ITEM-7 CCL 23/02/16 - COUNCIL SUBMISSION TO THE DELEGATE

REPORT BY: CHIEF EXECUTIVE OFFICE / CORPORATE SERVICES
CONTACT: INTERIM CHIEF EXECUTIVE OFFICER / DIRECTOR CORPORATE SERVICES

PURPOSE

To provide a report to Council in respect of Newcastle City Council's (Council) draft Submission (Submission) as at Attachment A to the Delegate of the Chief Executive of the Office of Local Government (Delegate).

RECOMMENDATION

1 Council receives the report; and

   i. Determines its preferred option should a merger proceed for the process of electing a Lord Mayor;
   ii. Determines its preferred option should a merger proceed for the number of Elected Representatives;
   iii. Determine its preferred option should a merger proceed for the Ward Structure of the resulting merged Local Government Area;
   iv. Support the proposed minor boundary variation as outlined in paragraphs 20-26.

2 Council delegates authority to the Interim Chief Executive Officer to make any necessary amendments to the Submission, in consultation with the Lord Mayor, that arise from Council's deliberation of the Submission and to lodge the amended Submission on Council's behalf with the Delegate by 28 February 2016.

KEY ISSUES

The Merger Proposal

3 On 6 January 2016, the Minister for Local Government, the Hon. Paul Toole MP, proposed a merger of Newcastle City Council (NCC) and Port Stephens Council (PSC) in accordance with section 218E of the Local Government Act 1993 (Act) and referred this Merger Proposal to the Chief Executive of the Office of Local Government (OLG) for examination and report under the Act (Merger Proposal).

4 The Chief Executive of the OLG has delegated the responsibility of examining and reporting on the proposal to a Delegate, Mr Ian Reynolds. As part of this process the Delegate is required to conduct a public inquiry, call for written submissions from the public and prepare a report which will review all relevant information having regard to, inter alia, the factors in section 263(3) of the Act as at Attachment B.
5 As part of the Delegate's examination and report on the Merger Proposal a number of public inquiries were conducted by the Delegate on 4 February 2016. Two were held in the Newcastle Local Government Area (LGA) and one was held in the Port Stephens LGA. On 9 February the Delegate announced an additional public inquiry is to be held in the Port Stephens LGA on the 24 February 2016.

6 The Delegate's report is required to be provided to the independent Local Government Boundaries Commission for review and comment. The Boundaries Commission must send its comments to the Minister for Local Government. The Minister will make a decision on whether or not to recommend the implementation of the Merger Proposal to the Governor of NSW (section 218F of the Act). The Minister has indicated that this decision is not expected to be made before the middle of 2016.

7 As part of the Delegate's examination and reporting on the Merger Proposal the Delegate is accepting written submissions from members of the public until 5pm on Sunday 28 February 2016.

The Submission

8 The draft submission has been prepared in accordance with the resolution of Council of 17 November 2015. The draft submission provides background on the local government reform process, outlines Council's own reform agenda leading to its current strong and sustainable financial position found to be "Fit for the Future" financially by IPART and addresses the relevant criteria for the proposed merger as set out in Section 263 of the Act.

9 The final Submission will need to be further updated to reflect decisions taken by Council with respect to the matters set out in this report. The draft Submission is at Attachment A.

Title of Lord Mayor

10 Historically the title of Lord Mayor was only bestowed on capital cities. In recognition of Newcastle's role as NSW's second oldest and largest city, Council applied to have the title 'Lord Mayor', which was granted in October 1947 by King George VI and officially applied in October 1948. This made Newcastle the first Australian city that was not a capital to receive such an honour. On 1 April 1949 the official title of Council became the 'City of Newcastle'.

11 Only four councils in New South Wales have the honour of the Lord Mayor status, those being the City of Sydney, Parramatta City, Wollongong City and Newcastle City.

12 It is recommended that Council include its views on retention of the Lord Mayor title in the submission. In the event of a merger the Governor's Proclamation should include a decree providing for the continuation of the Lord Mayor title.
Lord Mayoral Election Process

13 The Act at Section 282 sets out that the Mayor of an area may be either elected by the voters, or elected by the Councillors from among their number. The Merger Proposal is silent on the process for any merged entity.

