
**PROPOSED MERGER OF
HUNTER'S HILL, LANE COVE AND CITY OF RYDE
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



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 Hunter's Hill, Lane Cove and City of Ryde 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
29 April 2016

1. Summary of Local Government Boundaries Commission comments

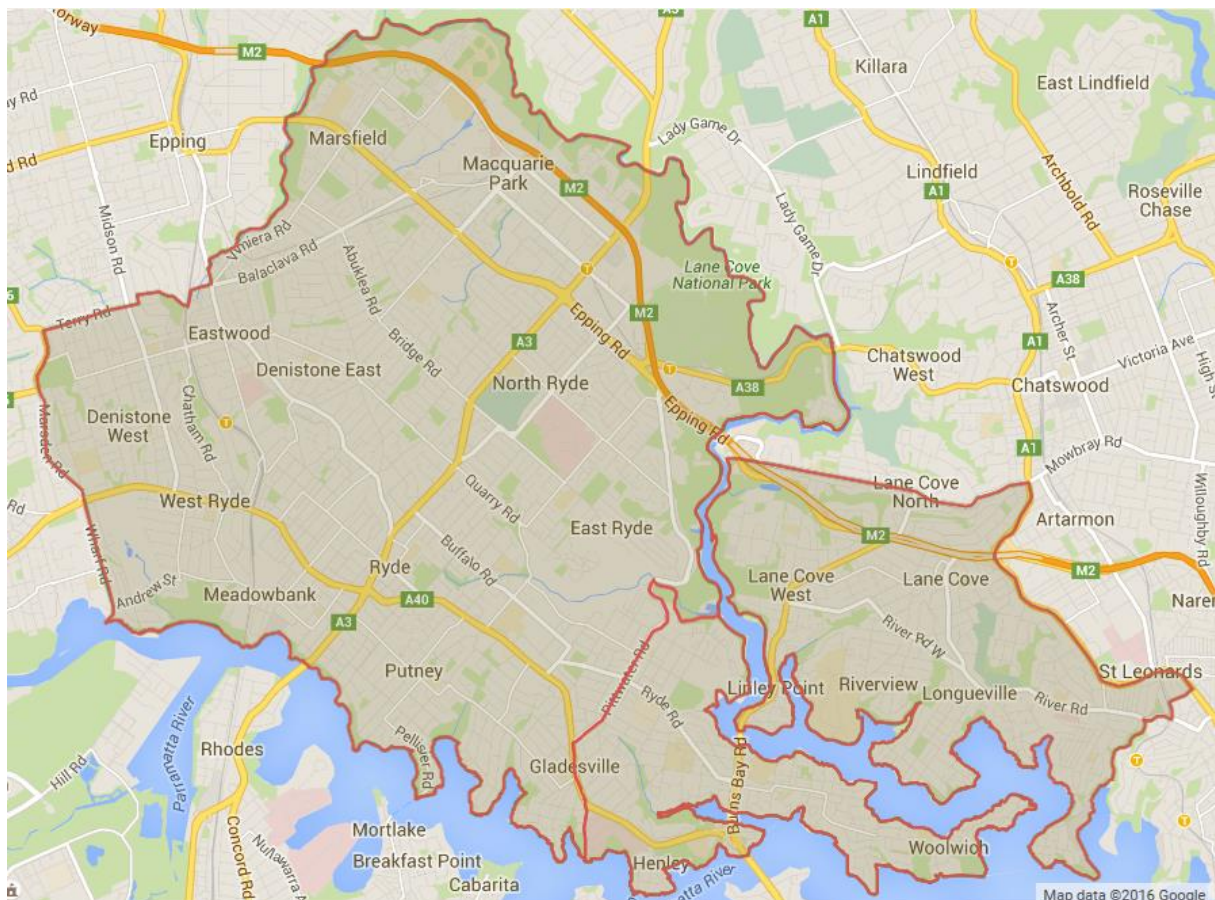
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Hunter's Hill Council, Lane Cove Council and the City of Ryde Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *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, 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 Hunter's Hill Council, Lane Cove Council and the City of Ryde 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 three councils.

