OXFORD ECONOMICS

HORNSBY SHIRE COUNCIL COMPENSATION CLAIM ADVICE

JUNE 2018

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EXECUTIVE SUMMARY

- Hornsby Shire Council has been left in a weaker financial position as a result of a State Government initiative which saw it lose a sizeable share of its lands to Parramatta City Council. This outcome runs directly counter to the objectives of the initiative which was to improve the financial sustainability of councils.
- Hornsby Shire Council is seeking either the return of the lands lost under the boundary adjustment, or fair compensation for the loss of future income associated with these lands.
- Council's revised Long Term Financial Plan projects slim operating surpluses over the plan's forecast horizon (FY2017 to FY2026). Treasury takes the view that as Council is still able to meet its financial sustainability ratios after the boundary adjustment there is no claim for compensation for loss of revenue and that Council should be compelled to reduce its operating expenditure and/or capital expenditure to reflect its smaller scale and bolster its financial position.
- Treasury has chosen to focus on an equivalence argument – that the loss of net recurrent revenue will be offset by expenditure reductions and that the loss of future investment income associated with lands south of the M2 is a straight transfer of the benefits that would have flowed to the residents of this area from Hornsby Shire Council ownership to Parramatta City Council ownership.
- Treasury does not take into consideration the impact of diseconomies of scale, whereby Council's fixed costs are now spread over a lower revenue base, even though increasing opportunities for realising economies of scale was a key objective for amalgamating councils under the Fit for the Future program.
- TCorp and Treasury argue that Council needs to reduce its service levels and capital expenditure plans to reflect its smaller scale and improve its financial position. This implies that Hornsby Shire community will end up being disadvantaged by a program that was so supposed to make their council stronger.
- The fact that Council is still projecting slim operating surpluses over the timeframe of the LTFP reflects the strong position Council was in prior to the boundary adjustment, which was recognised by TCorp in their progressive upgrading of Council's financial sustainability rating.
- The modestly positive outlook for Council's operating performance over the timeframe of the LTFP however doesn't take into account the significant impact that the loss of income from the boundary change will have on the Hornsby Shire community in terms of funding future service offerings and major capital and/or asset renewal projects.
- TCorp estimates that the loss to Council's cash and investments balance as a result of the boundary change over the 10-year period to FY2026 would be $160 million (nominal, undiscounted), which Treasury notes is equivalent to $87 million in NPV terms using a discount rate of 7%.
- However, the loss to Council of these lands should be considered in perpetuity, not just over the timeframe of the LTFP. The overall impact in NPV terms assuming a 30-year timeframe would be closer to $250 million.

1. THE CONCEPTUAL CASE FOR COMPENSATION

1.1 BACKGROUND

On 18 December 2015 the NSW Government announced the merger of a number of NSW Councils, including the merger of Hornsby Shire Council ("HSC") and Ku-ring-gai Council. In conjunction with the amalgamation process an area of land south of the M2 Motorway administered by HSC was to be shifted to a newly created City of Parramatta Council. This was consistent with the recommendations of the NSW Independent Local Government Review Panel's (ILGRP) *Revitalising Local Government* (2013) which called for the amalgamation of HSC with Ku-ring-gai Council and the transfer of the area south of the M2 to an enlarged Parramatta Council.

On 12 May 2016 the City of Parramatta Council was announced, including sections of land south of the M2, previously administered by HSC. However, the linked amalgamation of HSC and Ku-ring-gai Council was subsequently halted by legal action.

In short, the boundaries of HSC have been adjusted, but the amalgamation with Ku-ring-gai, to which this transfer was linked will not proceed. This has resulted in HSC having a smaller land area, population and revenue base. The implications of this are discussed further below.

1.2 RATIONALE

As indicated above, the original rationale for the transfer of HSC land south of the M2 was offered in ILGRP (2013). This document indicated that Parramatta's development was hindered by its limited scale and narrow boundaries.

Subsequent to this document, work was undertaken by both IPART and KPMG aimed at assessing the impacts of local government amalgamations in NSW. KPMG's work has never been made fully public. However, IPART's Methodology for Assessment of Council Fit for the Future Proposals (2016) ("the Methodology document") and Assessment of Council Fit for the Future Proposals: Local Government Final Report (2016) ("the Assessment document") are in the public domain. The Methodology document provided four "Fit for the Future" (FFTF) criteria for councils. These were:

- Scale and capacity
- Sustainability
- Infrastructure and service management
- Efficiency

The last three of these were essentially financial criteria.

