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**PROPOSED MERGER OF  
COOTAMUNDRA SHIRE AND GUNDAGAI SHIRE  
COUNCILS**

**Comments by the NSW Local  
Government Boundaries Commission  
on the Report by the Delegate  
of the Acting Chief Executive Officer  
of the Office of the Local Government**



**APRIL 2016**

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Local Government Boundaries Commission  
GPO Box 5341  
Sydney NSW 2001

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

Dear Minister

**Proposed merger of Cootamundra Shire and Gundagai Shire 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 Cootamundra Shire Council and Gundagai Shire 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 Cootamundra Shire Council and Gundagai Shire 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 two councils.

Council	2016	2031
Cootamundra Shire Council	7,350	6,600
Gundagai Shire Council	3,700	3,450
New Council	11,050	10,050

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

The Acting Chief Executive delegated the function of examining and reporting on each of the proposals to a number of people, known as 'Delegates'. Delegates were required to examine and report upon each merger proposal rigorously and fairly. The examination process included Delegates calling for submissions and holding a public inquiry on each proposed council merger. Delegates prepared a report on the proposal and provided that report to the Local Government Boundaries Commission.

### 3. Role of the Local Government Boundaries Commission

The Local Government Boundaries Commission is an independent statutory authority constituted under section 260 of the Act. The Boundaries Commission examines and reports on any matter referred to it by the Minister in relation to the boundaries of local government areas and the areas of operation of county councils.

The Boundaries Commission has several functions under the Act. In the current context (where the Minister has elected to refer the proposal to the Office of Local Government, rather than the Boundaries Commission, for examination), the most relevant Commission functions are set out in section 218F(6) of the Act. This section requires:

- the Chief Executive to furnish the Report on the examination of the merger proposal to the Boundaries Commission for review and comment, and
- the Boundaries Commission to review the Report and send its comments to the Minister.

The Commission's role does not involve re-examining the advantages and disadvantages of the proposed mergers, accepting submissions or holding public inquiries.

### 4. Delegate's recommendations

The Delegate's key recommendation is:

*"... the Delegate has determined a recommendation that the Proposal should proceed".*

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

The Delegate held two public inquiries on Thursday, 4 February 2016 at the Cootamundra Ex-Servicemen's and Citizens Memorial Club and the Gundagai District Services 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 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 determining the impact of financial factors, the Delegate considered the projected figures modelled by KPMG for the NSW Government's merger proposal, alongside the assessment of the Councils' financial sustainability rating (FSR) and short term outlook carried out by the NSW Treasury Corporation (TCorp), and the Fit for the Future determinations carried out by IPART. The Delegate also considered the Council's own submissions which challenged some of the KPMG projections and, in the case of Gundagai, questioned the accuracy of IPART's calculations.

The Delegate noted that under the financial modelling prepared by KPMG, the proposed merger has the potential to provide an \$18 million benefit to its communities over 20 years, which will include a net financial saving of \$3 million (equal to \$150,000 a year), a \$900,000 improvement in annual operating results over 10 years and to generate average savings of \$440,000 every year from 2020 onwards.

The Delegate considered IPART's assessments of the Councils' ability to meet the Government's 'Fit for the Future' criteria. Cootamundra Shire Council was not assessed independently as it had submitted a proposal to merge with neighbouring Harden Shire Council, which IPART deemed 'Fit'

under the designated criteria. Gundagai Shire Council submitted a proposal to stand alone with IPART finding it 'Not Fit', as it did not meet the required scale and capacity criterion.

In putting forward their submissions to the inquiry, the Delegate reported that both Councils had questioned the validity of the KPMG assumptions and noted that the savings alone did not provide a strong case for merging. The Report acknowledged that Gundagai Shire stated that the information in the merger proposal relating to its financial situation was incorrect. The Delegate noted Gundagai's claims that it has proven itself to be financially sustainable, with an improvement in its cash and reserves of \$4.7 million over the past 10 years, and that it expects this improvement to be ongoing, with an additional \$5.6 million (around \$560,000 annually) over the next 10 years.

