
**PROPOSED MERGER OF
JERILDERIE SHIRE (PART) 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 (part) 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
1 May 2016

1. Summary of Local Government Boundaries Commission comments

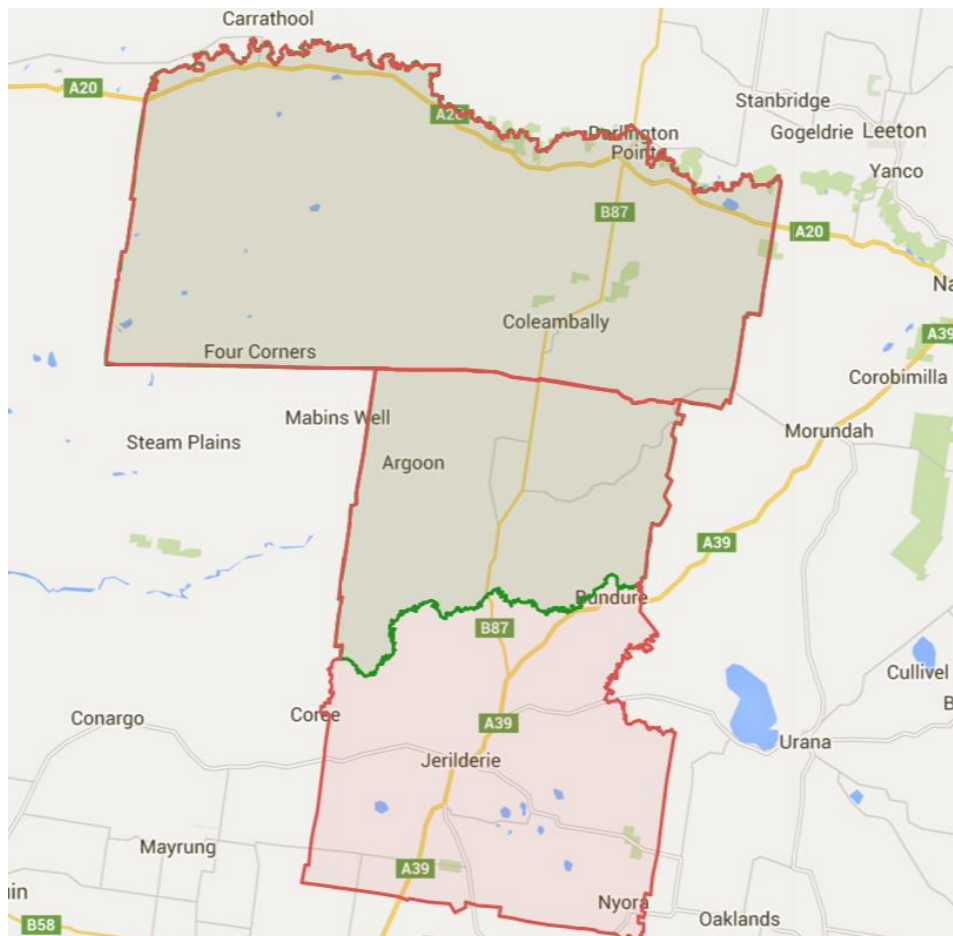
The Boundaries Commission has reviewed the Delegate's report on the proposed merger of Jerilderie Shire Council (part) and Murrumbidgee Shire Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local 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 6 January 2016, the Minister for Local Government referred a proposal to merge the local government areas of Jerilderie Shire Council (part) and Murrumbidgee 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 part of the two Councils.

Council	2014	2031
Jerilderie Shire Council (part)	304*	-
Murrumbidgee Shire	2,528	-
New Council	2,832	2,400*

Source: NSW Government Merger Proposal Berrigan Shire Council and Jerilderie Shire Council (part) January 2016; NSW Department of Premier and Cabinet

*As estimated in merger proposal

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:

*"that this proposal is **not** implemented."*

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

The Delegate held two public inquiries on 11 February 2016 at the Coleambally Community Club and the Jerilderie 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 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".