The Assessment document applied these criteria to NSW councils. HSC was found to meet the FFTF on three of the four measures, the sole exception being the "scale and capacity" criterion. In commenting on HSC's failure to meet this criterion, IPART noted that:

> *The council's population is forecast to be 201,750 by 2031 compared with the forecast merger population of 352,850. Our analysis suggests that the council does not have sufficient scale to partner effectively with the governments compared to the merger.*

IPART went on to note that HSC estimated net benefits of $61 million from a merger with Ku-ring-gai (including government grants) and

> *In addition, our independent economic consultants Ernst and Young have estimated net benefits from the merger of around $88m over 20 years using public data (not including the Government grant).*

In short, the original rationale for the amalgamation of HSC with Ku-ring-gai Council was based on the economies of scale to be achieved with a larger population base over which to spread the fixed costs of council administration.

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Given this is the case, several issues emerge:

1. The original recommendation of the transfer of the land south of the M2 was made in the context of an amalgamation with Ku-ring-gai which did not subsequently occur. If this is the case, then the basis for the transfer is itself open to question.

2. Leaving aside 1, the net result of the transfer of this land and the decision not to proceed with the amalgamation has meant that HSC now administers a smaller population base with a correspondingly smaller revenue base.

3. This is at odds with the original rationale for amalgamation of HSC in the first instance, since as noted above the only criteria for amalgamating was to achieve economies of scale. What has instead occurred is the *opposite* of the original intent.

The practical result of this is that HSC must now spread its fixed cost expenditure over a smaller revenue base. This has arisen as a result of a State Government initiative rather than being an initiative of HSC. Accordingly, based on the issue of scale diseconomies alone, this suggests that there is an a priori case for compensation to HSC from the State Government.

Everything else being equal, in the absence of any compensation, in order to sustain its pre-existing financial position, HSC would have to:

1. Raise rates on remaining population to make up for this relatively larger fixed cost impost; and/or
2. Reduce expenditures/lower service to make up for this impost.

However either 1. or 2. would result in a situation which is disadvantageous to HSC ratepayers. In addition, assuming that the lands south of the M2 are not returned, these effects on HSC ratepayers would be permanent. It is not clear why ratepayers should be disadvantaged through a decision made by State Government. Part of the broader original rationale for the local government amalgamation initiative was to provide benefits to ratepayers rather than disadvantage them. This reinforces the case for compensation.

1.3 NSW TREASURY RESPONSE IN CONTEXT

It is noted that NSW Treasury has issued a response to HSC's claim for consultation (*Internal Treasury Executive Brief- Hornsby Council Claim* – "The Treasury Brief").

The Treasury Brief is discussed in more detail below, however, the following points should be noted in the context of the discussion above.

- The Treasury Brief indicates that both lost revenues and expenditures must be accounted for in considering HSC's case. However, the calculations behind Treasury's estimate of the Net Present Value (NPV) cost to HSC of $19-$24 million are not completely transparent. Moreover, this estimate is based on 2013-14 per capita figures – i.e. pre the transfer of land south of the M2. As the transfer of these lands would affect these very figures, it is not clear how relevant these calculations are. Connected with this is the fact the scale diseconomies noted above would be likely to push up costs per capita in the post-transfer environment, a fact not allowed for in this calculation.

- The Treasury Brief considers the NSW Treasury Corporation's (TCorp) Hornsby Shire Council, Financial Assessment and Sustainability Report (2017). In doing so, it acknowledges that HSC's Financial Sustainability Ratio is in a Strong financial positon even with the transfer of the lands south of the M2, but that it would have improved over time to the Very Strong had the lands south of the M2 been retained. It cites the TCorp estimate of a $9.1 million loss in net recurrent revenue p.a.

- The Treasury Brief then states that

  HSC has been materially impacted but retains a sustainable financial position. In addition, while there has been an impact on net revenue, the future impact on HSC's expenditure from the transfer of 15,000 residents to the CoP has not been factored into the analysis.

  The Tcorp report also notes on page 23 that "as Council now serves a smaller community, Council needs to manage its community's expectations in regard to service levels and following reviews, reduce services where possible. The loss in income needs to be partially offset by a reduction in expenses if Council were to improve its operating performance".

- The fact that HSC remains sustainable after a net revenue loss of $9.1 million p.a. can be seen acknowledgement of HSC's good financial management. However, this is not the issue. The key issue is that HSC has been placed in a less advantageous financial situation then before through State Government action. That is, it is the *relative change* in HSC's financial circumstances (and the reasons behind them) rather than their *absolute level* (as measured by the FSR) which is the key question.

