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**PROPOSED MERGER OF  
BOOROWA, HARDEN SHIRE AND YOUNG 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**

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Local Government Boundaries Commission  
GPO Box 5341  
Sydney NSW 2001

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The Hon Paul Toole MP  
Minister for Local Government  
Level 17 NE  
52 Martin Place, SYDNEY NSW 2000

Dear Minister

**Proposed merger of Boorowa, Harden Shire and Young 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' in a cursive script.

RJ Sendt  
Chairperson  
29 April 2016

## 1. Summary of Local Government Boundaries Commission comments

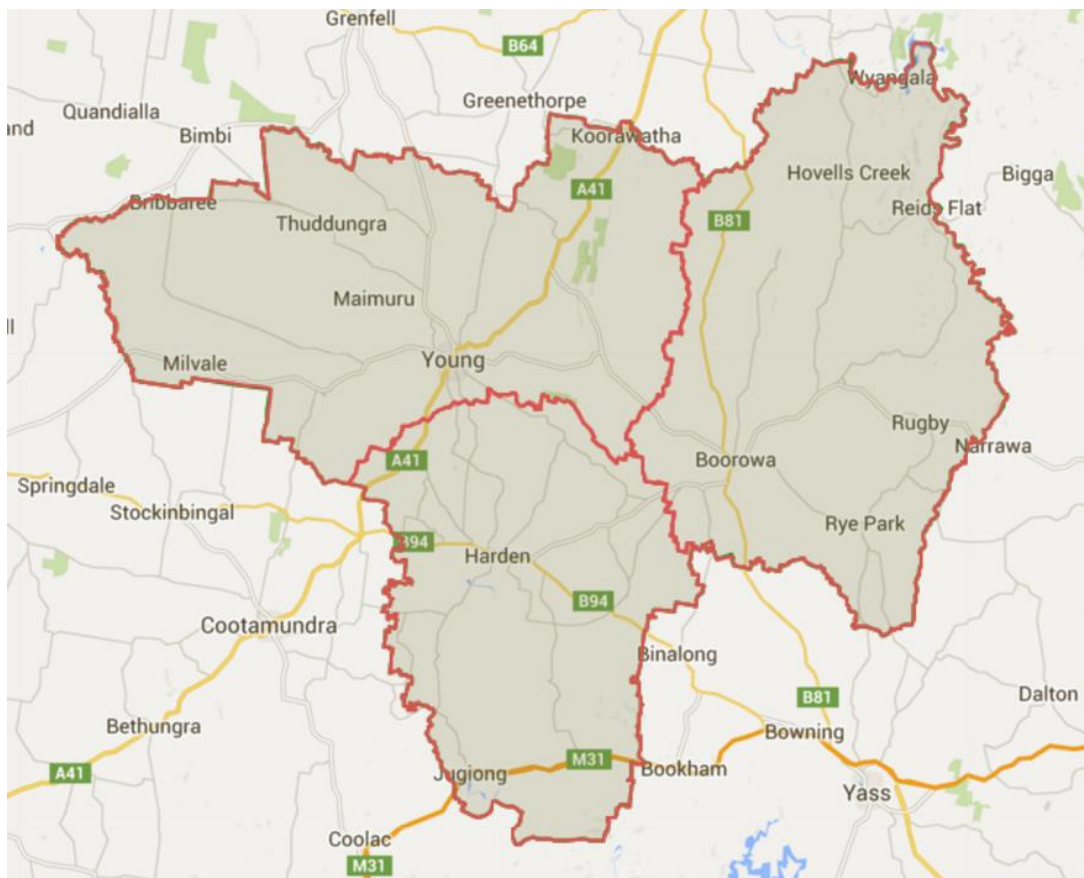
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger Boorowa Council, Harden Shire Council and Young Shire Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government 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 Boorowa, Harden and Young 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
Boorowa Council	2,500	2,450
Harden Shire Council	3,600	3,200
Young Shire Council	12,800	12,900
New Council	18,900	18,550

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 for the *"...implementation of the merger of Boorowa, Harden and Young councils."*

Other recommendations by the Delegate are:

- *"the potential variation of the border to exclude Jugiong should be further investigated. The proposal is strongly supported by Jugiong residents but strongly opposed by Harden Shire Council"*
- *consistent with research presented to the Independent Local Government Review Panel, implement transitional governance arrangements should be implemented until the first council election that facilitate a 'fresh start' for the newly merged community. For example appoint a small number of former councillors who are able to fully commit*

*to the success of the merger from each of the three councils under the leadership of the current Boorowa Mayor who is also the current chair of the Canberra Region Joint Organisation of Councils*

- *the new council implement comprehensive outreach and consultation strategies to engage with and listen to smaller town and rural communities, for example regularly holding council meetings in the small towns, consulting annually with small towns and rural communities as part of the council's planning processes and consider establishing community development committees that include councillors' active participation*
- *ensure that councillors and the council's leaders embed a 'fresh start' into its culture to ensure a highly inclusive service and representation for the whole community*
- *establishing a system of wards that is designed to balance the representation of the township of Young with representation of the combined interests of the smaller towns, villages and rural areas".*

## **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 400 written and verbal submissions from the public, community and other organisations and councils.

The Delegate held two public inquiries on 4 February 2016 in Boorowa, and one public inquiry on 5 February 2016 in Harden.

***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”.*

In her Report, the Delegate considered the Councils’ submissions in relation to the factor, as well as 32 submissions received from residents and ratepayers.

The Delegate noted the analysis by KPMG in 2015 that estimated potential savings of around \$10 million over 20 years to the new council if the merger proposal was implemented. The KPMG analysis also projected that the merged council will generate on average \$1 million in net savings every year from 2020 onwards. The Delegate also noted an alternative study by LKS Quaero which estimated the net financial benefit of the merger as compared to the status quo to be \$31 million over 20 years. While Harden explicitly rejected assumptions applied by LKS Quaero, the other Councils did not. The Delegate stated that the LKS Quaero analysis was not relied upon in her examination.

The Delegate then considered previous examinations in relation to the Councils, specifically:

- NSW Treasury Corporation’s 2013 assessment of each Council’s financial capacity and its future sustainability;
- the (then) Division of Local Government’s 2013 infrastructure audit;
- the IPART Fit for the Future assessments; and
- the Office of Local Government’s annual performance data for each Council.

The Report compared the Councils’ performance for 2013/14 to Group averages, and noted that all three Councils experienced a decline in their operating performance ratio for the three years from 2011/12 to 2013/14. Further, in 2014/15, the Report noted Young and Boorowa experienced some improvement in the operating performance ratio (data on Harden’s 2014/15 performance was not yet available as the Council had not published or provided to OLG its Annual Financial Statement).

The Delegate outlined financial advantages of economic development and regulation reductions in the area, as well as potential benefit to residents and ratepayers of economies of scale. In relation to rates, the Delegate considered the average rates for Boorowa, Harden and Young. The Delegate also considered a concern by Young in relation to Federal Assistance Grant funding.

The Delegate concluded that

*“On balance the examination concludes that the financial advantages of the merger are likely to outweigh the financial disadvantages to residents and rate payers of the area concerned. The conclusion reflects assessment that:*

- *the merger is likely to generate substantial net savings for the merged council which will be passed onto residents and ratepayers in the form of improved services or avoided rate rises*
- *none of the three councils are individually financially ‘Fit for the Future’ with each council facing significant challenges to their long term financial position which would be experienced by residents and ratepayers as either a rate rise and/or a service decline over time*

- *the merger will result in other efficiencies due to potential economies of scale*
- *there are substantive economic development and red-tape reductions benefits for traditional and emerging industries of the region arising from the merger that will be experienced by residents and ratepayers as increases in local jobs and income”.*

***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 Delegate considered Councils’ submissions in relation to this factor, as well as submissions received from residents and ratepayers.

The Delegate noted that community submissions raised similar matters to those raised in Council submissions, including:

- a shared commitment to the Hilltops region with regard to tourism, economic growth and agricultural production;
- all three Councils are part of the Canberra Region Joint Organisation of Councils;
- there are a number of shared services between the Councils, including library, noxious weeds, and some specialist staff; and
- there are shared cultures arising from joint sporting competitions, educations, shared business, and agricultural holdings.

