
**PROPOSED MERGER OF
ARMIDALE DUMARESQ, GUYRA SHIRE, URALLA
SHIRE AND WALCHA 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 Armidale Dumaresq, Guyra Shire, Uralla Shire and Walcha 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 Armidale Dumaresq Council, Guyra Shire Council, Uralla Shire Council and Walcha 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 1 March 2016 the Minister for Local Government referred a proposal from Armidale Dumaresq Council to merge the local government areas of Armidale Dumaresq, Guyra, Uralla and Walcha 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 four councils.

Council	2016	2031
Armidale Dumaresq Council	26,800	31,650
Guyra Shire Council	4,600	4,850
Uralla Shire Council	6,350	6,550
Walcha Council	3,050	2,750
New Council	40,800	45,800

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 that:

"The existing areas of Armidale Dumaresq, Guyra Shire, Uralla Shire and Walcha Councils should be merged."

The Delegate also made the following recommendations within the Report:

- *"The new council area should maintain the existing boundaries on commencement and should be called the New England Regional Council.*
- *Any proposal to vary the boundaries, as proposed by the Glen Innes Severn and Inverell Shire Councils should be the subject of negotiation between those councils and the new council and a separate boundary variation proposal, if appropriate".*

- *“The new council area should be undivided for electoral purposes.*
- *The new council should implement a system of local committees utilising Section 355 of the Local Government Act.*
- *The Mayor of the new council should be elected by the councillors.*
- *An Administration Panel should be appointed to oversee the implementation and establishment of the new council. One experienced councillor from each council, together with an independent Chair should form an Administration Panel for a period of two years to establish the processes and structures of the new council. Fresh elections should be held after this time. The Administrator will also need to appoint an Acting General Manager, pending the permanent appointment of a new General Manager by way of a merit based recruitment process”.*
- *“As to the number of councillors, in the event of the merger proceeding, it is my belief that eleven councillors with a Mayor elected by the councillors is an appropriate structure”.*

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

The Delegate held two public inquiries on 7 April 2016 at the Walcha Ex Services Memorial Club and the Uralla Bowlo, and a further two public inquiries on 8 April 2016 at the Armidale Ex Services Memorial Club and the Guyra Bowling and Recreation Club.

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

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 Report outlined the principal matters most commonly raised in submissions to the review, and listed these as issues relating to the KPMG financial modelling, performance benchmarks and impacts, impacts on Financial Assistance Grants (FAGs), rating differentials and rating income.

The Delegate sought a financial assessment from KPMG consistent with modelling undertaken for merger proposals made by the Minister. It was noted in the Report that this modelling attracted a considerable amount of public criticism relating to perceived inaccuracies. The Delegate stated that the assumptions used by KPMG were conservative with a high discount rate of 9.5%, leading him to conclude ‘the criticism is largely unwarranted.’ The Report outlined that the KPMG modelling estimated net financial savings of \$19 million over 20 years, from streamlining senior management, sharing services, reducing councillor expenditure, and opportunities for scale. However, the Delegate also noted that KPMG did not specifically identify potential diseconomies of scale and it was therefore not possible to state no diseconomies would arise.

It was noted in the Report that a \$20 million State Government incentive package may not be available given that these packages were only committed for Ministerial-initiated merger proposals. that the proposal was initiated by Council. The Delegate noted that this was a matter for the Government.

The Report outlined the financial position of each Council against key financial benchmarks. The Delegate recognised the concerns raised by Walcha Council relating to the higher debt levels of the other three Councils.

The Delegate discussed FAGs funding, noting that a new council would continue to be heavily reliant on grant funding.

The Report provided an overview of rates for each category across the four Councils. It noted that each Council has sought or indicated it may seek a Special Rate Variation (SRV) to increase revenue in the future, noting that the four year freeze will prevent councils from applying for SRVs during this period, and that the “councils’ reliance on rate increases to address financial sustainability and fund community infrastructure may be reduced”.

Economies and diseconomies of scale were specifically considered by the Delegate, who noted that the cost per capita for maintaining the existing level of service is likely to increase for Guyra, Uralla and Walcha given their population projections. The Delegate stated that this will create upward pressure on rates.

The Delegate concluded that the availability of the \$20 million assistance package will be a critical factor for the advantages and disadvantages of the merger.