- In addition, the reference to the fact that HSC must now reduce expenses - and potentially service levels - as a result of the loss of the lands south of the M2 is of concern. This again neglects the issue of scale and fixed costs - the original reason for suggesting amalgamation in the first instance. While HSC must now suffer a reduction in revenues, it cannot simply offer a matching reduction in expenditure to match this, as it is still required to meet pre-existing fixed costs. HSC is therefore left in a position where it may not be able to substantively affect fixed costs but must now suffer the consequences of a substantial revenue reduction. The reference to a reduction in service levels as a consequence of State Government action outside HSC's control is also of concern in this context.

2. FINANCIAL IMPLICATIONS OF BOUNDARY ADJUSTMENT

2.1 BACKGROUND

BIS Oxford Economics (BISOE) has been requested by Hornsby Shire Council to review documents relating to its request for compensation for the loss of lands south of the M2 to Parramatta City Council.

To date, these documents comprise:

- Hornsby Shire Council: Long Term Financial Plan, 2017/18 to 2026/27
- NSW Treasury Corporation: Hornsby Shire Council Financial Assessment and Sustainability Report
- NSW Treasury Executive Brief – *Hornsby Council Claim*
- Hornsby Shire Council: Briefing Note – 2017/18 Long Term Financial Plan (LTFP) Assumptions

Hornsby Shire Council is seeking either the return of the lands lost under the boundary adjustment, or fair compensation for the loss of future income associated with these lands. Council has estimated the financial impact over the 10 years to FY2027 as comprising:

- Loss of net recurrent revenue ($102 million)
- Loss from sales of developable assets ($50 million)
- Loss of S94 contributions (including $14 million collected prior to proclamation)

In total, Council is seeking compensation sufficient to generate an annual return that would cover $200 million over a 10-year period.

2.2 HORNSBY SHIRE COUNCIL LTFP

Council has released a revised Long Term Financial Plan (LTFP)[1] for the period FY2018 to FY2027. The Plan provides forward projections for Council's financial statements and for a range of financial indicators issued by the Office of Local Government and NSW Treasury Corporation (TCorp) which are used to assess local government financial sustainability.

The approach taken by Council in developing a revised LTFP was to use the FY2018 Original Budget as the base year for forward projections. The FY2017 March Revised Budget was used to determine the opening Balance Sheet items in FY2018.

Council has indicated to BISOE that the FY2018 base included the following budget adjustments to account for the loss of the lands south of the M2:

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[1] Hornsby Shire Council: Long Term Financial Plan, 2017/18 to 2026/27

[2] Briefing Note – 2017/18 Long Term Financial Plan (LTFP) Assumptions

- Rates decrease of $9.953 million
- Roads to Recovery funding decrease of $164k
- Financial Assistance Grant decrease of $608k
- Community centre fees and charges decrease of $206k
- DA Income decrease of $800k
- Property leases decrease of $318k
- Capital expenditure decrease of $502k
- DA expenses decrease of $400k
- Insurance levies decrease of $200k
- Electricity decrease of $275k
- Building maintenance decrease of $233k
- Ovals & parks operational cost decreases of $264k
- Epping Aquatic Centre net expenditure decrease of $116k
- Epping Library net expenditure decrease of $540k.
- Statutory levies decrease of $307k

2.3 TCORP FINANCIAL SUSTAINABILITY REVIEW

TCorp have undertaken a number of recent reviews of Hornsby Shire Council's financial sustainability. In March 2013, TCorp assessed the Council as being moderately sustainable (FSR of Moderate) with an Outlook of Neutral. This assessment was subsequently upgraded to Sound (with Outlook of Neutral) in November 2014.

In 2017, TCorp undertook a Financial Assessment and Sustainability Report which reviewed Council's historical performance (FY2012 to FY2016), draft FY2017 financial accounts and revised LTFP projections for FY2018 to FY2027[3]. TCorp observed that FY2012 to FY2016 had been a strong growth period for the LGA which had contributed to a substantial improvement in the Council's ability to generate own source revenue. TCorp also noted that Council had **'implemented various cost saving initiatives'** and utilised SRVs to improve its financial performance and undertake projects to service its community. TCorp also noted that these measures had enabled Council to reduce the need for new borrowings to fund capital expenditure.

Based on their review of Council's draft FY2017 financial statements, TCorp assessed Council as having an FSR of Strong, underpinned by the strong operating ratio, improved liquidity (particularly in regards to cash that is not externally restricted) and increased capital spending in both FY2015 and FY2016.