The Delegate highlighted that both areas have a significant population of low income ratepayers for whom the additional costs of balancing the books of a merged council entity may prove unacceptably/unsustainably onerous. The Report noted that these issues will have to be given careful consideration in the event that the merger proposal goes ahead, and will necessarily require a fair and balanced approach.

Based on the current financial information provided, the Delegate concluded that as neither Cootamundra nor Gundagai Shires are large councils and their population and rate bases are relatively small (even by rural standards), it is clear that any new merged council would struggle to avoid an operating deficit in the short to medium term. However, he stated that in the medium to long term, there would be significant financial benefits to all residents and ratepayers as a result of the proposed merger. He also stated that there are many potential synergies in service delivery and operations which would enhance the financial position of a new council, in addition to increasing and standardising the rate base.

***The Commission's view is that the Delegate adequately considered the issues under this factor, while noting the limited analysis of 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 Delegate found that the existing councils of Cootamundra and Gundagai Shires both place a major emphasis on roadworks and service provision within towns to cater for the needs of both town and rural residents and their local farming communities. The Delegate noted that there are strong similarities in the demographic and economic profiles of both communities and both Cootamundra and Gundagai collaborate with neighbouring regional councils on a voluntary basis through the Riverina Eastern Regional Organisations of Councils (REROC) group on programmes around regional transport, waste management strategies and tourism.

The two major towns in each LGA are directly connected by a 45 minute drive along Muttama Road and both Councils share responsibility for maintaining this regional link road as well as numerous other local and back roads.

The Delegate reported that a significant number of residents' submissions expressed strong views that there is no community of interest between Cootamundra and Gundagai. Residents pointed to differences in the type of agriculture which predominate in each LGA (livestock grazing as opposed to broadacre cropping), and Gundagai residents stated that they never went to Cootamundra, and instead relied on Tumut for major banking, legal, accounting and professional services.

The Delegate noted that, despite these views, it is clear that both Cootamundra and Gundagai are primarily farming communities, and both towns provide agri-business and industry support services for their rural residents.

The Delegate concluded that the creation of the proposed new LGA could provide an opportunity if the merger proceeds, for the new entity to embrace structural and governance reforms which will result in a stronger council with a more flexible and adaptable approach to providing services to its communities. The Delegate also concluded that a merger would also provide an opportunity for a new approach to partnering with State Government to establish and implement regional and local priorities.

***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 Delegate noted that historical tradition plays a definitive role in Gundagai's sense of identity. This was clearly evidenced in the large number of submissions received from Gundagai which specifically referred to the town's status as an 'iconic' Australian country town, recognised for its pioneering spirit, ANZAC traditions and the 'Dog on the Tuckerbox'.

The Delegate reported that Cootamundra also has a strong pioneering tradition and can lay claim to other iconic Australian features including as the birthplace of Don Bradman and the home of the Cootamundra Wattle.

As noted by the Report, a recurring theme in submissions from Gundagai Shire residents and ratepayers was the fear that, in merging the two councils, the identity and historic traditions of Gundagai would be lost, along with the town's brand potential as an economic driver for tourism and jobs. The Delegate noted that Cootamundra Shire has also recognised the importance of brand recognition for the region and has acknowledged the value in the Gundagai name, and has suggested the new council could be called Gundagai Regional Council.

The Delegate is of the view that if this suggestion is adopted, it could help in mitigating the concerns of Gundagai Shire residents and ratepayers about potential loss of identity.

The Delegate concluded that both Cootamundra and Gundagai have long and proud traditions as pioneering Australian country towns and their communities are rightly proud of their individual

histories. However, it was noted that each areas' origins, heritage and rural lifestyles are not vastly different.

***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 Delegate's Report noted that the views expressed by residents of Gundagai Shire at public meetings and in written submissions were almost unanimously opposed to the proposal and were very strongly felt. Common themes included fear of losing their community, fear that the town would die, and that basic services and facilities would no longer exist without the support of their own existing Council. The proposed merger was seen almost exclusively as a "takeover" of Gundagai Shire by Cootamundra Shire. The Delegate also noted the results of surveys undertaken by Gundagai Shire Council which showed that around 90% of those surveyed disagreed with the merger proposal and a majority supported the Council's stance that the Council should stand alone.

