
**PROPOSED MERGER OF
JERILDERIE SHIRE AND MURRUMBIDGEE 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**



MAY 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 Jerilderie Shire and Murrumbidgee 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
3 May 2016

1. Summary of Local Government Boundaries Commission comments

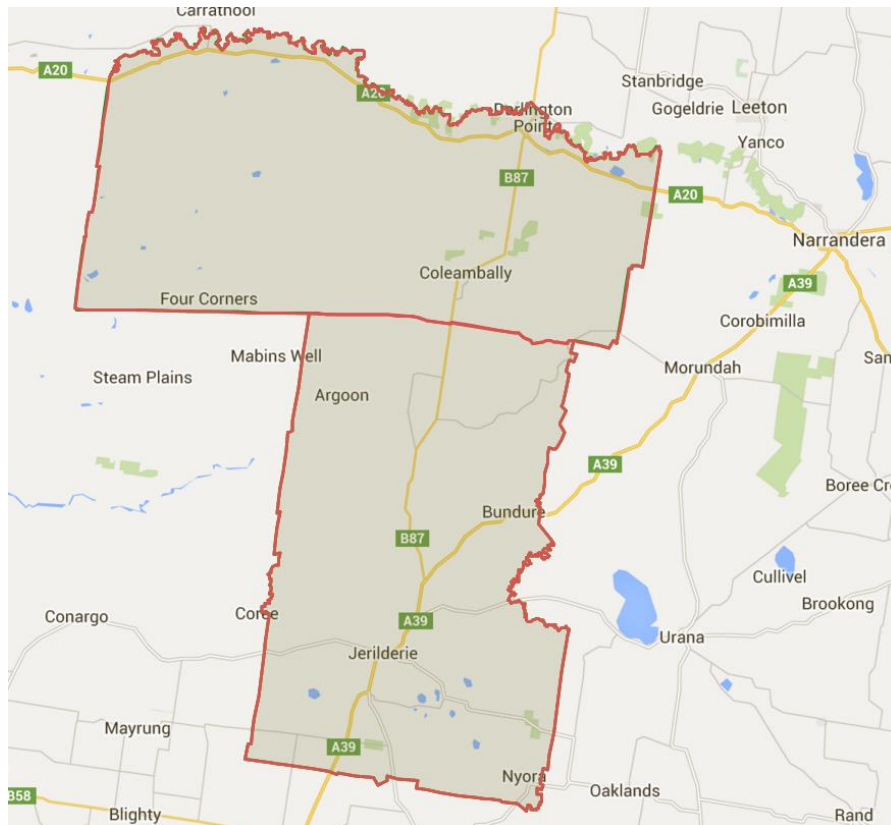
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Jerilderie Shire Council and Murrumbidgee Shire Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government 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, with the exception of the factor listed under subsection 263(3)(e5) (diverse communities), 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 17 February, the Minister for Local Government referred a proposal to merge the local government areas of Jerilderie and Murrumbidgee 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
Jerilderie Shire Council	1,450	1,250
Murrumbidgee Shire Council	2,200	1,800
New Council	3,650	3,050

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 are required to examine and report upon each merger proposal rigorously and fairly. The examination process includes Delegates calling for submissions and holding a public inquiry on each proposed council merger. Delegates are to prepare a report on the proposal and provide 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 that the proposal be implemented.

The Delegate also made a number of findings and recommendations, including:

- *“Although the KPMG assessment assumes seven councillors for the new council the analysis shows nine councillors would be better. This number spread across three wards (one covering each of the three communities) would provide representation to each of the three communities in the new council.”*
- *“Given that Jerilderie will still be the name of the town in a merged Shire it would seem acceptable that the new merged council be named Murrumbidgee Shire Council.”*

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

The Delegate held one public inquiry on 16 March 2016 at the Jerilderie Civic Hall, and one public inquiry on 17 March 2016 at the Darlington Point Sports Club.

The Commission's view is that the Delegate has met the relevant requirements, while noting there is no evidence in the Report that reasonable public notice was given for the public inquiries.

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, with the exception of diverse communities.

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 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".

The Delegate noted that the KPMG analysis of the proposal by Jerilderie Council estimated net financial savings of \$2 million over 20 years.

The Report noted the Independent Pricing and Regulatory Tribunal (IPART) 2015 finding that both Councils were 'Not Fit', as part of its 'Fit for the Future' review.

The Report also noted that each of the two councils has previously indicated it may seek, or has recently received approval for, a Special Rate Variation (SRV) from IPART.

The Delegate considered it would be a challenge for a merged council to develop an appropriate rating structure to ensure equitable rating across all rate types and regions.

The Delegate conducted an analysis of financial performance indicators, noting that ultimately the KPMG report shows a merged council will potentially generate net financial savings when compared to the existing councils and this will be a financial positive for all residents and ratepayers.

The Delegate concluded that overall the KPMG analysis showed the full merger of Jerilderie and Murrumbidgee Shire Councils would have a positive financial impact. However, he noted that 60% of the KPMG estimate of the \$3 million gross savings from streamlining senior management was from the loss of two 'Tier 3' positions across the two Councils. As neither Council has any Tier 3 positions, the Delegate stated that this would have significant implications for the \$2 million net savings.

Comparatively, the Delegate noted that the KPMG analysis undertaken for each of the proposed mergers (part Jerilderie/Murrumbidgee, part Jerilderie/Berrigan and full Jerilderie/Murrumbidgee) showed the full merger delivering at least 100% greater net savings than either of the individual part merger proposals and 43% greater net savings than the combined part mergers.