TCorp also reviewed Council's revised LTFP for FY2018 to FY2027. TCorp compared Council's modelling assumptions to its own benchmarks for annual increases in various revenue and expenditure items. The only material difference TCorp noted was for the interest rate used to forecast interest and investment revenues in FY2019 and FY2020, which they considered conservative.

TCorp's assessment is based on draft FY2017 information provided by Council which has not been audited and therefore TCorp **'make no representation as to accuracy, reliability or completeness of the information'**. However, TCorp appeared comfortable that the financial assumptions used by Council to underpin their projections were broadly consistent with their own benchmarks.

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[3] TCorp – Hornsby Shire Council, Financial Assessment and Sustainability Report (dated 12/10/2017)

2.4 DISECONOMIES AND SERVICES REDUCTION

The one area for which TCorp felt further review was required was Council's forward expenditure. Given the deterioration in Council's financial position and the fact that Council's ability to meet the Government's financial sustainability ratios over the timeframe of the LTFP are highly sensitive to underlying financial and economic conditions, TCorp recommends that Council looks at reducing it operating expenditure and/or shoring up its cash balance by considering asset rationalisation and/or a reduction in future capital expenditure.

As outlined in the previous section, Council has incorporated reductions in operating (and capital) expenditure into its FY2018 base. Council has also incorporated further reductions into the LTFP forward projections, related both to the smaller population requiring services and to Council's weaker cash and investments position outlook, as and when they were expected to impact on the financial accounts[4]. These include:

- A $1.154m per annum reduction in contractor expenses
- A $3.396m per annum reduction in domestic waste contractor expenses
- A $400k per annum reduction in capital expenditure provision for asset renewals
- Substantial reductions in planned capital expenditure from 2024 onwards (as per page 24 of the LTFP)

Prior to the boundary adjustment, TCorp rated Council as having an FSR of Strong. That is to say that Hornsby Shire Council was considered an efficient council given its scale. Council intends to undertake a fresh round of reviews of its services to see if there are further cost efficiencies which can be realised. However, it expects that these opportunities will be limited and will be overwhelmed by the diseconomies created by having to spread fixed costs across a smaller revenue base than prior to the boundary adjustment. Consequently, Council's real operating expenditure per capita is expected to rise as a result of the boundary adjustment.

Council notes that it is already starting to experience diseconomies associated with its smaller scale. This includes an upward cost adjustment for its waste management contract – which Council was unaware of at the time of preparing the revised LTFP – of $1.2 million over FY2019 and FY2020.

Council also notes that government funding reductions (R2R, FAG and State Library of NSW subsidies) have not taken into account sunk costs and/or fixed costs which they will continue to carry.

The fact that Council is still projecting slim operating surpluses over the timeframe of the LTFP reflects the strong position Council was in prior to the boundary adjustment, which was partly underpinned by a strong revenue growth phase, but also by Council's efforts to realise efficiencies, which have been recognised by TCorp in their progressive upgrading of Council's financial sustainability rating.

The modestly positive outlook for Council's operating performance over the timeframe of the LTFP however doesn't take into account the significant impact that the loss of income from the boundary change will have on the Hornsby Shire community in terms of funding future service offerings and major capital and/or asset renewal projects.

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[4] Briefing note – 2017/18 Long Term Financial Plan (LTFP) Assumptions

2.5 ESTIMATED FINANCIAL IMPACT OF BOUNDARY CHANGE

Both Council and TCorp undertook assessments of the impact the boundary adjustment would have on Council's financial position over the timeframe of the LTFP. Council and TCorp used different approaches to come to their positions:

- Council considered the impact from the loss of net recurrent revenue (from existing and projected populations within the M2 lands) but didn't directly consider the loss of interest and investment revenue associated with a lower cash balance. Council estimated its loss of net recurrent revenue (with rate increases applied) at $102 million over the period of the LTFP. Council is also seeking compensation for losses associated with planned sales of assets in the lands lost to Parramatta City Council and foregone Section 94 contributions (valued at $98 million).
- TCorp modelled a scenario assuming that the boundary adjustment did not occur and projected that Council's cash and investment balance would be expected to be approximately $160m higher by FY2026. TCorp did not include income for lost Section 94 contributions or asset sales.

In response to Council's claim for compensation and TCorp's Financial Assessment and Sustainability Report, NSW Treasury produced a two page *Internal Treasury Executive Brief* outlining their reasons for rejecting the need for Council to be compensated**.**

In response to Council's claim for compensation for a net recurrent revenue loss of $102 million (nominal, undiscounted), Treasury produced an estimate of what it considered to be the net present cost of the boundary adjustment over a 10-year period (as per the LTFP).