The Delegate considered submissions received from the affected Councils, noting that Jerilderie raised significant concerns regarding the KPMG analysis underpinning the proposal, and that Murrumbidgee considered there were no financial disadvantages to the proposal. In relation to submissions from residents and ratepayers, the Delegate stated that many submissions argued that the small net financial benefits of the merger will be outweighed by the social and economic cost to the community, and there were concerns regarding the KPMG analysis underpinning the proposal.

The Delegate considered the KPMG modelling against the employment conditions of senior management in Jerilderie and Murrumbidgee Shire Councils, and the geographic distribution of staff, income and assets in the split of Jerilderie. The Delegate stated that savings from the streamlining of senior staff would be approximately 60% less than estimated by KPMG.

In his examination, the Delegate noted the employment conditions of senior management in Murrumbidgee and Jerilderie Councils and the geographic distribution of staff, rates and assets in the split of Jerilderie Council did not align with key assumptions KPMG used to forecast savings.

The Delegate considered that the forecast savings will therefore be different to the estimates in the original KPMG assessment. Notwithstanding this, he stated that it was clear this factor is supportive of the merger proposal.

The Commission's view is that the Delegate adequately considered the issues under this factor, while noting the lack of discussion relating to 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 noted Jerilderie and Murrumbidgee Shire Councils' submissions in relation to this factor, as well as submissions from residents and ratepayers.

The Delegate noted that the primary community of interest impacted by this proposed merger is the Coleambally Irrigation Area (CIA) and the farmers within it (the current boundary between the Councils runs through the middle of the CIA. The Delegate stated the proposed merger will combine a strong community of interest, the CIA, into the same council, and that this is likely to have a positive material impact as businesses operating in the same irrigation area will be subject to the same administration under a single council.

The Delegate concluded that communities of interest and geographical cohesion would be positively impacted by the proposed merger.

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 considered Council and resident and ratepayer submissions on this factor. As noted by the Report, the Jerilderie Shire area is 3,397km² and is located in the Southern Riverina and shares its boundaries with Urana, Berrigan, Conargo and Murrumbidgee Councils.

The Delegate outlined that Jerilderie Shire was constituted in 1918 from the amalgamation of Jerilderie Municipality and Wunnamurra Shire and is the second smallest Council in NSW. The Jerilderie township is nestled on the banks of Australia's longest creek, the Billabong Creek, and is located on the Newell Highway. The Delegate noted that the Jerilderie area is responsible for a large contribution to Australia's fresh produce industry, and that it has a significant Aboriginal history.

The Delegate then noted that the Murrumbidgee Shire area is 3,508km² and is located adjacent to the Murrumbidgee River. It was established in 1906 and includes over 100km of natural river

frontage to the river from which the Shire takes its name. He noted that Murrumbidgee is a mixed farming district.

In considering the historical and traditional values of the areas affected, the Delegate noted there was no evidence to indicate that the historical and traditional values would be adversely affected by the merger proposal.

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 considered Jerilderie Shire Council's submission, and noted community consultation undertaken by the Council, including 350 people attending a community meeting, rejecting the proposal to split the Shire. The Delegate also noted Murrumbidgee Shire Council's submission that, based on its consultation, its community supports the proposal. Most submissions received, the Delegate noted, strongly rejected the proposal to split Jerilderie.

The submissions show the attitudes of the residents and ratepayers were divided. The Jerilderie residents and ratepayers (both within the area of the proposed merger and in the other half of the split) were unanimously against the proposal. These made up the majority of submissions. The Murrumbidgee residents and ratepayers were more divided with some supportive of the existing proposal and others preferring a full merger of Murrumbidgee and Jerilderie Shires.

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 the merger proposal recommends seven councillors. The Delegate agreed that seven councillors is an appropriate number for the merged council.

Upon reviewing the submissions, the Delegate highlighted that most raised the concern that Jerilderie Shire residents will have limited to no representation on the merged council. The Delegate noted that concerns were also raised about how this will impact on the services delivered to this community as a result.

The Delegate also noted that the proposed number of councillors would maintain a similar ratio of representation as the Murrumbidgee Shire Council, and the ratio would still be well above the existing levels of representation within another rural council, Kyogle.

