live in the Hawkesbury's rural and semi-rural periphery with a substantial number living in relatively isolated villages. The Delegate included information from The Hills Council submission which indicated that at present, residents in the outlying areas are required to make a one to two hour return trip to travel to Windsor to conduct business that requires their attendance. It was noted by the Delegate that OLG statistics disclose that only 75.4% of people in the Hawkesbury LGA have access to internet at home.

The Delegated concluded that the ratio of residents to elected councillors in each of the Councils is significantly different, noting Hawkesbury has 12 councillors with a resident representation ratio of 1:5,461, while The Hills has 12 councillors with a resident representation ration of 1:15,642. A merged council with 15 councillors would have a resident representation ratio of 1: 14,958.

Based on the above, the Delegate considered that the adverse effect on representation ratios of the current Hawkesbury area was not insurmountable and therefore did not consider this factor as an impediment to the implementation of the proposal.

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 Report noted that the Hawkesbury Council submission questioned the assumption that a new council would bring together communities with similar expectations and demands for services, infrastructure and facilities. The Report also noted The Hills Shire Council submission stating the merger proposal will present significant logistical challenges as it seeks to provide local government services to a very large land mass (3,148 km^2) with a significant dispersed rural population. The local road network alone is over 2,000 km.

Community submissions, primarily from Hawkesbury, reflected the same themes.

The Delegate concluded that

> *"there is clear evidence from both the Councils' submissions and submissions from the community that service levels provided by the Councils is important. There is in particular, the need for improvement in service levels in the Hawkesbury local government area. However, the*

financial capacity to meet those expectations through merger savings as suggested in the proposal document are not evident. The Hills Council's concern regarding the impact of the loss of a significant urbanised part of their local government area in diminishing the overall financial resources is, in the Delegate's opinion, credible and valid."

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 Report noted Hawkesbury Council's submission that the most likely impact on staff will occur if they are required to travel to a relocated workplace, particularly if the functions and operations of Hawkesbury Council were transitioned to the current Baulkham Hills Administration Centre of The Hills Shire Council. The Report stated that the Council indicated that, if this were to take place, the average extra distance that staff would be required to travel would be a 43km round trip, adding to the traffic congestion along Windsor Road

The Report included information from the Hawkesbury Council submission that it employs 306 staff, 196 (64%) of whom reside in the Hawkesbury local government area. Based on their place of residence, 78% would be required to travel further and 19.5% would have a shorter distance to travel if their workplace is relocated to Baulkham Hills. The Delegate indicated that the lack of direct public transport was particularly concerning and the potential impact of loss of jobs in Windsor was clearly an issue of concern to Council employees, their families and local businesses.

The cost of redundancies was also a major issue noted by the Delegate. The Report indicated that both Councils enjoy a staff complement with longer than average tenure and therefore resulting redundancy costs will be increased. The Delegate noted that more than 41% of The Hills employees have over 10 years of service, therefore accumulating over 34 weeks of redundancy payments compared to the 16 weeks assumed in the KPMG model. The Delegate's inquiries of Hawkesbury Council revealed that 46.3% of their staff also have in excess of 10 years' service.

In conclusion, the Delegate reviewed the impact of the potential for redundancy costs having regard to number of employees whose service exceeds 10 years and estimated that this could increase redundancy costs by up to $1 million reducing the purported Net Present Value of the proposal. The Delegate also noted that many of the concerns regarding the impact of the proposal were addressed by the protections in the Act.

The Commission's view is that the Delegate adequately considered 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 Report noted that both the Hawkesbury and The Hills LGAs have significant rural populations and the Delegate considered that some of the factors that are likely to impact on rural communities are size of the proposed new local government area, the distance of the main administrative centre from outlying towns and villages, and the cost of telecommunications in contacting the main administrative centre of the new council. The Delegate also considered the submissions of the Councils on this factor.