The Delegate considered the attitude of Cootamundra Shire residents, which were found to be vastly different. The Report noted that most residents were supportive of the need for mergers and were willing to work with Gundagai to make the proposal a success. However, the Delegate noted Cootamundra Shire Council's statement that there is a degree of surprise and disappointment that the work undertaken in developing its original proposal to merge with Harden Shire had been disregarded, and this had led some to express their disillusionment with the current process. The ongoing opposition of Gundagai has also created concerns among Cootamundra residents as to the likely viability of the merger.

The Delegate concluded that although the attitude of most residents who made submissions from Gundagai Shire was against the merger proposal, and those from Cootamundra Shire expressed concerns about its potential success, they represented only a small percentage of the overall population.

***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 the issue of electoral representation was almost exclusively of concern to residents of Gundagai Shire who felt very strongly that as a town with a smaller population, they would be disenfranchised in the decision making process by having fewer elected representatives on the council of a merged entity.

The Delegate also noted that under a merged council as outlined in the NSW Government proposal, Gundagai Shire's low resident-to-councillor ratio is expected to triple, from one councillor per 469 residents to one councillor for 1,278 residents. Cootamundra's will also increase from one councillor per 861 residents to one councillor for 1,278 residents. The Delegate noted that, while this does represent a reduction of current representation levels, this representational ratio is not excessive, especially in sparsely populated regional areas.

The Delegate concluded that in the event of a merger, both communities will have the opportunity to shape the structure of the new merged entity, including the appropriate number of elected councillors and ratio of representation. The Delegate stated it may be appropriate that, in the event of a new merged entity, the Mayor be elected by the Councillors to serve a minimum two year term.

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

### **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 stated that the services provided to their communities by Cootamundra Shire and Gundagai Shire are typical of those carried out by rural/regional councils with small towns and share many similarities.

The Delegate noted that many submissions from Gundagai Shire expressed concern that they would now need to travel long distances in order to access council services and attend council meetings. This was particularly raised by elderly people who were unable to drive. The assumption was that in the event of a merged entity, all council services and processes would move to Cootamundra.

However, the Delegate believed this is not necessarily the case and that given the distance covered under the proposed LGA it would be reasonable to retain full-service offices in both towns to minimise any disadvantage to residents and staff, a suggestion which is supported by Cootamundra. The Delegate further noted that this is already a practice undertaken by many councils who are responsible for covering large areas.

The Delegate's Report reviewed some of the services on offer by both councils and concluded there are a number of similarities which will assist in harmonising services and service delivery across the new LGA.

However, the Delegate also noted the attitude of Gundagai residents who expressed strong views that the proposed merger would affect the close relationship between council and community. He

further noted additional concerns from Gundagai residents that a remote council would no longer offer the support they currently enjoyed for their community events and programs.

The Delegate considered these points, but concluded that a new council would be able to provide adequate, equitable and appropriate services to the new council area and population.

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

### **5.2.7 Employment impacts on staff**

Section 263(3)(e2) of the Act requires the Delegate to have regard to:

*“the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned”.*

The Delegate stated that workforce planning is an important part of the Integrated Planning and Reporting (IPR) provisions under the Act and that under the Government's merger proposal, changes in staffing are expected to deliver approximately \$7million over 20 years.

However, the Delegate also noted that the distance and time taken to travel between the two town centres means it is most likely that two completely separate and almost fully staffed offices will need to be maintained in order to ensure the effective and equitable delivery of services, and that potential reductions in duplication will be restricted to back office and administrative areas.

The Delegate considered the views of Gundagai Shire Council and residents that the merger could have a potentially devastating effect on the town, with the loss of council jobs likely to create a knock-on effect, which would in turn affect local businesses, schools and community groups.

The Delegate noted the employment protections in the Act including section 218CA which has protections for staff in rural centres with 5,000 people or less.

