
**PROPOSED MERGER OF
BOMBALA, COOMA-MONARO SHIRE AND SNOWY
RIVER 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 Bombala, Cooma-Monaro Shire and Snowy River 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 'RJ Sendt'.

RJ Sendt
Chairperson
26 April 2016

1. Summary of Local Government Boundaries Commission comments

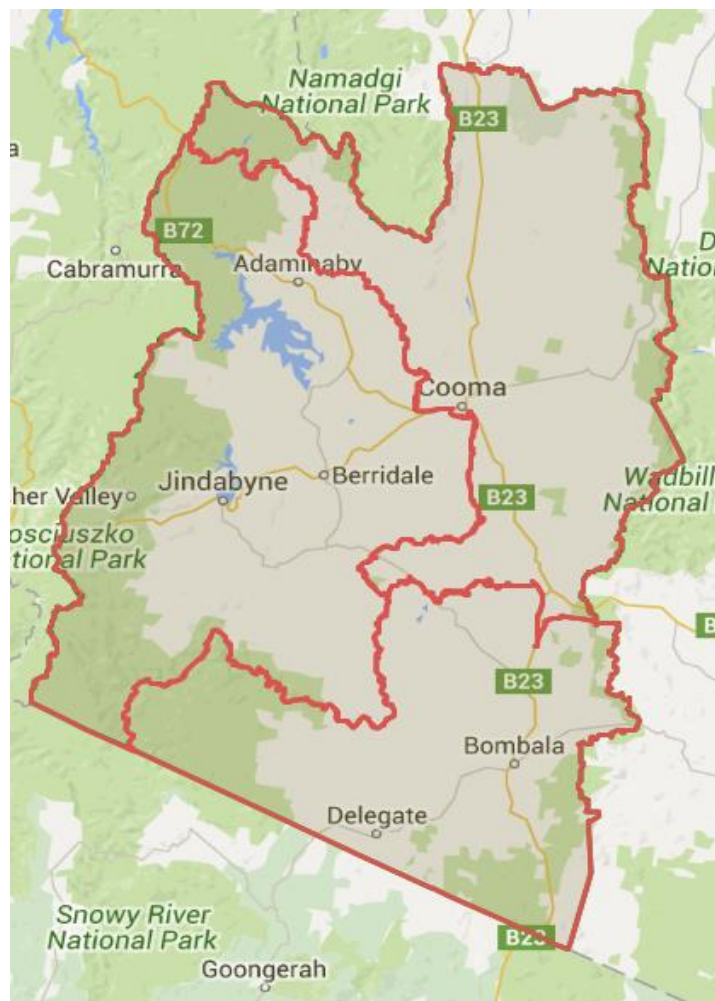
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Bombala Council, Cooma-Monaro Shire Council, and Snowy River Shire Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government Act 1993* (the Act).

The Commission has assessed that:

- the Delegate's Report shows that the Delegate has undertaken all the processes required by section 263 of the Act,
- the Delegate's Report shows that the Delegate has adequately considered all the factors required by section 263(3) of the Act, and
- the Delegate's recommendation in relation to the proposed merger is supported by the Delegate's assessment of the factors.

2. Summary of the merger proposal

On 6 January 2016, the Minister for Local Government referred a proposal to merge the local government areas of Bombala Council, Cooma-Monaro Shire Council, and Snowy River 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 three councils.

Council	2016	2031
Bombala	2,400	2,200
Cooma-Monaro Shire	10,350	10,750
Snowy River Shire	8,050	8,650
Merged entity	20,800	21,600

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 proposal should proceed to implementation.

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

The Delegate held three public inquiries on 11 and 12 February 2016 at the Bombala RSL, the Cooma Ex-Services Club, and the Horizons Snowy River in Jindabyne.

The Commission's view is that the Delegate has met the relevant requirements.

5.2 Review of the Delegate's consideration of the factors specified in the Act

Under section 263(3) of the Act, the Delegate is required to have regard to a range of factors when considering a merger proposal.

Overall, the Commission's view is that the Report shows the Delegate adequately considered all the factors.

The Commission has formed this view based on its review of the discussion presented in the Delegate's Report. The Commission specifically considered whether the extent of that discussion adequately canvassed the range of issues raised in the written submissions made to the Delegate, the views expressed at the public hearings and other information that would have been available to the Delegate.

The Commission makes the following comments relating to each factor:

5.2.1 Financial factors

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

"the financial advantages or disadvantages (including the economies or diseconomies of scale) of any relevant proposal to the residents and ratepayers of the areas concerned".