14 Legal advice made available by Council suggests that the wording of the Act currently precludes a proclamation that the Lord Mayor be popularly elected by the voters. Nonetheless, Council may wish to include in the submission that the Lord Mayor of any merged entity be popularly elected by the voters.

Number of Elected Representatives

15 The Merger Proposal documents model changes in the Residents to Elected Representatives ratio based on the current number of Elected Representatives of the larger council encompassed by the proposal. In this case, Newcastle City Council is the larger council with 13 Elected Representatives. Port Stephens Council currently has 10 Elected Representatives.

16 Section 224 of the Act provides that a council must have at least five and not more than 15 councillors (one of whom is the mayor). Council may wish to consider including in its final Submission a recommendation to the Delegate to the preferred number of Elected Representatives, should the merger proceed.

Ward Structure

17 Newcastle Council has a history with Ward structures:

<table>
<thead>
<tr>
<th>Period</th>
<th>Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993 - current</td>
<td>Lord Mayor + 4 x Wards of 3 Councillors</td>
</tr>
<tr>
<td>1949 - 1993</td>
<td>Lord Mayor + 7 Wards of 3 Alderman each (incl Lord Mayor)</td>
</tr>
<tr>
<td>1938 - 1949</td>
<td>7 x Wards of 3 Alderman each</td>
</tr>
<tr>
<td>1867 - 1938</td>
<td>6 - 12 Councillors, Wards of 3 each</td>
</tr>
<tr>
<td>1859 - 1867</td>
<td>19 Alderman in 3 Wards (9 + 5 + 5)</td>
</tr>
</tbody>
</table>

18 Section 210 of the Act stipulates the provisions around ward boundaries. There are no restrictions on the number of wards, however, consideration will need to be given to accord with restrictions on elected representation. Section 224 of the Act identified that a Council must have at least five and not more than 15 councillors inclusive of the mayor.

19 Council is aware that as part of the Local Government Act Review, the OLG is considering changes to section 224 of the Act, so that councils must have an uneven number of elected representatives. With those factors taken into consideration, the following are options available to Council for a Ward Structure, assuming Council determines the number of Councillors for a merged entity to be 13 (including the Lord Mayor) as outlined in the Merger Proposal:

i) Two (2) Wards of 6 Councillors;
ii) Three (3) Wards of 4 Councillors;
iii) Four (4) Wards of 3 Councillors;
iv) Six (6) Wards of 2 Councillors;
v) No Wards with 12 Councillors; or
vi) a popularly elected Lord Mayor.

Minor Boundary Changes

**Link Road, Newcastle (adjustment of boundary with Lake Macquarie City Council)**

20 This proposal as shown in Attachment C, realigns a small portion of the boundary between Newcastle and Lake Macquarie LGAs. The realigned boundary follows the M1 Freeway, Newcastle Link Road and a proposed new road, which will link the Newcastle Link Road with Lake Road.

21 The proposed minor boundary adjustment, which would transfer 302.35 hectares to Newcastle City Council and 87 hectares to Lake Macquarie City Council, would not result in a change in LGA for any existing residents or businesses, except Macquarie College, which is currently dissected by the LGA boundary. Macquarie College has advised both Councils that it supports the proposed boundary adjustment.

22 The boundary adjustment is proposed to enable each Council to better respond to recent development and land use change since the local government boundary was created. It is intended that the new boundary will better reflect the new neighbourhoods, enable a more efficient delivery of services and infrastructure and will also better follow water catchment boundaries.

23 The Planning Proposal was sent to the Department of Planning and Environment on the 23/10/2015 for legal drafting and to be made; DPE are awaiting a Council resolution from Lake Macquarie Council to enable the Planning Proposal to be finalised.

**Woodberry (adjustment of boundary with Maitland City Council)**

24 It has long been recognised that the three suburbs of Beresfield, Tarro and Woodberry should be treated as an integrated community. Beresfield and Tarro are within Newcastle LGA and the adjoining Woodberry is within Maitland LGA. To this end Newcastle and Maitland Councils developed a joint collaboration to address community and business issues across the three suburbs. The Berotarwood MOU was signed in March 2008 and a Berotarwood Action Plan was developed and implemented from early 2009.

25 The movement of the suburb of Woodberry into Newcastle LGA aligns with previously agreed work with Maitland Council and provides the opportunity for the Beresfield, Tarro and Woodberry suburbs to be treated as the integrated community they seek.
26 The current Woodberry population is 3,155 (1200 dwellings) with 84% of the area (total area 737Ha) rural zoned land proposed to be moved across into the Newcastle LGA and/or merged entity. The outline of the proposed boundary adjustment recommended is shown in Attachment D.