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

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 Report stated that the key issues raised in submissions under communities of interest were desperate demographics and the focus between rural and urban areas. The position of the city of Armidale as the regional centre for much of the New England region was considered, with the Delegate noting that many of the residents in surrounding rural areas utilise the services and facilities in the Armidale Dumaresq LGA.

Smaller communities within each council area were identified, noting that most are in reasonable proximity to Armidale, with the exception of Walcha. However, the Delegate stated that there is a clear level of dependence from residents of Walcha on Armidale as a regional centre. Given this level of dependence on Armidale across the four LGAs, the Delegate concluded that there is a significant community of interest between the rural localities and the regional city of Armidale.

The Delegate noted that the demographics were different across the four councils, giving the example of significant agricultural employment in Guyra, Uralla and Walcha compared to Armidale. However, the Delegate concluded that differences in demographics were not significant enough to provide an impediment to a proposed merger.

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

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 Report noted the key issues raised in submissions were local identify and character, heritage, and rural values and character. It was noted that this factor did not generate a great deal of material in the submissions process.

The Delegate recognised that each of the three rural councils have fostered high levels of volunteerism within the community and are concerned that this volunteerism would decline under a new council. The Delegate then considered that Armidale is historically the hub for medical educational, transport and government services and will continue to be so regardless of whether a merger is implemented. The Indigenous history of each LGA is also outlined in the Report.

The Delegate concluded that Armidale will continue being the centre of the region, and that concerns regarding volunteerism will be maintained “more by the work of communities and individuals than by local government authorities”.

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 Report noted the matters most commonly raised in submissions under this factor included the majority opposition to the proposal, council polling, and the approach of the NSW Government.

The Delegate noted that the overwhelming majority of submissions did not support the merger proposal. He also noted that the total population actively engaged does, however, represent only a small percentage (4.3%) of those potentially affected. Consultation by each Council was considered in the Report, with the Delegate noting that a survey by Guyra Shire indicated that opposition to this proposal amongst residents was 83.1%.

The Report noted that Uralla Council's mail survey of all households showed that *“92% indicated that they wanted the shire to remain independent and not pursue voluntary mergers”*. The Report also noted that Walcha outlined in its submission, a variety of community engagement activities that indicated significant opposition to any merger proposal.

The Delegate stated that this opposition was focused largely around a perceived loss of independence and identity that could come from the merger process.

In contrast, the Report noted that the Armidale urban population appeared ambivalent to the proposal.

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

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 principal matters raised in submissions relating to this factor were loss of representation, councillors per capita, loss or dilution of rural focus, accessibility of councillors, and the ability to service community activities.

The Report included an overview of statistics from the 2012 council elections, with the Delegate noting that the merger would result in higher representation ratios for residents. However, the Delegate further noted that the eventuating ratio of 3,588 residents per councillor if 11 councillors

are adopted remains comparably low for councils in regional areas. The Delegate acknowledged that smaller numbers of councillors may lead to reduced levels of access by residents. However, he also stated that this issue could be addressed by utilising varying consultative and participative mechanisms, noting that section 355 of the Act provides methods for empowering communities to have input into facilities and activities at the local level.

The Delegate noted concerns about the potential imbalance between rural and residents/electors and Armidale based residents/elected.

The Delegate considered that 11 councillors with a Mayor elected by the councillors to be an appropriate structure based on the benefits of an odd number of councillors.

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 that the principal matters raised in submissions relating to this factor were disparate policy settings, harmonisation of services, and the risk of centralisation in Armidale, further noting that the issue of service levels drew the most number of comments from the public during the inquiry process.

The Report outlined the numerous services provided by each Council, and stated that many submissions expressed concerns about the negative impact on service levels in the event of centralisation at Armidale. The cost of providing services in each Council was considered, with the Delegate noting that costs per capita for the transport system were significantly higher in the rural areas, with the rural councils also providing higher levels of services such as day care and before and after school care. However, the Delegate also noted that Armidale Dumaresq provides some services not provided by the rural councils, such as museums, art galleries, community service areas, park and sporting infrastructure, business development and tourism.

Differences in the approach to service delivery were also considered in the Report, with the Delegate noting that Armidale Dumaresq works more closely with non-government providers.