Treasury used the following assumptions for its calculation:

- A population of 15,000 is transferred to Parramatta City Council
- A real operating expenditure per capita of $630 (FY$2014)
- A real revenue per capita of $789 (FY$2014)
- Rate escalation at (around) 2.0% per annum

According to Treasury, **"Applying these parameters over a 10-year period and a discount rate of between 3% and 7% provides a net present cost to HSC of between $19m and $24m".**

We were unable to replicate Treasury's figures exactly but applying a real discount rate of between 3% and 7% to a net operating income of $159 (in FY$2014) which grows at 2% per annum over a 10-year period and then multiplying this by a population of 15,000 gave a net present cost estimate of between $19m and $23m.

As noted in Section 1.3, it is not clear how relevant these calculations are given that they are based on FY2014 per capita figures before the transfer of land south of the M2 and don't take into account the impact of diseconomies of scale.

Treasury states that it does not consider that Council requires compensation for the loss of revenue associated with the boundary adjustment because:

a) Council is continuing to forecast that it will meet the Government's financial sustainability ratios and remains in sound financial position
b) The loss of recurrent revenue will be largely offset by a reduction in expenditure and the loss of developable assets and S94 contributions from the boundary adjustment represents a transfer from Hornsby Shire Council to Parramatta City Council which can be used for the benefit of the residents of Epping.

While Treasury appears to acknowledge that the Hornsby Shire community will be significantly financially disadvantaged by the boundary adjustment, their main argument appears to be that this doesn't matter because Council is still narrowly projecting to meet the government's financial sustainability ratios in the near to medium term and Council should be compelled to reduce its operating expenditure and/or capital expenditure to bolster its financial position given its reduced scale.

This argument overlooks the following:

- The reduction in Council's cash and investments balance associated with the lower operating surpluses will significantly constrain Council's ability to fund future services, capital expenditure and asset renewal projects for its community over the timeframe of the LTFP.
- Compelling Council to reduce its services is contrary to Treasury's argument that the Hornsby Shire community will not be made worse off because revenue losses would be largely offset by expenditure cuts, even before taking into consideration the constraints on expenditure reduction associated with diseconomies of scale resulting from the enforced boundary adjustment.
- The loss of lands south of the M2 will not just impact on Hornsby Shire's financial position over the timeframe of the LTFP, but in perpetuity. Treasury's argument for not compensating Council is largely centred on its operating performance in the near to medium term.

Treasury acknowledged TCorp's modelling of the $160m reduction in Council's cash and investments balance by FY2026 as a result of the boundary adjustment and notes that **"…this implies an impact in net present value terms of FY2018 of $87m using a discount rate of 7%"**.

Treasury however chooses to focus on an equivalence argument that the loss of net recurrent revenue will be offset by expenditure reductions and that the loss of investment income associated with lands south of the M2 is a straight transfer of benefits that would have flowed to the residents of these lands from Hornsby Shire Council ownership to Parramatta City Council ownership.

2.6 IN PERPETUITY IMPACTS ON COMPENSATION

TCorp provided a scenario based on their estimation of Council's forecast financial position if the boundary adjustment did not occur, incorporating the following assumptions:

- An increase in rates and annual charges as Council retained all of its rating assessments
- An increase in employee costs as vacant positions are filled
- An increase in depreciation expense as the $146.8m of I,P,P&E was not disposed of in FY2016
- $24.9m of funds payable to the City of Parramatta will be retained
- An increase in interest and investment revenue as a result of a higher cash balance with the above changes

Although we were unable to exactly replicate TCorp's workings, our own workings based on TCorp's assumptions above provided a similar estimate of $163 million (nominal, undiscounted) for the loss to Council's cash and investments balance as a result of the boundary adjustment to FY2026 and an NPV of $88.9 million at FY2017 (similar to Treasury's $87 million).

Projecting the financial accounts forward a further 20 years using the midpoints of the escalation benchmarks outlined by TCorp on pages 19 and 20 of its Financial Assessment and Sustainability Report and then calculating the net present value of the impact on Council's cash and investments balance provided an approximate figure of $250 million over a 30 year period using a discount rate of 7%.

This is a very high level figure that doesn't take into account economies of scale associated with a growing Council over the 30-year timeframe, but it does give an indication of the overall scale of the financial loss to the Hornsby Shire community.

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