FINANCIAL IMPACT

27 Internal staff costs associated with the preparation of the Submission will be met from existing operational budgets. There are no other costs directly associated with carrying out the recommendations contained in this report.

COMMUNITY STRATEGIC PLAN ALIGNMENT

28 Open and Collaborative Leadership.

IMPLEMENTATION PLAN/IMPLICATIONS

29 The Submission has been prepared in response to an invitation from the Delegate and, subject to resolution of Council it will be lodged with the Delegate by the due date of Sunday 28 February 2016.

RISK ASSESSMENT AND MITIGATION

30 Not applicable.

RELATED PREVIOUS DECISIONS

31 At the Extraordinary Council Meeting held on 17 November 2015, Council approved the following resolution:

1. Council receives this report and notes that the NSW Government requires all Councils to identify their merger preference with neighbouring Councils regardless of whether they are deemed 'fit'

2. Council's preference is to remain a stand-alone council and opposes a merger of Lake Macquarie and Newcastle City Councils.

3. If Council was to merge our preference be for a merger with Port Stephens Council (PSC); which would be part of a regional solution with similar demographic profiles by creating a Tier 2 Global City, encompassing port, airport, defence, university, industrial and health hubs.

4. Council delegates authority to the Interim Chief Executive Officer to respond on Council's behalf to the NSW State Government by 18 November 2015, regarding the following matters, via an online template in the required format:
a. Feedback on IPART's assessment of the Council's Fit for Future submission as follows:

b. "NCC meets all of the FftF financial criteria and believes the methodology used to assess the Scale and Capacity criterion was flawed and refutes IPART's assessment that it is not fit. NCC's preference is to serve its community as a stand-alone council, second preference to merge with Port Stephens Council" (50 words)

c. Council's first preferred merger partner is Port Stephens Council. All other preference boxes are to remain blank.

d. Comments on the preference:

"Council's second preference is to be lead Council for a merger with Port Stephens Council. This merger will be part of a regional solution with similar demographic profiles by creating a Tier 2 Global City delivering required scale and capacity, while maximizing port, airport, defence, university, industrial and health hubs"

5. That the Lord Mayor and Interim Chief Executive Officer write jointly to the Premier and Minister for Local Government requesting that Council remain eligible for $20 million available funds for the infrastructure needs of Newcastle of merging funds, given the cooperative regional leadership shown in undertaking its obligations to consult with neighbouring Councils and to proposed amalgamation preferences.  

Carried

CONSULTATION

32 An online survey was undertaken in January-February 2016 with Council's community reference panel, Newcastle Voice, together with a hard copy intercept survey at various Australia Day activities, to assess community attitudes about the proposed merger. Data was weighted post-collection to be representative of the Newcastle LGA in terms of age, gender and location, with a total of 600 surveys completed.

33 More specifically, Council sought to consult with Newcastle residents and ratepayers to:

i) better understand perceived benefits and risks in the Proposed Merger;

ii) gauge levels of support for the proposed amalgamation and for Council continuing to stand-alone;

iii) understand community sentiment about the role of wards in an amalgamated council scenario; and

iv) assess community preferences regarding the number of Councillors in an amalgamated council scenario.

34 A detailed report on the outcome of the survey is included at within Council's Submission (Attachment A) as at Appendix A.

35 A workshop was conducted with the Councillors on 9 February 2016 to discuss and receive feedback on the Merger Proposal and the Council's Submission to the Delegate.
36 The Interim Chief Executive Officer, Mr Frank Cordingley, is scheduled to present Council's views on the Merger Proposal to the Delegate at a Public Inquiry on 4 February 2016 and at a Council Briefing Committee Meeting to be held on 23 February 2016 (immediately prior to the commencement of the Ordinary Council Meeting) being the presentation provided to the Delegate at the Public Inquiry held on 4 February 2016 - a copy is attached at Attachment E.