Council	2016	2031
Hunters Hill Council	14,600	17,500
Lane Cove Council	33,250	45,250
City of Ryde Council	117,400	153,000
New Council	165,250	215,750

Source: NSW Department of Planning & Environment, 2014 NSW Projections (Population, Household and Dwellings).

The 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:

*"The formation of a single merged council will create a financially stronger and more viable council compared to the existing arrangements and will create an organization that will have a greater capacity to deliver ongoing infrastructure needs and improved services. **It is therefore recommended that the proposal be implemented.**"*

Other recommendations by the Delegate are:

1. *"In order to provide more flexibility to assist in the transition to a more equitable rating structure in the longer term, **it is recommended** that the IPART review of existing rating provisions in the Local Government Act 1993 consider:*
 - a. *removing the limitation on the maximum "minimum rate" that can be charged and*

- b. providing the opportunity to rate home units and similar properties with individual valuations*
2. *Based on the submissions received **it is recommended** that if the merger proposal is implemented a public information campaign should be undertaken by the new council to address concerns and better inform the community.*
3. *To ensure adequate and fair representation in the short term, and to allow a smooth transition, **it is recommended** that the proposed new council, if implemented, have 15 Councillors in total, including a Mayor elected by the Councillors and that the Council be divided into 3 wards of 5 Councillors.*
4. *As an **alternative**, and what is considered to be a more equitable longer term solution, **it is recommended** the proposed new Council prepare itself to move to having no wards at the next available opportunity, with a reduced number of Councillors of 11 or 13, including a popularly elected Mayor.*
5. ***It is recommended** that, if the merger proceeds, a new name be chosen which does not include the name of any of the three existing Councils.*
6. *To demonstrate independence and impartiality, **it is recommended** the Minister requires any new merged entity to establish an Independent Hearing and Assessment Panel for development applications and for Council to review the operation of that model after 2 years.*
7. *A number of minor boundary adjustments were suggested as part of the submissions received for this inquiry, as follows:*
 - a. Lane Cove North to be transferred to Lane Cove from Willoughby*
 - b. Whole of St Leonards CBD to be consolidated under one LGA (area south of Pacific Highway to transfer to Willoughby from Lane Cove)*
 - c. Northern part of Eastwood and Mobbs Lane to be transferred to Ryde from Parramatta*

***It is recommended** that these boundary adjustments be considered separately and that the merits of the various proposals be assessed at that time."*

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 457 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 the Hunters Hill Sailing 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 that 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 2015 KPMG analysis that estimated potential savings of around \$61 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 \$20 million from 2020 onwards.

The Delegate stated that the KPMG report's assumptions have been questioned by some Councils. He discussed an alternative study commissioned by the three Councils in 2016 that showed net financial savings from the proposed merger of \$19.4 million over 8 years, noting that this study also showed a significant improvement in financial operating performance that exceeded the KPMG estimate. While the assumptions used, and potential financial outcomes in these two studies differed, the Report noted that both showed a net financial benefit would result from the proposed merger.

The Delegate also noted the IPART finding that neither a 'Joint Regional Authority' (JRA) established by the 3 councils (to provide shared services and centralised planning and development) as an alternative to merger, nor a continuation of the Councils as stand-alone entities was as good as the merger option.

The Report discussed the possible impact on rates in each of the three areas if the merger proposal is implemented, noting that many submissions expressed concern over the possibility of rate increases. The Report noted the differences in current minimum residential rates across the three areas, the differing proportions of residential ratepayers on the minimum rate in each area and the special rate variations already approved for Ryde and intended to be sought by Hunters Hill. The Report also noted that IPART is undertaking a comprehensive review of the current rating system.

The Report concluded that:

“The formation of a single merged council will create a financially stronger and more viable council compared to the existing arrangements and will create an organisation that will have a greater capacity to deliver ongoing infrastructure needs and improved services.”