The Commission's view is that the Delegate adequately considered the issues under this factor, while noting the lack of discussion 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”.

As outlined by the Report, agriculture is an important sector for both areas and there are shared services across the areas.

The Delegate concluded the proposed merger would combine a strong community of interest, the Coleambally Irrigation Area (CIA), into the same council. As noted by the Report, this is likely to have a positive material impact as businesses operating in the same irrigation area will now be subject to the same administration under a single council. The bringing together of the CIA under the proposed merger would unite under a single council an important community of interest for the economic future of the region.

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 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”.

In examining the historical and traditional values in the existing area, the Delegate noted that both local government areas share commonalities in their history of European settlement and in their contribution to the nation particularly in regards to their agricultural traditions. A number of submissions addressed the strong historical and traditional links across the areas, including the stories of local indigenous culture.

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 noted Jerilderie Shire Council’s submission that its residents and ratepayers strongly objected to the split merger proposal but were willing to support the full merger. The majority of submissions from residents also supported this proposal.

The Delegate further noted that Murrumbidgee Shire Council’s submission maintained that the residents of Murrumbidgee remain divided with similar percentages of the population for and against. Its view was also reflected in community submissions, both verbal and written.

The Delegate concluded that Murrumbidgee Shire residents and ratepayers’ views on this merger proposal are evenly split, with a slight preference for rejection of this proposal. On the other hand, Jerilderie Shire residents and ratepayers were largely supportive of the merger. Based on submissions received, the Delegate concluded that the majority of residents and ratepayers of the two Councils are supportive of the proposed merger.

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 merger proposal, if implemented, would change the councillor to population ratios slightly when compared to those currently applicable, particularly for Jerilderie, with the new entity (assuming nine councillors) having a ratio of 1:450, compared to the current ratios in of 1:217 in Jerilderie and 1:421 in Murrumbidgee.

The Delegate further noted that the merger area currently contains three communities of similar size: Jerilderie (pop. 1,070), Coleambally (pop. 1,311) and Darlington Point (pop. 1,376). Under the circumstances, the Delegate concluded that implementing a system of three wards with three councillors in each would be appropriate. This approach would provide representation to each of the three communities in the new council and would also go some way to addressing concerns about the reduced levels of representation under the proposed merger.

The Delegate found that nine councillors would mean a reduction in the net savings forecast in the KPMG analysis

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 Delegate considered the many submissions evidencing high levels of service from both Councils, although concerns were expressed about the delay in processing of development applications by Murrumbidgee and the lack of a lifeguard at the Jerilderie swimming pool.

The Delegate noted the challenges faced by Murrumbidgee Council in attracting and retaining suitably qualified staff at all levels of seniority. He noted historical service levels, the capacity of Murrumbidgee Shire Council, and the services and capacity of a new council.

The Delegate concluded that the proposed full merger provided an opportunity to improve services across the newly merged council. The forecast net savings would also provide the opportunity for the new council to deliver improved services.

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

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 noted some submissions raised concerns that the proposed merger would lead to a loss of jobs. However, he stated that since all three towns in the area have populations less than 5,000, the employment protections of the Act would apply.

The Delegate concluded that the proposed merger should have positive employment impacts for the region. The new larger council would also be more likely to attract skilled people to fill any future vacant positions. This will bring skilled people to the region; some of these will be likely to bring a family and the associated positives this brings to these small communities.

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 Jerilderie Shire Council submitted that it is investigating the potential for expanded services in RMS and other contract work such as private and tendered works, RMS first responder services, and assistance for the Rural Fire Service. Jerilderie Shire Council submitted that the expansion of these activities under the merger proposal is likely to lead to additional employment opportunities positively affecting rural communities and business. The Delegate also noted some submissions which suggested that the proposal will have positive impacts on rural communities such as offsetting the issue of rural decline and bringing skills and more employment opportunities to the area.

The Delegate noted that Murrumbidgee Shire Council conducted a community poll, with 51% of respondents strongly disagreeing that the merger would benefit the Murrumbidgee community.

The Delegate concluded there would be positive rural impacts with the new merged council. The forecast savings should mean the merged council would be able to provide better services to its rural communities.

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”.

Murrumbidgee Shire is currently divided into two wards, while Jerilderie Shire does not have wards.

The Delegate noted submissions broadly expressed that wards would provide an effective solution for a merged council due to the distinct and comparable townships and the associated specific knowledge required by councillors.

Given the consistent support for wards across submissions from people from both the Murrumbidgee Shire and the Jerilderie Shire, the Delegate concluded that three wards across the region, broadly encompassing each town and the surrounding area would appear to be an appropriate way forward.

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".

In considering representation for diverse communities the Delegate noted that no significant issues were raised in Council or other submissions. Therefore, the Delegate made no recommendation for the merged council on effective representation of diverse communities.

The Commission's view is that the Delegate did not adequately consider the issues under this factor.

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 the following issues with regards to this factor:

- *Rates harmonisation:* The Delegate stated that, given the current level of rates of both Shires, it is expected that harmonisation would not result in a major shift for any ratepayer.
- *Naming of the new council:* Two potential options for the name were put forward in submissions - using one of the two existing Council names, or Kidman Shire Council. The Delegate concluded that given that Jerilderie will still be the name of the town in a merged Shire, it would seem acceptable that the new merged council be named Murrumbidgee Shire Council.

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

The Commission notes that suggested boundary adjustments and the name for a new council are matters for the Minister.