OPTIONS

Option 1

37 The recommendation as at Paragraph 1 and 2.

Option 2

38 Council determines not to receive the report and not to lodge the Submission. This is not the recommended option.

BACKGROUND

39 IPART's final report on Council's Fit for the Future submission was released in October 2015. This report determined that Council satisfied all of the Financial criteria but did not satisfy the Scale and Capacity criteria and was determined "not fit" on that basis. The final report supported the Independent Local Government Review Panel recommendation for Council to merge with Lake Macquarie City Council (LMCC).

40 On 11 November 2015 Council received a letter from the Premier, The Hon. Mike Baird and the Minister for Local Government, The Hon. Paul Toole MP in regard to the Government's Fit for the Future reforms. The NSW Government announced that they were providing a final period of consultation which closed on 18 November 2015. During this consultation period, Council was able to comment on the IPART findings and advise on any preferences the Council had in regard to merger partners.

41 Council responded by the deadline in accordance with the Council approved resolution of the Extraordinary Council Meeting held on 17 November 2015.

42 On 18 December 2015 the Premier and the Minister for Local Government announced that Council's proposed merger partner was Port Stephens Council.
REFERENCES

ATTACHMENTS

Attachment A: Newcastle City Council's Draft Submission to the Delegate in respect of the Merger Proposal between Newcastle City Council and Port Stephens Council. (Distributed under separate cover)

Attachment B: Extract from section 263(3) of the Local Government Act 1993.

Attachment C: Map of Link Road, Newcastle (adjustment of boundary with Lake Macquarie City Council).

Attachment D: Map of Woodberry (adjustment of boundary with Maitland City Council).

Attachment E: Presentation to the Public Inquiry on State Government's proposal to amalgamate Newcastle and Port Stephens Councils - 4 February 2016 and Council Briefing on 23 February 2016.
Extract from section 263(3) of the Local Government Act 1993:

i) the financial advantages or disadvantages of the proposal to the residents and ratepayers of the areas concerned (s.263(3)(a));

ii) the community of interest and geographic cohesion in the existing areas and in any proposed new area (s.263(3)(b));

iii) the existing historical and traditional values in the existing areas and the impact of change on them (s.263(3)(c));

iv) the attitude of the residents and ratepayers of the areas concerned (s.263(3)(d));

v) 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 considered relevant in relation to the past and future patterns of elected representation for that area (s.263(3)(e));

vi) the impact of the proposal on the ability of the councils to provide adequate, equitable and appropriate services and facilities (s.263(3)(e1));

vii) the impact of the proposal on the employment of the staff by the councils of the areas concerned (s.263(3)(e2));

viii) the desirability (or otherwise) of dividing the resulting area or areas into wards (s.263(3)(e3));

iv) the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented (s.263(3)(e4));

v) any other factors relevant to the provision of efficient and effective local government in the existing and proposed new areas (s.263(3)(f)).
Attachment C - Map of Link Road, Newcastle (adjustment of boundary with Lake Macquarie City Council)
Attachment D - Map of Woodberry (adjustment of boundary with Maitland City Council)

To be distributed prior to Council Meeting
Presentation to the Public Inquiry on State Government’s proposal to amalgamate Newcastle and Port Stephens Councils

4 February 2016

Document prepared by Newcastle City Council
Response to State Government in Fit for the Future process

• In November 2015, Newcastle City Council lodged its response in the Fit for the Future Local Government reform process.

• Council resolved on 17 November 2015 that its first preference is to remain a standalone Council, but that if a merger was forced, Newcastle City Council's preferred merger partner is Port Stephens.

• The NSW Government found Newcastle Council to be 'financially fit' for the future. Newcastle Council has significantly turned our financial position around to be one of the stronger, financially sustainable Councils in NSW.
Newcastle City Council

Local Government Area (LGA)

Size
187km²

Demographics
Population 160,000
Expected population in 2031 175,000

Operations
Employees 930
Annual revenue $270m

Infrastructure
Total value $1.575b
Backlog value $94m
NSW Councils Surplus/Deficit before Capital Income FY15

Newcastle has the 8th largest surplus in FY15

Port Stephens, Maitland, Cessnock and Lake Macquarie Councils all returned modest deficits
• The NSW Government’s Merger Proposal’s projections differ substantially from financial forecasts currently available. It appears data used for the Merger Proposal is out of date (2013/14 reports).

• Newcastle’s operating performance has significantly improved and is stronger than projected in the FFTF Long Term Financial Plan.