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 noted Jerilderie Council's submission that its high level of service is expected to be significantly diminished under any merger proposal. The Delegate also noted Murrumbidgee Council's submission that the proposed merger would have little impact on the level and range of services provided. The Delegate highlighted that many submissions raised significant concerns about the impact of the merger on service delivery for the Jerilderie community, and about the ongoing support for Jerilderie Shire Council's local doctor.

The Delegate then considered historical service levels, the capacity of Murrumbidgee Shire Council, and the services and capacity of a new council.

The Delegate noted that the Murrumbidgee Shire Council did not satisfy the scale and capacity component of the Fit for the Future assessment undertaken by IPART. The Report stated that the merger proposal would deliver an increase in scale without an increase in capacity. On this basis, the new council would still not satisfy the scale and capacity criterion of Fit for the Future. The Delegate concluded that this raises questions about the ability of the merged council to s adequate, equitable and appropriate services and facilities to residents and ratepayers, and this would be a negative effect of the merger proposal.

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 considered Council and community submissions, as well as section 218CA of the Act which provides employment protections for staff in communities of less than 5,000. As noted in the Report, Jerilderie has a population of less than 5,000 and so would qualify for these protections.

The Delegate stated that all 43 (FTE) staff positions of the Jerilderie Shire Council would go to the southern portion of the split, with no staff will coming across to this new council. He noted that this was a positive outcome for local employment, as the new council would have to employ additional award staff (indicated by Murrumbidgee Council to be 6-8 employees) to deliver the same service

levels. However the Delegate also noted that this was a perverse outcome, as the objective of council mergers was to achieve savings.

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”.

Jerilderie and Murrumbidgee Shire Councils' submissions were considered by the Delegate, as well as submissions received from residents and ratepayers.

The Delegate noted the benefits and risks for rural communities of the merger proposal. He highlighted that the predominantly farming nature of the area of Jerilderie Shire north of Yanco Creek and the Murrumbidgee Shire meant there was a high reliance on roads being in good condition for the effective transport of inputs to the farm and produce off the farm. The Report stated that any drop in service and particularly maintenance of these roads could become an issue for local producers. The Delegate considered that the absence of the opportunity to utilise the council machinery for private contracting to farmers could also have an impact on the farmers of the region.

The Delegate concluded that the proposal should lead to positive outcomes for the rural communities of Coleambally and Darlington Point due to the increase in employment in the local community. However, the Report asserted that it could take time to fill these positions and even then the new council would still fail to meet the “scale and capacity” criterion of Fit for the Future. The Delegate stated that this may lead to the new council struggling to deliver services and provide facilities, with negative impacts for the rural community.

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”.

The Delegate considered the Council and resident and ratepayer submissions, noting that only Murrumbidgee currently has a ward system in place. The Delegate considered the advantages and disadvantages of a ward system.

The Delegate stated that the introduction of wards could encourage favouritism by councillors and also limit the representation Jerilderie or any other community of the new council could achieve. He recommended that wards not be implemented in a new council.

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 reported that only a small number of submissions commented on representation for diverse communities. These submissions noted the dilution of representation for the Jerilderie community generally, however did not identify any specific issues for particular community groups within Jerilderie Shire.

The Delegate noted that people of Aboriginal and Torres Strait Islander descent make up just over 10% of the Murrumbidgee community and less than 5% of the Jerilderie community. The Delegate also noted that no submissions raised issues with past representation or future representation in a merged council for diverse communities.

The Delegate stated that there were no significant issues were raised in submissions. On this basis, the Delegate made no recommendations for the proposed 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 noted Jerilderie Shire, Murrumbidgee Shire and a number of stakeholders raised potential concerns around the need to harmonise rates, and that a challenge for a merged council would be to develop an appropriate rating structure to ensure equitable rating across all rate types and regions.

The Delegate reported that one submission raised concerns about boundary alignments cutting through some properties around Yanco Creek. In particular, the submission stated that some properties will be split across two shires, which he noted might be an issue for a new council. The Delegate however did not recommend a boundary adjustment.

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