The Report also recommended that, in order to assist in the transition to a more equitable rating structure, IPART consider, as part of its rating review:

- removing the limitation on the maximum “minimum rate” that can be charged, and
- providing the opportunity to rate home units and similar properties with individual valuations

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

5.2.2 Communities of interest

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

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

The Report noted that the Hunter’s Hill, Lane Cove and Ryde area is characterised by

“its built and natural environments, including large areas of natural bushland, connection to Sydney harbor and major transport routes, significant job centres (such as North Ryde and St Leonards) and well-established urban areas.”

It also noted “significant similarities in demographics across the three LGAs”, and quoted the proposal’s argument that “from a socio-economic standpoint ... the Hunter’s Hill, Lane Cove and Ryde communities are relatively advantaged” with “similar characteristics ... for example, household income, education, employment and occupation”. All three area have median household weekly incomes above the Australian median of \$1,347 – Hunter’s Hill \$2,178, Lane Cove \$2,181 and Ryde \$1,466.

At the same time, the Delegate noted that some submissions highlighted perceived differences between the areas.

The Hunter’s Hill Council submission noted its strong cultural and natural heritage and the strong community of interest in preserving this character. The Report indicated that many submissions identified Hunter’s Hill’s village atmosphere and some expressed a fear that a merged council would not retain this identity and might allow high density development.

Lane Cove Council’s submission noted that sporting affiliations are with the north, rather than with Ryde, that it is geographically separated by water from Hunter’s Hill and Ryde and that Ryde is more ethnically diverse and therefore more focussed on multi-cultural communities of interest. Several Lane Cove residents’ submissions noted the village atmosphere of the Lane Cove Plaza and a concern over the potential loss of local events and festivals under a merged council.

The Ryde Council submission noted the diversity of its residents, with 42% having a non-English speaking background and the range of services and cultural needs that it managed.

The Delegate noted that some submissions welcomed the proposed merger on the grounds of duplicating duplication of labour and equipment and achieving economies of scale and one speaker at the public inquiry felt that his Council was overstating the impact that municipal boundaries have.

The Delegate concluded that there are many examples of councils successfully managing areas with significantly differing identities. He noted that existing LEPs would continue in place under a merged council and could only be changes after community consultation, review by the council and approval by the Greater Sydney Commission.

The Report found that having considered the issues raised in submissions, the merger proposal is not inconsistent with the factor.

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 Report briefly described the history of each council area included in the proposal and the ways in which each Council supports the historic values of its area. The Delegate noted:

- Hunters Hill Council has a special focus on managing heritage and with high levels of community engagement around heritage issues,
- The Lane Cove Council has a strong artistic history which it encourages through a range of initiatives including supporting public art and the Lane Cove Historical Society and
- Ryde Council protects its history with significant heritage buildings like Addington and Brush Farm House and the recognition of significant areas of heritage within its LGA.

The Delegate further noted that all three areas have significant natural assets which are protected and well managed, including areas along the foreshore and natural bushland reserves, and that all three areas have a similar recognition of aboriginal heritage and history of European settlement.

The Delegate also noted that Hunters Hill has a stronger historical focus which would need to be maintained by any merged entity and that a larger entity may have more resources to manage the heritage aspects in a more holistic and effective manner across the three areas.

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 provided an overview of submissions, stating that of the 457 submissions received, 265 (58%) opposed the proposal, 156 (34%) supported it and 36 (8%) did not state a particular view.

Common themes identified by the Delegate in the submissions were:

- a fear of losing identity
- less representation, and
- Councillors being less responsive to constituent issues.

Views that supported the proposal stated that a merger would:

- improve decision making, remove duplication and improve efficiency
- create greater capacity to deliver wider region outcomes, and
- be preferable to a JRA which would be too bureaucratic.

