
**PROPOSED MERGER OF
MURRAY SHIRE AND WAKOOL 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



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 Murray Shire and Wakool 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
26 April 2016

1. Summary of Local Government Boundaries Commission comments

The Boundaries Commission has reviewed the Delegate's Report on the proposed merger Murray Shire Council and Wakool 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 Murray Shire Council and Wakool 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
Murray Shire Council	7,650	8,750
Wakool Shire Council	3,800	3,200
New Council	11,450	11,950

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:

"I believe there is still a lack of sufficient supporting evidence on other factors specifically including financial and communities of interest preventing me from being able to conclusively reach a position in regards to whether the merger should proceed to implementation."

The Delegate made the following other recommendation:

- If the proposal does proceed, the use of wards is supported, with ward boundaries to be developed by the new Council to promote cohesion and community representation in an enlarged LGA.

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

The Delegate held two public inquiries on 6 February 2016 at the cluBarham Golf and Sports Club and the Moama Bowling 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, 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 noted the 2016 KPMG analysis that estimated potential savings of around \$3 million over 20 years to the new council if the merger proposal was implemented. The KPMG analysis also projected an annual operating surplus of over \$1 million from 2020 onwards.

The Report noted that TCorp assessed Murray as having a neutral financial sustainability outlook, and Wakool as having a negative financial sustainability outlook. The IPART Fit for the Future assessments deemed Murray Council to be not fit on Scale and Capacity but that it satisfied the

financial criteria. Wakool Council was assessed as Fit as a Rural Council, but if the Rural Council model (as recommended by IPART) was not adopted by the NSW Government, IPART noted that it was unlikely that the Wakool Shire Council would be 'Fit for the Future'.

The Report further noted that both Councils reported an operating surplus in 2014-15; Murray Council \$3.5 million and Wakool Council \$1.1 million (excluding capital grants and contributions the results were \$2.2 million and \$662,000 surplus respectively).

The Delegate concluded a "merged council would be able to achieve some efficiency gains through the streamlining and removal of duplication, reallocating resources to focus on service delivery. Similar efficiency gains may be achievable if the NSW Government proceeds with implementing 'Joint Organisations'. Significantly, a merger of Murray and Wakool councils would also create a larger revenue base (underpinned by a growing population) for the areas combined."

The Delegated noted that Wakool Council substantially revised its Infrastructure Backlog calculations in the 12 months ending June 2015, adopting a new methodology involving the removal of all infrastructure expenditure outlined in its Long Term Financial Plan to calculate the backlog, resulting in the Infrastructure Backlog being revised down by over \$50 million. This methodology is not uniformly used across NSW councils making it difficult to assess the scale of capital spending required to maintain community assets at a satisfactory operating level. A closer examination of councils' Long Term Financial Plans, coupled with a better understanding of the condition of council assets, is required before the financial advantages or disadvantages to the residents and ratepayers from the merger of Murray and Wakool councils can be considered appropriately.

The Delegate stated that his financial finding was therefore inconclusive.

The Commission's view is that the Delegate adequately considered the issues under this factor, while noting the limited analysis in the Report of economies and diseconomies of scale.

5.2.2 Communities of interest

Section 263(3)(a) 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 Report noted that Murray and Wakool are located on the NSW/Victoria border, approximately 800km southwest of Sydney and 205km northwest of Melbourne. Murray Shire is one of the fastest growing LGAs in NSW and has a diverse business base, with key industries including tourism, agriculture, manufacturing, construction and health care. Wakool is a small rural Council located in the South Western area of the Riverina between the Murray and Murrumbidgee Rivers, the majority of the Shire is an extensive flood plain, with a large number of water courses, bridges and an extensive road network.

The Delegate also noted Murray Council's submission suggesting that Murray and Wakool share a strong and long standing connectivity to, and interdependence with, their neighbouring Victorian townships, with a strong North/South orientation existing between Echuca/Moama (in Murray) and

between Murray Downs and Swan Hill/ Barham and Koondrook (in Wakool). These North/South connections are considered to be a productive part of the fabric of the communities and have resulted in the sharing of services, ideas, staff and resources.

Wakool Council's submission acknowledged demographic similarities between Murray and Wakool, but suggests that distinctive differences prevent strong ties and communities of interest do not exist.

The Delegate noted that community submissions raised similar matters to those mentioned above by the two LGAs, some common points of concern included:

- Murray Shire is a growing urban community, largely dependent on tourism, whereas Wakool Shire is a much smaller, sparsely populated Shire very much focused on rural industries.
- Both Murray and Wakool look south for their communities of interest – be it sport, shopping or amenity. Not east/west to each other.