The Delegate considered the financial sustainability of each council and provided an overview of the IPART Fit for the Future review, the local government infrastructure audit, the NSW Treasury Corporation Review, and Council financial data. She noted that the KPMG modelling estimated a net financial savings of \$13 million over 20 years, and that the Merger Proposal includes a funding package of \$5 million for merger costs and \$15 million for infrastructure.

The Report noted that modelling was also commissioned by each council, which found that the modelled benefits were insufficient for a merge council to meet all Fit for the Future financial benchmarks.

Themes from submissions received were summarised in the Report, with the Delegate making the following main conclusions:

- In summary, a merger is likely to deliver a modest net financial benefit over the long term.
- When Government funding of \$20 million is taken into account, the financial benefits of a merger are substantial.

- In simple terms, replacement of three governance structures with one will reduce costs associated with one function and allow resources to be allocated to other functions.
- Concerns about the capacity of a merged entity to meet all financial benchmarks are justified.
- Harmonisation of rates is likely to see rate increases for some ratepayers and decreases for others, with any such impact not eventuating until after the rate freeze.
- A merged council should be better able to address the infrastructure backlog.
- The actual financial impacts will be influenced by the community and the new council in the event of a 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 provided information from each Council's community strategic plan to give an overview of local geography and communities. It stated that the public inquiry and written submission feedback indicated there are mixed views about the extent of community of interest and geographic cohesion, with broad themes emerging:

- The high plains/Monaro region has physical and political boundaries which clearly mark an area of geographic cohesion and there are common communities of interest;
- The area is geographically diverse (from alpine, to treeless plan to forested) and with distinctly different economic drivers, workforce characteristics and service needs.

The Delegate concluded that all three LGAs currently have a level of diversity in communities of interest arising from the mix of urban and rural environments, economies and geographical spread, and that a merger would “increase diversity in community of interest”.

The Delegate also concluded that the area has significant geographic cohesion due to its elevation above sea level, climate, natural boundaries and land use. The Report noted the close transport links between the areas, but stated that difficult terrain and distances present challenges for developing communities of interest. As noted by the Report, there are both opportunities and risks in sustaining and developing communities of interest after a 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 Report provided an overview of local history in each area and a summary of how each council has strategised to preserve local history and cultural identity. After reviewing submissions received, the Delegate concluded that all three LGAs value the diverse and historical values in their areas. The Delegate noted the similarities in the evolution from indigenous management, European agriculture focused development, more modern industrial development and the evolution of tourism.

The Delegate concluded that, while a merged Council would need to be sensitive to an increased range of historical and cultural values, a merger does not appear to pose a threat or negative impact to traditional or cultural values.

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 provided an overview of attitudes demonstrated through submissions received, with the following being major themes of those opposed:

- Concern that an amalgamation may be forced in the face of community opposition and a desire for no decision to be taken without a plebiscite;
- Observations that other mergers haven't worked, or have taken a long time to deliver a positive outcome;
- Concern that smaller villages and townships (including Bombala) will lose their identity and economic sustainability should a merger proceed;
- View that other approaches would be more effective than a merger in achieving needed reform.

Themes from those submissions in support of the proposal were stated as follows:

- View that a merger provides a chance for positive change, building on strengths;
- View that it makes sense for all LGAs on the Monaro to work together;
- View that a single Local Environmental Plan (LEP) will be valuable to resolve inconsistent planning approaches.

The Delegate concluded that attitudes ranged from overall support to overall opposition, with more concern about a merger being expressed by residents of the Bombala LGA. She noted that views were mixed, but that the expressed opposition to a merger by a majority of submitters “should note be seen as a threshold impediment to a merger proceeding, but is important to consider in the context of a decision on whether or not to proceed with a 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 Report considered the impact on councillor-resident ratios of either 9 or 11 councillors under a merged entity. Submissions and the views of councils were considered, with the Delegate stating that the use of Section 355 committees could allow residents to have a close relationship to their council. The Delegate stated that adequate representation should be achievable in a merged council, but that any changes would particularly impact on the residents of Bombala, who would have to adapt to a less direct relationship with councillors.

The Delegate concluded that a new council would need to implement supporting mechanisms to ensure that communities are represented, and this could include delegation to section 355 committees and the rotation of council meetings around the area. The Delegate recommended 11 councillors for the merged entity.

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”.