The Report noted an online survey conducted by Hunter's Hill Council regarding a different proposal that showed the community was divided on the amalgamation issue. Other surveys conducted by the Council regarding the JRA model showed differing results and were not considered by the Delegate as statistically valid.

The Report also noted a submission from the Save Hunters Hill Community Coalition indicating that 300 people from across Sydney attended their rally in late February 2016 opposing the current proposal and supporting the heritage and community values of Hunters Hill. The Report stated that although this was not a significant number (compared to the LGA population), it indicated a level of concern about how the proposed merger would affect their current lifestyle.

The Delegate noted that Lane Cove Council distributed a survey in January 2016 to 14,313 households with the question "Do you support the merger of Lane Cove with the City of Ryde and Hunters Hill councils?" Of the 1,801 responses received (12.5% of those surveyed), 73% said "No" to the survey question. The Delegate concluded that the results show a clear level of concern.

The Report referred to extensive community consultation by Ryde Council over the past 18 months regarding various "Fit for the Future" scenarios, which showed strong support for the JRA model. However the Report highlighted that the survey was not conducted regarding the current proposal, concluding that the Ryde Council surveys did not provide any additional information as to the community's views on this particular proposal.

The Delegate concluded that views on the proposal ranged widely and that, if the merger proposal is implemented a public information campaign would be required to address concerns and better inform the community.

The Delegate also noted that many submissions and presentations at the public hearings suggested that "bigger isn't necessarily better". He stated that while this may or may not be true, mergers provide an opportunity for an organisation to transform itself and provide better outcomes across a wide spectrum of activities for the benefit of their customers and communities.

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 if the proposal is implemented, the ratio of population per councillor would change, compared to the existing Councils. He also noted that a number of submissions raised concerns over the number of Councillors and related representational issues, including some that indicated the relative size difference of the three areas was problematic, as Hunters Hill would potentially get 1 Councillor out of 12, Lane Cove 2 to 3 out of 12 and Ryde 8 to 9 out of 12. Some submissions suggested that this would look like a takeover by Ryde Council.

The Delegate noted that many submissions called for the maximum number of Councillors of 15 to be applied if the merger goes ahead, noting that this would result in the population per Councillor reducing to 10,939. The Report stated that “assuming that the current population of 164,094 would grow to an estimated 215,000 by 2031, this would mean 14,333 residents per Councillor (based on 15 Councillors)”.

The Report also discussed:

- the use of section 355 committees to improve community involvement and consultation
- that Lane Cove Council Councillors come from diverse backgrounds and are highly skilled and that this is an attribute that should be maintained in ensuring effective representation going forward
- that independents would find it harder to be elected under the proposal and that a larger area would favour major parties which would reduce diversity of representation, and
- the large variation in Councillor pay and that the higher workload associated with a larger council could be reflected in Councillor remuneration.

Taking all factors into consideration, and noting his conclusion regarding the number of wards, the Delegate recommended that if the merger proposal is implemented, there should be 15 Councillors in total, including the Mayor.

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 considerable variation in customer satisfaction levels across the three council areas. For example Hunter's Hill Council's satisfaction rating was 73.3%, Lane Cove Council's was 67.2% and Ryde Council's was 78%.

The Report also noted submissions raising concerns about potential falls in service levels. Hunter's Hill Council submitted that service levels may rise, therefore increasing costs. Lane Cove Council gave several examples where its service levels are higher than the other councils in the proposal, or its services are unique, and therefore may reduce or cease to continue under the proposal. These were Library, Art Gallery and Aquatic Centre service levels and Lane Cove Community Aid. Lane Cove Council stated that residents would not like see these services diminished. The Delegate noted that this view was supported in some submissions.

The Delegate noted that some submissions discussed how infrastructure backlogs may be reduced more quickly in a merged entity. He also noted that harmonisation of service levels across the council area will be a priority of a new merged entity and the potential for using improved operating performance to fund enhancements to service levels.

The Delegate concluded there is no impediment to the merger proposal proceeding based on this factor.