The Delegate concluded that:

“Murray and Wakool councils share communities of interest born of their proximity to the Murray River, however, the councils serve a significantly different community ... Significant travel distance between Murray and Wakool population centres results in these communities predominantly interacting with neighbouring Victorian communities, accessing and partnering to deliver services. A strong community of interest between Murray and Wakool is not evident, and geographic barriers (predominantly distance) are a significant impediment”.

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)(a) 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 Report described in detail the history of each council area included in the proposal and described ways in which each council supports the historic values of its area.

The Delegate noted that “the major population centres in the Murray and Wakool LGAs (Moama and Barham) have their origins as trade and transport bases, located on the Murray River in the shadow of southern neighbouring, and ultimately faster growing, Victorian towns (Echuca and Koondrook). The historical interdependence of Moama and Barham with Echuca and Koondrook (respectively) continues today and is evidenced by a high level of cooperation between Murray Council with Campaspe Shire and Wakool Council with Swan Hill Shire and Gannawarra Shire; partnering to influence Commonwealth and state governments and to deliver services to their communities”.

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)(a) of the Act requires the Delegate to have regard to:

“the attitude of the residents and ratepayers of the areas concerned”.

The Report provided an overview of submissions and stated of the 119 submissions received by the Delegate, 96 (85.7%) opposed the proposal, 2.7% supported it and 11.6% were neutral / did not explicitly express an opinion. The submissions were less than 1% of the total population of the two areas combined (total population is 11,456)

Common themes identified by the Delegate in the submissions were:

- a belief that there was little or no community of interest among the council areas
- financial concerns, and
- concern that a merger could result in a loss of services.

The Report described how Wakool Council conducted a telephone survey of residents in January/February 2016. 800 interviews were conducted, split evenly between the Wakool and Murray Shires. The survey found that 60% of Wakool residents and 47% of Murray residents opposed the merger. The Delegate also considered the main reasons for their responses.

The Delegate observed that Wakool Council also commissioned a paper-based survey.

In conclusion the Delegate noted that

“Opposition to the merger based on financial, loss of service and a lack of community of interest concerns can, and have been examined against evidence elsewhere in this report. It is extremely difficult to assess and understand the validity of opposition per se, where no reasoning has been provided. Emotion appears to underpin much of the opposition, and frustration concerning the process of forced amalgamations per se. In addition, residents in both shires expressed reform fatigue, having in recent years experienced reforms associated with the Murray Darling Basin Plan and other economic and environmental changes ...”.

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

5.2.5 Elected representation

Section 263(3)(a) 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 Report noted that if the proposal is implemented, the ratio of population per Councillor would change, compared to the existing Councils. The Report also noted that a number of submissions

raised concerns over the number of Councillors and related representational issues, including the distances councillors would need to travel in order to meet with communities and represent them.

In particular, some submissions indicated that the relative size difference of the two areas was problematic; a number of submissions from within the Wakool Shire expressed concern that their voice and representation would be greatly reduced if an amalgamation with the more populous Murray goes ahead.

The Report also discussed the use of section 355 committees to improve community involvement and consultation noting that Murray and Wakool councils both facilitate a number of community committees.

The Delegate noted that the ratio of residents to elected Councillors in each of the Councils was not dissimilar. Murray has 9 Councillors with a resident representation ratio of 1:830. Wakool has 6 Councillors with a resident representation ratio of 1:665. A merged council with 9 Councillors would have a resident representation ratio of 1:1,836. This is a significant increase but not unreasonable when compared with, for example, Bellingen Shire Council which has a resident representation ratio of 1:1,836.

In conclusion the Delegate noted that:

“The proposed level of representation would be reduced under the merger, with the impact numerically more pronounced for Murray residents, with a significant loss in the ratio of Councillors to population size as well as the ratio of Councillors to geographic LGA size, Wakool residents, representing 35% of the population, would likely have less overall influence in shaping and informing the new council. Strategies can be put in place to ensure a high quality of representation is maintained. Murray and Wakool Councils both acknowledge the potential use of council committees (precinct committees or Local Area Committees) as an effective way to ensure residents, especially people from diverse communities, receive a direct voice to inform Council planning and decisions.”

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)(a) 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 noted major similarities between the services provided by both Councils. However, the Report also noted that the geographical size of a merged area would create service challenges. Murray Council’s submission suggested that the geographic size and shape of the new Council, combined with employment protections and the introduction of a rate freeze would influence and likely impede integration of council services. Wakool Council’s submission suggested that front line services could be diminished as funding is shifted for expenditure on communications and data

needs generated by the new Council. It also noted the role that existing Council offices in Moulamein and Barham in providing Wakool residents with access to a range of services include NSW Government services via Government Access Centres (GACs), banking and legal services at Moulamein and Victorian bus and rail travel ticketing services at Barham.

Community submissions raised the following concerns:

- a large entity will not be able to service the smaller and more remote communities to the same level that the two Councils do now individually.
- Murray and Wakool Shires both have north/south relationships with their Victorian counterparts and little to do with each other; there is not even a bitumen road linking the two councils.
- tyranny of distance will almost certainly lead to less maintenance of roads and infrastructure.
- section 355s Committees may suffer as part of a larger entity.