Each Council’s Community Strategic Plan was analysed in the Report to extract the vision, goals, themes and directions of each council. Common themes included economic development – tourism and agriculture, environment, roads and transport infrastructure, health and social services, and maintaining infrastructure, particularly water and sewerage. However, the Delegate also noted significant variation in the expenditure on service-types between each council.

From submissions received, the Delegate noted that many residents and ratepayers “saw a threat to service delivery”, particularly those provided to smaller communities. She noted that changes to services are most likely to be caused by financial capacity, a degree of change from the current range of services, workforce capacity, representation, or the influence council has on other service providers and funders.

The Delegate concluded that there would be challenges for a merged council in delivering services across a larger and more diverse area. However, there is also the potential for improvements in service delivery through greater access to specialist skills, more financial flexibility and adoption of innovation and best practice.

The Delegate stated that it would be important for a merged council to utilise effective community engagement processes to assist in prioritising and targeting service delivery.

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 Report noted that the Act provides protections for staff in the event of a merger, including no forced redundancies for three years and protections for staff in rural centres with a population of 5,000 or less. The Delegate noted that 35 submissions were received raising concerns on potential staff reductions and the outcome of the process on staff morale.

The Delegate concluded that there are potential benefits for staff and the new organisation in realising development opportunities and implementing best practice. However, there is also likely to be short term disruption and uncertainty. She recognised that senior staff who are currently employed on contracts are likely to be impacted by a merger.

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 Report noted that each of the existing Councils is currently servicing significant rural communities and that half of the population reside outside the larger towns of Cooma, Jindabyne and Bombala. Concerns expressed in submissions included:

- an increased emphasis on urban priorities in a merged council;
- impacts on local contractors and businesses from changes in council purchasing patterns;
- distance to travel to access centralised services;
- creation of divided communities of interest through rival population centres.

The Delegate concluded that all three existing Councils already service rural communities and relevant skills and experience would be brought into a merged council. She noted that a merged council would need to consider the impact of any strategies to streamline service delivery on accessibility of services for rural communities.

The Delegate suggested that maintaining a presence in the existing centres is likely to be necessary to ensure access to residents of more remote rural areas, and that a merged council has the option of utilising local purchasing arrangements to support the rural economy.

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 Report noted that submissions on the question of wards was mixed, varying between opposition on the grounds of wards being divisive and disadvantaging small communities, to support on the basis of ensuring representation. The Delegate noted that Bombala and Snowy River councils expressed opposition to wards, with Snowy River citing additional administrative burdens and no guarantees of equitable representation. Cooma-Monaro Council did not express a view.

The Delegate considered some of the advantages of wards, such as ensuring representation for specific areas. However, she concluded:

“On balance, the creation of wards may impede the development of Council strategies which take into account the needs of all residents and take advantage of the opportunity for a more strategic and future oriented view. Wards are therefore not recommended.”

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 Report stated that only a few submissions commented specifically on this matter, and those that did reiterated broad concerns about disenfranchising smaller communities and loss of representation.

The Delegate concluded that elected representation will help ensure the needs of diverse communities are represented, noting that women currently represent less than a third of Councillors across the three areas and there are no indigenous councillors.

The Delegate stated:

“Each council has in place mechanisms to engage with the broader community through its community engagement strategy. Resources committed to this engagement will continue to be available in a merged council, but there will be an opportunity to examine whether engagement with identified community groups can be carried out more effectively across current shire boundaries.”

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

5.2.11 Other issues

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

“such other factors as it considers relevant to the provision of efficient and effective local government in the existing and proposed new areas”.

The Delegate discussed strategic capacity through consideration of council submissions, the Independent Local Government Review Panel, and the Fit for the Future Process, concluding:

“All three Councils have a level of strategic capacity, as documented in the KPMG merger business case. However, the effect of greater scope, financial scale, sharing best practices and opportunities to innovate with the creation of a new organisation mean that a merged entity is likely to have increased strategic capacity beyond the additive effect of bringing the councils together...”

As part of this factor, the Delegate also considered implementation of a merged entity, noting that all three Councils have demonstrated a willingness to work constructively towards a successful merger should a decision be made to proceed. The Delegate stated that an interim arrangement reflecting the positive relationships of the councils should be implemented immediately to support an effective implementation strategy.

Three submissions for boundary adjustments were received to the review. The Delegate recommended that the three proposals be given consideration through a separate process to the review.

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

The Commission notes that boundary adjustments are a matter for the Minister.