The Delegate noted submissions in opposition to the merger proposal identified differences in communities of interest across the region including:

- an attitude of historic animosity between Harden and Young,
- Young’s more intensive farming and orchards relative to Harden,
- Harden residents travel for health services to Wagga Wagga, while Young residents head to Orange,
- that Harden is still a railway town,
- differences in various state and regional boundaries,
- that the majority of traffic leaving Harden goes to Cootamundra,
- that sporting interests are not shared between the area, and
- that the Jugiong community has limited links with Boorowa or Young.

The Delegate concluded that “on balance ... the Boorowa, Harden and Young regions are characterised by a large number of shared communities of interest and strong geographic cohesion. A merger is likely to enhance these common interests ...”.

***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 described the history of each Council area included in the proposal, and considered Council and community submissions. The Delegate noted that while a number of submissions from Harden residents stressed how the merger could negatively impact distinct historical and traditional values of Harden, the examination also identified examples of shared historical and traditional values.

The Delegate concluded that *“Boorowa, Harden and Young regions share a number of existing historical and traditional values. These values are unlikely to be impacted through a merger”.*

***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 provided an overview of submissions and stated, of the 400 submissions received by the Delegate, 345 opposed the proposal, most of these coming from the Harden community and indicating support for an alternative merger between Cootamundra and Harden. The Delegate noted the second main reason for opposing the merger was a concern that Young would dominate a merged council.

The Delegate summarised the current attitudes as:

- the majority of residents’ submissions, from Harden Shire, including Jugiong village, expressed opposition to this proposed merger and a preference for a merger with Cootamundra Shire Council
- the majority of ratepayers’ submissions were from traditional and emerging industries of the region who expressed support of this proposed merger and, in some instances, explicit opposition to a merger of Harden and Cootamundra Shire Councils
- small and medium businesses in Harden and Boorowa who are more dependent on the revenue from sales to the Council or to its employees expressed opposition to any merger.

The Delegate noted Boorowa’s submission identified that while there is high degree of satisfaction with the services of the current council and a ‘degree of reluctance’ to change, there is community ‘acknowledgement that change is inevitable’. The Report described how Harden Council held a Public Meeting on 2 February 2016 which informed its position that the “overwhelming voice in our community is opposed to a Boorowa, Harden and Young merger”.

As stated in the Report, the position of Young was informed by public meetings in villages and community kiosks to discuss merger issues. At these meetings the community preference, validated by ballot, was in favour of a merger with Boorowa and Harden councils.



In conclusion the Delegate noted that:

*“Verbal and written submissions express a diverse range of attitudes. While the majority of submissions received oppose this merger and support an alternative merger, the residents and ratepayers of the areas concerned do not share a single, unified view on this proposal.*

*Should the merger proceed, efforts will be required by the new council to address community concerns and ensure the new council adopts an inclusive culture for the whole community”.*

***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 Councils’ submissions in relation to this factor, as well as resident and ratepayer submissions. The Report stated that a number of submissions raised concerns that the merger would result in a loss of representation for smaller towns and villages, that a decline in the ratio of elected representation could result in a decline in the quality of council services provided to villages and rural ratepayers, and that a decline in elected representation could result in a new council that would be too urban-focused and hence not responsive to the concerns of rural communities.

As noted by the Report, the ratio of residents to elected councillors in each of the Councils is different: Boorowa has 9 councillors with a resident representation ratio of 1:289; Harden has 7 councillors with a resident representation ratio of 1:536; and Young has 9 councillors with a resident representation ratio of 1:1,405. The Report notes a merged council with 11 councillors would have a resident representation ratio of 1:1,727.

The Delegate undertook an analysis of the existing ratio as compared with like councils. In conclusion, the Delegate recommended that *“11 elected representatives would provide the most desirable and appropriate relationship between ratepayers and elected representatives, should the Minister reach the decision to implement the merger”.*

***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 summarised each Council’s submission and the main themes from the 100 community submissions in relation to this factor.

The Report noted that the most common concern raised in submissions was that Young, as the largest centre in the region, would dominate the merged council with respect to elected representation, with a resulting focus on that area for delivery of services. The Report stated that other stakeholders identified that council services could improve.

The Delegate considered research in relation to NSW councils merged in 2004, and the impact on service delivery. The Report noted that currently each of the three Councils provides a range of local government services to small communities within the financial constraints of small revenue bases. The Delegate stated that as such, continuation or enhancement of these services is highly dependent on the Council’s long-term financial position and its advocacy capability to secure grant funding.