The Delegate concluded there is no reason to believe that Gundagai Shire's fears around job losses and the subsequent negative impact on the town's economy and viability will come to pass in the event that the merger proposal goes ahead. The Delegate noted that there is ample protection for non-senior staff under the Act, and as Cootamundra Shire's submission makes clear, the distance and travel time between the two towns means that the new council is likely to have to run two offices, two depots and two operation teams. This is not unlike other rural council areas. Given these considerations, the Delegate did not consider that the merger proposal will have an adverse impact on the employment of non-senior council staff.

***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.”*

The Delegate noted that despite the highly rural nature of the communities and geography, rural impacts or concerns were not a primary concern of the submissions received as part of the Inquiry. Only 7 of the 183 written submissions specifically referred to the impact on rural areas. Several submissions from Gundagai Shire felt their rural areas would be neglected in the event of a merged council and others raised concerns that a new Council would have less regard for maintaining unsealed roads to remote properties. Issues around different rating structures between the two existing councils were also mentioned, amid concerns of the impact of inconsistency on existing farmlands.

The Delegate concluded that given the similarities between the two councils, and the synergies which could be achieved in managing the rural and farmland issues as part of their overall Community Strategic Plans and IPR requirements of the Act, it would appear the potential for negative impacts in the event of a merger is not significant.

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

#### **5.2.9 Wards**

Section 263(3)(e4) of the Act requires the Delegate to have regard to:

*"in the case of a proposal for the amalgamation of two or more areas, the desirability (or otherwise) of dividing the resulting area or areas into wards".*

The Delegate reported that although many submissions raised concerns about how to achieve fair and equitable electoral representation, very few specifically addressed the subject of wards. In the past both Cootamundra Shire and Gundagai Shire have opposed the creation of wards, on the grounds that councillors should represent all residents.

The Delegate noted that, given the concerns raised around equity of electoral representation, there may be scope for the implementation of wards to ensure that no one community is disenfranchised or another given undue influence.

The Delegate concluded that although the issue of wards would be a matter for the new council in the event the merger goes ahead, given the opposition to wards by Cootamundra and Gundagai Shires and the difficulty in determining equitable representation on a geographic basis, it would seem unnecessary and potentially divisive to require wards.

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

#### **5.2.10 Opinions of diverse communities**

Section 263(3)(e5) of the Act requires the Delegate to have regard to:

*"in the case of a proposal for the amalgamation of two or more areas, the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented".*

The Delegate noted that none of the submissions made reference to the traditional definition of diverse communities, being indigenous, Culturally and Linguistically Diverse (CALD) or vulnerable and minority groups. The Report stated that the only reference to diverse communities was in the context of the perceived lack of community of interest between Cootamundra Shire and Gundagai Shire. The Delegate stated that no submissions were received from any groups which could be properly defined as diverse communities, such as local indigenous land councils.

The Delegate concluded that the proposed merger between Cootamundra Shire and Gundagai Shire is highly unlikely to have any impact on the small proportion of residents who may identify as diverse.

***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 considered that Cootamundra Shire and Harden Shire developed a merger proposal and submitted it to the government for assessment under the Fit for the Future process. The Report noted that there was much comment, particularly from the Council and residents of Cootamundra Shire in their submissions and at the public inquiries of the preference for that proposal or a proposal involving the merger of Cootamundra Shire, Gundagai Shire and Harden Shire. The Delegate advised at the meetings with the councils and at the public inquiries that these proposals could not be considered in this review under his delegation from the Acting Chief Executive of the NSW Office of Local Government.

The Delegate noted that the township of Jugiong, population 303, lies in the south western corner of Harden Shire. Several submissions noted that Jugiong residents have a natural community of interest with Gundagai, 40km to the south and Cootamundra, 40km to the west. A small number of submissions have suggested a boundary adjustment could be made to include Jugiong in the new entity of Cootamundra Shire and Gundagai Shire. The Delegate further noted that while a boundary adjustment of this scale is outside the scope of this proposal, it may be worth considering in the event that the merger is approved.

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

*The Commission notes that the suggested boundary adjustment is a matter for the Minister.*