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 Report stated that Lane Cove and Hunter's Hill Councils both highlighted the following risks in their submissions:

- the potential loss of expert knowledge
- diminished morale and corporate culture leading to lower efficiency and higher turnover
- potential office relocations leading to poorer work-life balance
- failure to achieve rationalization of back office functions and hence not reaching expected savings
- higher than expected redundancy costs
- loss of specialised boutique community services.

The Report discussed Lane Cove and Hunter's Hill Councils' submissions that should the merger proceed, the merged entity should operate under a new organisation structure. The Report included a table of staffing and senior manager numbers in the 3 councils.

The Delegate noted the employment protections under sections 354D, 354F and 354I of the Act and concluded these provisions address many of the issues raised in submissions.

The Report acknowledged that:

- initially, there will be rationalisation of senior staff positions and associated redundancy costs as Executive level positions are filled
- the potential for a larger council to be able to attract a higher calibre of professional senior management , and
- the loss of expertise and local knowledge may be a counterbalancing factor.

The Delegate concluded that if the proposal is implemented, the impact on staff can be managed with the 3 year protections in place for non-senior staff and appropriate risk management.

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”.

As the merger proposal involves three Sydney Metropolitan councils, the Delegate concluded there are no rural communities in the area to which this factor would apply.

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 outlined the requirements around wards contained in the Act, and noted that of the 43 metropolitan councils, 11 have three wards, 11 have four wards, and 9 have no wards.

The Delegate stated that the number of wards if implemented needs to be odd (assuming there is not a popularly elected Mayor).

Submissions from the three Councils in the proposal recommended 15 Councillors (Hunter's Hill), 15 Councillors with no wards (Lane Cove) and 15 Councillors with 5 wards of three Councillors (Ryde).

Other submissions (including the public inquiry presentation from the Mayor of Ryde) suggested that 5 wards of three Councillors would benefit larger parties. It was also suggested that if wards were implemented, 3 wards of five Councillors would give a more balanced council with a better chance for independents.

The Delegate recommended that, if the merger proposal proceeds, to ensure adequate and fair representation in the short term that the new council is divided into the minimum number of wards, namely 3 wards of five Councillors, including a Mayor elected from the Councillors.

The Delegate stated that this is considered to be an appropriate interim arrangement to allow Councillors to establish themselves and for the merger to have a smooth transition, with the objective that the Council should position itself to move to no wards at the next available opportunity. This will give more equal power to the diverse communities within the merged area and improve the quality of elected candidates.

The Delegate also recommended, as an alternative, that a new Council prepare to move at the next available opportunity to having no wards and reducing the number of councillors to 11 or 13 (including a popularly elected Mayor).

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 stated that there are over 60 plans that represent the diverse interests of the community across the three Councils. However he noted that some submissions expressed concern that those particular communities of interest may be disadvantaged in a merger. Examples given in the submissions included arts funding, community service funding, library facilities, events and festivals (and the like) that differ in scale across the areas.

The Report also noted the concerns of the business community around council initiatives such as maintaining small street shops as part of the village atmosphere, improving streetscapes, outdoor trading and visitor parking.

The Delegate noted that any new merged council would need to address these operational concerns in serving their communities effectively.

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

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 recommended that if the merger proceeds, a new name be chosen which does not include the name of any of the three existing Councils.

The Delegate also recommended that the Minister require a newly merged council to implement an Independent Hearing and Assessment Panel for development applications, similar to the current

Lane Cove Council panel, the operation of which should be reviewed by the new council after two years.

The Delegate also recommended a number of boundary adjustments be considered separately and that the merits of the various proposals be assessed at that time. These were:

- Lane Cove North to be transferred to Lane Cove from Willoughby
- The whole of St Leonards CBD to be consolidated under one LGA (area south of Pacific Highway to transfer to Willoughby from Lane Cove)
- The northern part of Eastwood and Mobbs Lane to be transferred to Ryde from Parramatta.

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.