The Delegate noted Hawkesbury Council's submission that the proposed merger may impact on the rural communities including on the rural road network, urban growth in the North West Growth Sector, patterns of residential development, bushfire management, and residents' access to elected representatives and council administration.

The Delegate also noted The Hills Council's submission that rural communities are not expected to change significantly as a result of the merger. The Council further pointed out that road networks are very important for the support and functioning of rural communities and if The Hills Council is weakened by the Parramatta merger proposal proceeding, this asset class alone will be difficult to maintain.

The Report noted that a number of presenters at the public inquiry spoke of their concerns at the impact of further isolation from their council if they are even further removed from the administrative centre. Residents from the former Colo Council emphasised how disaffected they became when they were amalgamated with the Windsor Council and that this merger would compound that sense of distance and their road network further suffering.

The Delegate concluded that a rural road network is the lifeblood of any rural community and submissions from both Councils cast doubt on the ability of the new entity to maintain this class of asset. The Delegated noted that if the proposal was implemented, the new council may have to consider a SRV to fund the rural road network.

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 that Hawkesbury City Council is not currently divided into wards but Council submitted that it *"favours a divided area with a maximum number of wards to ensure the most effective representation for the Hawkesbury community."* This would equate to five or more wards.

The Report also noted that The Hills Shire Council is currently divided into four wards with three Councillors representing each ward and Council submitted that this model provides better proportional representation than the alternative.

The Delegate felt that, if the merger proposal was implemented, it was obvious that there needed to be a system that ensures equitable and effective representation for the residents and ratepayers of both existing LGAs in a proposed new council. Dividing the new council entity into five wards with three Councillors being elected to each ward appeared the most logical approach to the Delegate. The Delegate noted that this would allow for representation of each ward to remain underpinned by specific regional knowledge.

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 Report noted that Hawkesbury Council currently has 25 Committees advising Council on a broad range of issues including topics directly related to Council governance as well as sporting, heritage, access and inclusion, geography, tourism and events.

Given the generally accepted definition of "diversity" would be assumed to include demographics such as age, ethnicity, gender, sexual orientation and socio-economic status, and given the marked difference in racial diversity between the two LGAs, the Delegate noted the surprising absence of more detailed submissions in this regard particularly from The Hills, where 28.5% of residents speak a language other than English.

The Delegate discussed section 355 Committees and Precinct Committees as a means of enhancing community awareness and social interaction; generating consultative information, ideas and opinions; support Council's inter-governmental and related dealings; imbue planning programs and policies with a physical, social and historic insight; and facilitate resident-initiated expenditure on the care of public land. The Delegate noted that submissions were received from a number of organisations which might be appropriately constituted as such.

The Delegate concluded that "*There are many ways in which resident and ratepayer attitudes can be represented in council decision-making processes, including through public forums, committees, surveys and strategic planning*".

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

5.2.11 Other issues

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

> "*such other factors as it considers relevant to the provision of efficient and effective local government in the existing and proposed new areas*".

The Delegate considered the issue of community participation, noting that the majority of submissions under this factor were from Hawkesbury Council and its residents in relation to the strong support Council provided to organisations in the LGA and the resulting outstanding high levels of volunteerism. The Report noted that the Council calculated this community service obligation in 2013/14 to be in the vicinity of $1.5 million.

The Report also briefly considered the Hawkesbury River County Council and community submissions.

The Delegate noted that Hawkesbury Council is concerned that the merger proposal may well weaken the strong community linkages and reduce the active participation of the residents in community and civic life. The Delegate concluded that whilst Hawkesbury Council's concerns are noted, if the community linkages are as strong as it described and as evidenced through submissions, there is no reason why those linkages should not be sustained through any new entity, subject to policies adopted and implemented by a merged council. Notwithstanding this view the Delegate was impressed with service delivery processes that exists within the Hawkesbury and advocated that if the merger is implemented these processes need to be carried over to the new entity.

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