

18 March 2019

Mr Michael Daley, MP
Leader of the Opposition
Parliament House
Macquarie Street
SYDNEY NSW 2001

Dear Mr Daley

NSW Government's Local Government Reform Process and Compensation for Council

At its 13 March 2019 General Meeting, Hornsby Shire Council (HSC) considered a report dealing with the NSW Government's local government reform process and the compensation that needs to be paid to HSC as a consequence of losing the area south of the M2 Motorway to the City of Parramatta Council (CoPC) in May 2016. A copy of the report is attached for your information.

The NSW Government's decision on 12 May 2016 to expand the area of the CoPC by reducing the area of the HSC, prior to any final decision being made on the merger of HSC and Ku-ring-gai Councils, has had a deleterious ongoing impact on HSC's future financial situation in the order of a net \$10 million per annum.

This impact has been the subject of many Council discussions with the State Government since 2016 and has involved the Premier, Minister for Local Government, Treasurer and local Members of Parliament. As a consequence of the discussions, the Government publicly committed to HSC not being worse off as a result of the Government's 2016 decision to transfer the former HSC area south of the M2 Motorway to the CoPC; and the Government's 2017 decision not to progress the amalgamation of Ku-ring-gai Council with the remainder of HSC.

HSC has argued consistently that the only way to properly ensure that it is not financially worse off as a result of the Government's decisions is to return the area south of the M2 Motorway to HSC. That possibility was, however, ruled out by the Government some time ago on the basis that the Government would work with HSC to determine an amount of compensation that would be payable to ensure HSC and its residents/ratepayers were not worse off.

In 2017, TCorp reviewed HSC's Long Term Financial Plan, which had been prepared after HSC lost the area south of the M2 Motorway to the CoPC. TCorp's assessment confirmed HSC's view that the net financial loss to HSC over the 10 year period from 2016 to 2026 was \$160 million. HSC provided the Government with a copy of TCorp's analysis, noting that it did not include further HSC losses of Section 94 contributions and property assets. If these items were included in the analysis, the figure would inflate to over \$200 million for the 10 year period.

In June 2018, the Government granted HSC \$90 million as an initial down payment of compensation towards its ongoing financial losses, to be used for the Hornsby Quarry and Westleigh Park projects. In order to

determine a further figure that would reasonably compensate HSC for its annual net losses into the future, NSW Treasury asked HSC to arrange for an independent financial analysis of its situation to be prepared by a reputable organisation.

HSC engaged BIS Oxford Economics to undertake the analysis. BIS used HSC's actual financial data prior to and after the loss of the area south of the M2 Motorway, as well as TCorp's analysis referred to above, to calculate a figure using a NSW Treasury Economic Appraisal Approach which Treasury promotes for such exercises. This included a 30 year timeframe from 2016 and a discount rate of 7% to achieve a Net Present Value figure.

The analysis showed that a total payment of \$258 million was required to be paid to HSC to compensate it for the financial losses it will incur over the next 30 years. That figure comprises \$163 million for the difference in operating income before and after the loss of the area south of the M2 Motorway; a \$70 million negative impact on interest that would have been achieved on higher operating surpluses; and \$25 million of foregone Section 94 development contributions. As HSC has already received \$90 million from the Government in June 2018, a further payment of \$168 million to HSC would be required to ensure full compensation for the loss of the area south of the M2 Motorway.

A number of questions raised by NSW Treasury on 14 August 2018 about BIS's analysis were answered by HSC on 4 September 2018. After a meeting on 16 September 2018 involving Treasury officials and HSC, NSW Treasury raised some further questions about the BIS analysis which were answered by HSC on 25 September 2018. In the absence of any further comments or questions having been raised by NSW Treasury since 25 September 2018, HSC assumed that NSW Treasury had all the information it required to finalise its review of the BIS analysis.

In calculating the remaining compensation payable to HSC, NSW Treasury was asked by HSC to give consideration to the impact of diseconomies of scale i.e. where HSC'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. In this context, the NSW Government's whole premise on local government reform was to create larger, more efficient councils. As a consequence of the Government's decision to transfer the former HSC area south of the M2 Motorway, but not proceed with the amalgamation of HSC and Ku-ring-gai Councils, the opposite has been imposed on a smaller HSC.

HSC has pointed out that NSW Treasury's initial assessment of BIS's analysis has focused on an equivalence argument i.e. the loss of net recurrent revenue will be offset by expenditure reductions and the loss of future investment income associated with lands south of the M2 Motorway is a straight transfer of the benefits that would have flowed to the residents of this area from HSC ownership to the CoPC ownership. The equivalence argument ignores the fact that areas south of the M2 Motorway (e.g. Epping) are mature suburbs that have had extensive capital investment from HSC to develop a range of facilities over many years and a large amount of the funding investment has been drawn from funds derived from residents north of the M2 Motorway.

Council also pointed out that NSW Treasury needed to consider that in the years preceding the boundary adjustment, HSC had embarked on a range of financial reforms. This transformed HSC's operating performance before capital items (audited) into one of the strongest across all NSW councils. This was achieved through efficiencies that no longer exist under a post boundary adjustment situation.

Although the Government has publicly committed to providing HSC with further compensation to offset its \$10 million per annum loss, and despite various promises that the compensation would be forthcoming prior to the March 2019 State election, nothing has since been formally committed to by the Government.

As 13 March 2019 was the last Council meeting prior to the NSW State election, it was important for the Report to be placed on the public record so that the Hornsby community are fully aware of the consequences to Council and its residents/ratepayers of the failed local government reform process (as it applies to Hornsby Shire Council) as well as Council's responses to the situation during and post that reform period.

Following its consideration of the above Report, it was resolved that:

- *Council note that to date, the NSW Government has provided \$90 million tied to specific capital projects to compensate Hornsby Shire for the loss of these lands and note that BIS Oxford Economics have identified that a further amount of \$168 million would be required to fully compensate Hornsby for the loss of the lands south of the M2 Motorway.*
- *On behalf of the residents and ratepayers of Hornsby, Council place on record its disappointment that during the current term of this NSW State Government they have failed to address the issue of the outstanding compensation for Hornsby Shire despite ongoing negotiations and the provision of additional financial information requested by the Government.*
- *As advocates for the Hornsby Shire, Council continue to press this issue with whomever forms Government in NSW after 23 March 2019.*
- *Deputy General Manager's Report No. CS7/19 and all other relevant documentation associated with the Fit for the Future Local Government Reform Program be placed on Council's website, so that interested residents can view the issues and Council's response.*
- *Council write to both the NSW Premier and the Opposition Leader seeking their commitment to fully compensating Council for losses sustained as a result of the loss of land south of the M2 Motorway should they be elected. This compensation must contain a cash component not tied to projects in order for Council to adequately invest the funds for ongoing long term revenue.*

In line with such resolution, this letter has been prepared to provide you with relevant information and to seek your commitment to finalising compensation to HSC in respect of the loss of the area south of the M2 Motorway immediately following the NSW State election.

If you have any questions or require further information about any of the above, please do not hesitate to contact either myself or Council's General Manager – Mr Steven Head.

Yours faithfully



Philip Ruddock
Mayor

Encl: Deputy General Managers' Report No. CS7/19 – NSW Government's Local Government Reform Process and Compensation for Council

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