• The Special Rate Variation has enabled us to increase maintenance of our infrastructure (work that preserves infrastructure) and to have a capital works program that aggressively addresses the infrastructure backlog.
Newcastle’s strong financial position

- Newcastle’s strong financial position is a result of significant effort to reduce costs and improve non-ratepayer revenue sources.

- Council reduced its workforce by approx 100 staff in 2013/14.

- We are forecasting a budget surplus this financial year.

- We are in surplus at the same time as delivering a bumper capital works program for new infrastructure and infrastructure renewal.
Operating surplus

We have generated operating surpluses for the past 2 financial years and have a YTD operating surplus of $7.2m.

$7.2m
Newcastle City Council has a debt service cover ratio of x8.2.

The Office of Local Government 2015 benchmark is a ratio of > x2.

In other words, Newcastle City Council generates 8 times the cash income required to meet its debt servicing obligations, based on FY15 reporting.
Cash investments & reserves

- Cash investments and reserves of $274m in FY15
- Funds from current reserves, operating surpluses and the 2015 SRV will be sufficient to fully fund the infrastructure backlog by 2020, i.e. within the 4 year rate freeze period.
- Annual capital works program of $58 million achieved in 2014/15
- Annual capital works program of $77 million this year
Cash investments & reserves

- $274m of total reserves, includes $214m of funds restricted for future commitments, provisions.
- Available funds of $60m. Some of these will be directed to addressing infrastructure backlog.
- Operating surpluses will continue to build sustainability.
Bathers Way

As part of Council’s wider coastal revitalisation project, Bathers Way is a shared pathway that will extend the 7 kilometre journey from Nobby’s Beach to Merewether Beach, and encompass the Anzac Memorial Walk. Based on kilometres, this project is 50% complete with Nobby’s to Newcastle finished in recent weeks.

Revitalising the city centre

Council has been implementing a 2010 strategic plan to revitalise the CBD. Works completed or underway include: supporting Renew Newcastle, façade improvement scheme, King St revitalisation and activation projects.
Upgrades to Blackbutt Reserve

Blackbutt Reserve is highly regarded by residents and visitors to the city. A major refurbishment program continues and has already included the addition of new amenities, a new playground, new BBQ's and shade structures, interpretative signage and a new Wildlife Arena.

Providing new cycleways

A key part of Council's vision to be a smart, liveable and sustainable City. Projects have been completed or are underway in across several suburbs, including Bar Beach, Lambton, Kotara, Waratah, Islington, Broadmeadow and Fletcher.
Newcastle City Council delivers regional infrastructure, services and facilities

We’re working with UrbanGrowth NSW on the Newcastle Urban Transformation and Transport Program. The State Government has committed $460 million to this project, which includes the delivery of light rail in the CBD.

We deliver regional cultural facilities including Newcastle Art Gallery, Newcastle Museum, Civic Theatre, regional libraries in Newcastle and Port Stephens local government areas. We provide or are the major sponsor of regional events including Surfest.
Waste Service charges and Rates

- As rates are based on land value, Port Stephens ratepayers will, and will continue to incur lower rates than NCC ratepayers,

- NCC has the lowest DWMS charges of all the local councils,

- If the 2012 SRV was quarantined to NCC ratepayers only, there would be no or minimal impact on rates.
Response to merger proposal projections

- $20m grant funding is included in $85m total financial benefit quoted in the NSW Government’s Merger Proposal

- $65m cost savings possible, but mix will be different than suggested in Proposal and achievable by standing alone

- The Proposal understates the costs of a merger

- We question estimates based on reductions in staff. Since the Fit For the Future process began, we have already reduced staff numbers by 10%

- Combined asset base is $2.2b net, not $1.4b as quoted in proposal
Proposed merger opportunities

- Enhance our role as a regional capital where residents of neighbouring LGAs come to work, study and play
- Two harbours: the largest coal export port in the world and a port which centres on marine and tourism industries
- Gateways to the Hunter including regional airport, with expanding international routes
- National defence facility at Williamtown
- World class University
- Regional health facilities, including John Hunter Hospital, the busiest trauma centre in NSW
- Industrial and manufacturing centres
- Capability to host major events
- Extensive cultural facilities
- Regional finance and banking hub
- Stronger links already in place including: joint ownership of Newcastle Airport, Newcastle Council’s delivery of library services in Port Stephens, and Port Stephens’ sharing of Section 94 contributions with Newcastle.