The Delegate concluded by acknowledging concerns that a new council might not continue with one or more services, but that it is equally likely that services in Armidale Dumaresq will spread to the broader population. The Delegate also stated that “it would be prudent for any new council to deal sensitively with any harmonisation, centralisation or abandonment of services during the first years of any merger. Similarly, it could be reasonably expected that effective community consultation would occur in the longer term in the event of significant changes to the policy and service suites.”

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 noted that the principal matters raised in submissions relating to this factor were legislative protections, local economic impacts, and responsiveness.

The Delegate acknowledged opposition from the United Services Union regarding forced mergers, but that the United Services Union has also urged the involvement of all relevant unions in transitional arrangements in the event that a merger does proceed.

Legislative protections in the Act were also outlined in the Report, with the Delegate noting that Guyra and Walcha constitute rural centres and the Act would protect existing staff in those centres. It was further noted by the Delegate that it is likely Uralla would also qualify as the rural centre itself does not exceed the 5,000 population threshold. Despite these protections, the Delegate noted submissions referring to the loss of jobs from the centres of Barraba, Nundle and Manilla after the amalgamation creating the Tamworth Regional Council, with the Delegate stating it is not clear that these assertions are accurate.

The Delegate concluded that a larger council could result in job increases and the biggest concern is the geographic allocation of those jobs over time. The Delegate stated that the legislative protections would maintain staff numbers in rural centres, and this would protect smaller towns from major job losses. Concerns about travel to and from Armidale were addressed by the Delegate, who stated that this is also mitigated by the rural centre protections and the normal duties of care necessary from employers in making decisions about the location of staff.

The Commission’s view is that the Delegate adequately considered the issues under this factor, while noting the lack of discussion regarding the impacts on senior staff.

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 the principal issues raised in submissions relating to this factor included planning policy and assessment differences, the focus on rural jobs, a lack of understating in Armidale of rural issues, and the Dumaresq Shire experience. However, the Delegate also noted that many of the issues addressed in submissions have been considered in other more specific sections of the Report, such as service standards, rural jobs, and elected representation.

Concerns about Armidale Dumaresq having a limited understanding of rural issues were acknowledged in the Report, with the review receiving many submissions raising concerns about deteriorating rural road maintenance after the 2000 amalgamation creating Armidale Dumaresq,

higher rates for rural producers, and difficulties in seeking development consents for rural activities. The Delegate stated that determining the veracity of these claims is difficult.

The Delegate concluded that the protection of rural communities is as much a product of political activation as it is of structural reform. The Delegate stated “in the event of a merger it will be incumbent on the residents of the former Shires to be actively engaged in the processes of elections, community consultations and participation in order to secure their outcomes and to influence any new council, regardless of the background of the councillors”.

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 stated that opposing views were expressed on the advantages of wards throughout the consultation, with Guyra and Armidale opposing the implementation of wards for a merged council. In contrast, the Report outlined that Uralla and Walcha currently use wards with Uralla supporting their retention, but Walcha stating they would be impractical in a merged council.

The Delegate noted that wards are more common in urban and metropolitan councils, but that their use in Uralla and Walcha does deliver what many see as closer representation, noting that very low quotas for election can lead to councillors focusing on specific interests.

The Delegate concluded that wards are not recommended given the relatively sparse population patterns in the rural areas compared to the denser population in the Armidale area.

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 the principal matter raised concerning diverse communities was the divide between small communities and Armidale City. However, it was also noted that very little commentary was received on this factor through the consultation process.

The Delegate concluded that the success of managing diverse communities is largely an outcome of the joint commitment and participation of the council and its residents, with mechanisms such as section 355 committees providing a means to manage that diversity.

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 stated that the principal matters raised in submissions regarding this factor include boundary issues and attitudes towards Armidale Dumaresq Council.

The Report noted that Glenn Innes Severn Council lodged a submission that should the merger proceed, the village of Ben Lomond and surrounding localities be transferred to the Glen Innes Severn LGA. The Delegate noted this request is of a scale beyond the scope of the review.

Similarly, it was noted in the Report that Inverell Shire Council sought the inclusion of the western portion of Guyra Shire within the Inverell LGA.

The Delegate further noted the high level of emotion and anger directed to Armidale Dumaresq Council and its councillors throughout the examination process.

The Delegate also noted strategic capacity, the decline of rural councils, and population trends, concluding that strategic capacity and council advocacy are likely to be significantly improved in a larger council organisation.

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