The Delegate concluded that *“the ability of councils to provide adequate and equitable services and facilities was likely to be enhanced by the merger as it will strengthen the financial and advocacy capacities of local government to provide additional services and upgrade infrastructure to ensure adequate and equitable services and facilities”.*

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

### 5.2.7 Employment impacts on staff

Section 263(3)(e2) of the Act requires the Delegate to have regard to:

*“the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned”.*

The Delegate considered the legislative protections for staff in the Act and Council submissions, stating that:

- Boorowa identified there were limited opportunities for staff career progression and occasional misalignments between levels of task complexity and remuneration with negative impacts on operational efficiency. The Delegate considered that a proposed merger would address these issues.
- Boorowa Council identified that the savings of one General Manager’s salary by the merged council could be used to create three new operational staff positions to undertake capital works. Harden identified that the implication of the Act’s protections is that ‘long term reductions in staff numbers have to come from Young’.

- Young Shire noted that given the rural centre employment protections applicable to Harden and Boorowa, over the longer-term attrition in Young-based staff numbers is likely, if transfers are not possible.

The Delegate concluded that:

*“... the impacts of the proposal on employment can be adequately managed. This conclusion was based on consideration of employment protections entrenched in legislation, the greater opportunities for individual staff members’ career progression in a larger council and some analysis of other recent mergers, which suggest that employment levels increase after the 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 Delegate noted submissions raised concerns about the impacts of the proposal, including that it could result in a decline in Council’s regional employment, and that the new council would not honour legislative rural centre employment protections. The Delegate considered Council submissions.

The Delegate concluded that *“the impacts of the proposal on rural communities can be adequately managed if the new merged council implements appropriate strategies”*, noting that strategies may be adopted by a merged council to enhance rural communities.

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

### **5.2.9 Wards**

Section 263(3)(e4) of the Act requires the Delegate to have regard to:

*“in the case of a proposal for the amalgamation of two or more areas, the desirability (or otherwise) of dividing the resulting area or areas into wards”.*

The Delegate noted all three Councils are currently undivided. The Council views were also noted, including: Boorowa Shire Council indicating that, at least initially, wards should be introduced based on the former council boundaries; Harden Shire stating that it did not have a formal position on the establishment of wards; and Young does not support the establishment of wards.

The Delegate noted that few submissions addressed the issue of wards. She considered the advantages and disadvantages of wards, concluding that the use of wards could avoid potential bias in the allocation of resources towards Young township, and ensure that smaller centres and rural communities would continue to have a strong representative voice.

***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 considered Council submissions, and noted that there were no submissions about representation of the views of ethnically and culturally diverse communities or about the representation of indigenous communities. The Report outlined that the local government areas are characterised by relatively low levels of ethnic diversity and Aboriginal and Torres Strait Islander populations.

The Report noted submissions discussed representation of villages and rural communities in a merged council, identifying villages and rural communities as having different representational needs.

The Delegate outlined a number of strategies which could be implemented including holding council meetings in the smaller towns, regularly holding council meetings in the smaller towns, establishing section 355 committees to represent the opinions of village and rural residents, comprehensive annual engagement as part of the Community Strategic Plan process, and the establishment of wards.

The Delegate concluded that *“opinions of diverse communities can be adequately represented in a merged council”*.

***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 the following other issues:

- *Transitional governance arrangements.* The Delegate agreed that transitional governance arrangements are critical. However, consistent with research presented to the Independent Local Government Review Panel, the examination recommended that the composition of transitional governance arrangements should facilitate a ‘fresh start’ for the newly merged community.
- *Name of merged council* - the examination supported Hilltops as the name of the future merged council.
- *Boundary Adjustment.* The Delegate stated that the potential variation of the border to exclude Jugiong should be further investigated.
- *Community harmony.* The Delegate agreed that community harmony is critical. If implemented, the new merged council should proactively and consistently engage each of

the communities and embed a 'fresh start' into its culture to ensure a highly inclusive service and representation the whole community.

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

The Commission notes that transitional governance arrangements and suggested boundary adjustments are matters for the Minister.