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**PROPOSED MERGER OF  
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**



**APRIL 2016**

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Local Government Boundaries Commission  
GPO Box 5341  
Sydney NSW 2001

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The Hon Paul Toole MP  
Minister for Local Government  
Level 17 NE  
52 Martin Place, SYDNEY NSW 2000

Dear Minister

**Proposed merger of 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  
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 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 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 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
North Sydney	71,550	85,750
Willoughby	76,200	90,300
Merged Entity	147,750	176,050

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 Proposal warrants proceeding to implementation."*

Other recommendations by the Delegate are:

- *That the Minister and the Boundaries Commission note this report's findings;*
- *If the proposal proceeds that,*
  - *the new LGA be served by 15 Councillors;*
  - *the new LGA is to have five wards, each served by three Councillors;*
  - *to the maximum extent possible, the new ward boundaries be drawn to cross the existing LGA boundary and so encompass elements of both existing LGAs, and to avoid splitting suburbs or localities;*



- *the Mayor of the new merged entity be elected by the Councillors; and*
- *the new merged Council should determine the role for volunteer based mechanisms, provided that they are appropriately structured, resourced and accountable to the Council*
- *That the Minister give consideration to the boundary adjustment representations made by North Sydney, Willoughby City and Lane Cove Councils;*
- *That the Minister give consideration to an appropriate length of office for the Interim Administration, following establishment of the new merged entity, taking into account the extent of adjustments to structures, policies and processes required to provide a stable foundation for the new entity;*
- *That the new LGA be named the City of the Lower North Shore; and*
- *If the Proposal proceeds, that the new merged Council examine the accounts of North Sydney and Willoughby City Councils, for potential savings and efficiencies.*

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

The Delegate held two public inquiries on Tuesday, 2 February 2016 at Rydges North Sydney.

***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 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”.*

The Delegate noted that the proposal indicated that the merged Council could have a potential net financial saving of approximately \$72 million over 20 years in net present value terms. The proposal also projected a \$13 million increase in annual operating results achieved within 10 years and that the merged Council would generate around \$6 million in annual net savings from 2020.

The Report noted that in 2013, the NSW Treasury Corporation (TCorp) found that both North Sydney and Willoughby City Councils had a ‘Moderate’ Financial Sustainability Rating, and that the financial ‘Outlook’ for both Councils was ‘Neutral’.

The Report also noted that in 2015, IPART found both North Sydney and Willoughby City Councils to be ‘Not Fit’, as part of its Fit for the Future review. The Report further stated that while IPART found that the Councils did not separately satisfy the ‘scale and capacity’ factor, both Councils satisfied the ‘sustainability’ criterion of the ‘financial criteria’. Willoughby City Council did not satisfy the ‘infrastructure and service management’ criterion, but it did satisfy the ‘efficiency’ criterion. North Sydney Council did not satisfy the ‘efficiency’ criterion, but it did satisfy the ‘infrastructure and service management’ criterion.

The Delegate noted concern about potential rate rises in North Sydney. He noted that provisions in the Act could be used by a new merged Council to ameliorate differential rating impacts. The Delegate therefore considered that the rate differentials between the current North Sydney and Willoughby City Councils are no reason to abandon the Proposal.

The Delegate also noted that Willoughby City operates with debt, whereas North Sydney does not. The Delegate stated the debt levels are not considered unreasonable, and that one of the functions of a new merged Council would be to develop strategies to manage debt levels. Accordingly, the Delegate considered that the debt differentials between the current North Sydney and Willoughby City Councils were no reason to abandon the Proposal.

The Delegate concluded that the financial advantages outweigh disadvantages, and that mechanisms exist to help manage transitional issues, such as differential rates. As such, he considered 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.***

### 5.2.2 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 considered the statistical demographics of each area. For instance, in the five years to 2013-14, the population increased by 9.1 per cent in the North Sydney Local Government Area (LGA), and by 6.9 per cent in the Willoughby City LGA. In 2013-14, 14 per cent were aged 19 or younger in North Sydney, compared to 24 per cent in Willoughby City.

The Report stated that in 2014, the North Sydney LGA had a population of 71,025, while the Willoughby City LGA had a population of 74,166.

The Delegate noted that while North Sydney submitted that their community has no community of interest with the Willoughby City Council community, Willoughby City Council submitted that ‘...there are many similarities between the communities in the two local government areas, as identified by residents during Willoughby’s Fit for the Future community engagement.’

The Delegate noted public submissions and views expressed at the public hearings claiming that there was an absence of a general community of interest between the two LGAs’ populations. The Delegate considered that although limited evidence was provided to demonstrate these claims, they were mainly based on demographic and lifestyle differences.

The Delegate concluded that, while there are differences between the two communities in terms of development styles, demographic and business profiles, combining the two areas can 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 found that there is 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.***

### **5.3.3 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 considered the Indigenous history of each area as described on the councils’ websites.

The Report noted that several submissions, especially from the North Sydney LGA, claimed that there was a significant divergence between the historical and traditional values; for example, in relation to local participate in decision-making. This sentiment was reflected at the public hearings. The Delegate stated that limited evidence was provided to demonstrate these claims.

The Delegate highlighted North Sydney Council’s submission that “since the 1970s (Council) has had a thriving community precinct system which enables residents to play an active and ongoing role in providing input into the operations of the council ... Willoughby City Council has no precinct system”. The Delegate also highlighted Willoughby City Council’s submission that the long term Community Strategic Plans for both [Councils] indicate similar historical and traditional values”.

Having had regard to the existing and shared historical and traditional values in the North Sydney and Willoughby City LGAs, and the impact of change on them, the Delegate concluded that the proposed merged Council provides an opportunity to recognise and celebrate those 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 Report noted that North Sydney Council submitted that the Council has polled the community numerous times since 1983 regarding amalgamations, and in each case the overarching result has been “No”.