However, the Delegate noted that a number of submissions suggested that an amalgamated entity would provide opportunities for improved service delivery and access, including:

- an opportunity to consolidate the resources from the two organisations.
- long term benefits that will be achieved through the improved scale and capacity with the merger, far outweighing any short term pain that many residents fear.

The Delegate concluded that:

“...a merger of Murray and Wakool councils would result in a mix and quality of council services developed in response to its community’s wants and needs. Communities may also receive an improved level of services, with an enlarged council able to develop a pool of staff and invest in expertise and knowledge sharing and leverage economies of scale to enhance services.”

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)(a) 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 that both Councils foresaw little impact on employment for staff as five out of the six existing council locations would attract the legislative protections for centres with populations less than 5,000. Only Moama will experience potential staffing reductions. However, this clearly impacts on the projected merger savings as redundancies will be minimal. Wakool Council advised that it was the largest employer in the current LGA.

Community submissions raised the following concerns:

- A number of submissions noted concern about the viability of smaller centres, in particular Moulamein, the current administrative head office for Wakool Shire. If this office shuts down and local jobs are lost in an amalgamation, there was a concern that there would be a flow on effect with families being forced to leave. This would impact the local services industry and the local schools.
- Others acknowledged the 3 year protections in place, but wondered what would happen after that.

The Delegate concluded that “the short and long term employment impacts stemming from a merger of Murray and Wakool Councils are complex but manageable. These impacts do not impede a merger occurring, however, the practicalities of Council operations are impacted into the future. Increased travel by staff (distances and frequency), especially during a period of transition, may erode potential efficiency gains and would need to be carefully planned and managed. Over the longer term, a new council may experience difficulties in allocating resources to areas of growing demand, given the requirement for Council to maintain staffing levels in existing rural townships.”

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

5.2.8 Rural impacts

Section 263(3)(a) 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 both Council areas contain large tracts of rural land. The main issues raised in submissions were:

- Wakool’s use of the services of local contractors and businesses, thereby acting as a major supporter of the local economy. It was argued that it is highly unlikely that the new Council, which would likely be headquartered in Moama, will continue this support, adding to the socio-economic cost of the merger and hardship for local communities.
- The long term viability of smaller towns, particularly in the west of the Wakool Shire, such as Tooleybuc and Moulamein would be jeopardised by an amalgamation of the two councils.
- In conjunction with the NSW Government, Wakool Shire has been in consultation and planning for an upgrade of the Tooleybuc Bridge. Some fear has been noted that this project could be jeopardised by an amalgamation with Murray into a much larger Council.

The Delegate concluded that “...whether or not a new merged entity maintains the use of local contractors would be a matter for a future entity, however it is worth noting that without, it would likely have a detrimental impact on smaller rural towns.”

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

5.2.9 Wards

Section 263(3)(a) 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 noted that Murray Shire Council is currently undivided and did not indicate a preference for or against wards. Wakool is currently divided into three wards, with two Councillors elected from each ward. Wakool Council’s submission suggested that if the merger were to proceed, a loss of representation would be exacerbated if a ward system is not retained.

Community opinion on the desirability of wards was split within the submissions, with the balance leaning towards a ward structure. This was particularly noted by respondents in the Wakool Shire.

The Delegate supported the use of Wards in a merged council, with new boundaries to be developed by the new council to promote cohesion and community representation in the enlarged LGA.

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)(a) 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 only 6 submissions addressed this factor with both Murray and Wakool residents citing negative impacts for the diverse communities in the two Councils.

The Delegate concluded that *“strategies can be put in place to ensure a high quality of representation is maintained. Murray and Wakool Councils both acknowledge the potential use of Council committees (precinct committees or Local Area Committees) as an effective way to ensure residents, especially people from diverse communities, receive a direct voice to inform Council planning and decisions.”*

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)(a) 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 following matters were considered by the Delegate with regards to this factor:

- *Strategic Advantages:* The Delegate noted that partnering opportunities with neighbouring Victorian Councils are an effective and innovative way for Councils to generate service efficiencies and advocate regional priorities to State and Commonwealth governments.

A merger of Murray and Wakool Councils could also create opportunities for the new Council to have strategic advantages through stronger representation and influence in regional organisations such as the Riverina and Murray Regional Organisation of Councils (RAMROC) and a future Joint Organisation.

- *Boundary Adjustments:* The Delegate also noted submissions in relation to altering the existing local government boundaries to shift Bullatale District from the Murray Shire to the Conargo Shire. The Delegate reported that the *Local Government Act 1993* does not give her the power to make significant changes to the proposal, or to the boundaries of the proposed new Council area.

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