The Report also noted that Willoughby undertook a poll of 2,948 residents with first preference results indicating that 44.5% of people preferred that Willoughby stand-alone, with 27.3% supported of a merger with North Sydney and Lane Cove, and 14.7% alone with North Sydney.

The Delegate received 423 submissions; with 279 indicating opposition for the proposal, while 78 were in favour of it. 66 submissions indicated no opinion for or against the Proposal. The Delegate found that the community attitudes expressed at the public hearings were consistent with the sentiments expressed in the submissions.

The Delegate concluded that, whilst community attitudes may weigh against the proposal, this must be considered along with other factors.

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

#### **5.2.5 Elected representation**

Section 263(3)(e) of the Act (1993) 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 at the September 2012 election, a popularly-elected Mayor and 12 Councillors across four wards were elected to North Sydney Council. At the same time, a referendum approved the reduction of the number of Councillors to nine across three wards, plus provision for a popularly elected Mayor, to take effect from the proposed September 2016 election. The Delegate noted a popularly-elected Mayor and 12 Councillors across four wards were elected to Willoughby City Council.



The Delegate also noted North Sydney Council and Willoughby City Council's submissions regarding the need to maximise democratic representation for their communities

The Delegate further noted that several submissions raised concerns about community access to elected officials, particularly from North Sydney LGA residents and ratepayers, who considered a prospective new merged Council to be lacking in representation. He also stated that a significant number of submissions mentioned that the Willoughby City LGA had a number of active Progress Associations, while the North Sydney LGA had active Precinct Committees. The Delegate recognised the mutual support relationship of these structures within the councils.

The Delegate recommended that any merged Council should have a maximum of 15 Councillors, including a Mayor to be elected from among and by the elected Councillors. He stated that a new merged Council should determine the role for volunteer based mechanisms, provided that they are appropriately structured, resourced and accountable to the Council. The Delegate concluded that there is 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.***

### **5.2.6 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 the Councils' submissions in relation to this factor.

The Delegate noted that several submissions expressed concern about a potential decline in service levels, if the Proposal proceeds. A number of submissions and public hearing contributions from residents of both LGAs mentioned the extent of 'volunteerism' in residents' interaction with the Council.

The Delegate concluded that, under the Proposal, and pursuant to Government policy, the service level trajectory is fixed for four years, from the time of any merger onwards. 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 (IP&R) process.

***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 North Sydney Council's submissions using research from Professor Brian Dollery, which stated that employee costs increased after merger rather than decreased. The Delegate also

highlighted Willoughby City Council's submission that "a merger would provide an opportunity for the new entity to address duplicate services through efficiencies and alter the staffing mix by filling skill gaps where applicable".

The Delegate also noted the submission from the United Services Union.

The Delegate concluded that the creation of a new entity provides the opportunity for good employment practices from both existing councils to be incorporated into the new administration. He considered 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".*

The Delegate stated that because North Sydney and Willoughby City Councils are well within metropolitan Sydney, this factor is not considered relevant to the Proposal.

***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 at the September 2012 election, a popularly elected Mayor and 12 Councillors across four wards were elected to North Sydney Council, while a popularly elected Mayor and 12 Councillors across four wards were also elected to Willoughby City Council. The Delegate noted that North Sydney Council made no comment about this factor, while Willoughby proposed a number of options for wards. The Report noted several submissions and contributions at the public inquiry hearings referred to this factor, mostly in favour of instituting a ward system, if the proposal proceeds.

The Delegate concluded that representation should be maximised in the first instance in a new merged Council, and representation sourced from across the new LGA. If the Proposal proceeds, the Delegate stated that the new LGA should be divided into five wards, each served by three Councillors. Each ward would consist of approximately 29,038 residents.

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:

- One ward should encompass suburbs in the existing North Sydney LGA;
- One ward should encompass suburbs in the existing Willoughby City LGA;
- Three wards should encompass territory in both of the existing LGAs; 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.***

#### **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 in 2013-14, Indigenous people made up 0.2 per cent of the population of each of the LGAs. The Delegate also noted that in the North Sydney LGA, 19.6 per cent of residents communicated in a language other than English, while the relevant figure for the Willoughby City LGA was 25.1 per cent, indicating a more diverse community in Willoughby than North Sydney. The Delegate considered Willoughby City Council's submission on this factor, and noted that several submissions and contributions at the public inquiry hearings referred to this factor. Some mentioned the diversity of Willoughby City on cultural and linguistic grounds.

The Delegate concluded 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. He also considered that recognition of Indigenous heritage could 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 Report included the following issues under this factor:

- *Scale and Capacity*: The Delegate noted that IPART found that each Council standing on its own would not meet the criterion of Scale and Capacity. It is noted that the new LGA set out in the Proposal would enhance the key role of the existing LGAs, in contributing to essential outcomes under 'A Plan for Growing Sydney'.

- *LGA Name and Interim Administration:* If the Proposal proceeds, the Delegate considered appropriate that the merged new Council should have City status under the Act, and the Delegate recommended that the LGA's name should be the City of the Lower North Shore.
- *Boundary Alterations:* the Delegate outlined a number of boundary alterations suggested by both North Sydney and Willoughby City Councils. The Delegate did not offer a view on these and stated that it is considered inappropriate in the circumstances to consider the boundary variations proposed by the Councils as part of examining the current Proposal, but their merit should be considered separately in due course.
- *Alternative Proposal:* It is noted by the Delegate that the Minister for Local Government referred a separate proposal to the Acting Chief Executive of the Office of Local Government on 25 February 2016, involving a possible merger of North Sydney, Willoughby City and Mosman Municipal Councils. The examination of this separate proposal is being conducted independently.

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

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