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**PROPOSED MERGER OF  
COOTAMUNDRA SHIRE, HARDEN SHIRE AND  
GUNDAGAI SHIRE COUNCILS**

**Comments by the NSW Local  
Government Boundaries Commission  
on the Report by the Delegate  
of the Acting Chief Executive Officer  
of the Office of the Local Government**



**MAY 2016**

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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 Cootamundra Shire, Harden Shire and Gundagai 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  
3 May 2016

## 1. Summary of Local Government Boundaries Commission comments

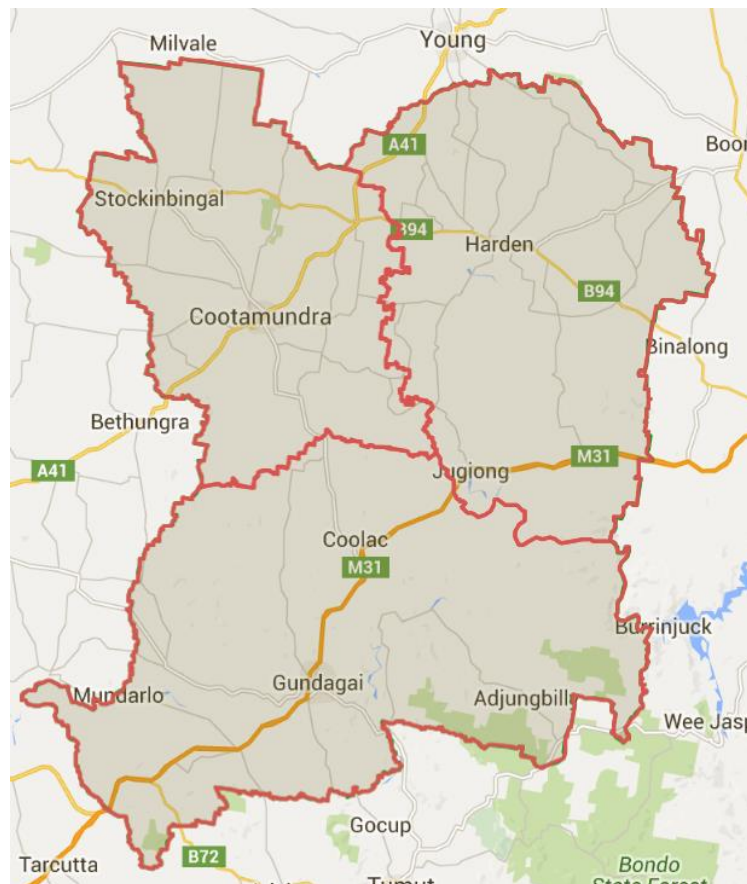
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Cootamundra Shire Council, Harden Shire Council and Gundagai Shire Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under 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 1 March 2016 the Minister for Local Government referred a proposal from Harden Shire Council to merge the local government areas of Cootamundra, Gundagai and Harden 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
Cootamundra Shire Council	7,350	6,600
Harden Shire Council	3,600	3,200
Gundagai Shire Council	3,700	3,450
New Council	14,650	13,250

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 merger proposal should proceed.

The Delegate also recommended:

- *"Given the financial challenges faced by councils merging under Council-led proposals are the same as, if not greater than, those merging under Ministerial proposals, as the Delegate charged with investigating this proposal, I strongly recommend that the Government consider extending a \$20 million grant to support this proposal in the event it does proceed".*
- *"Although as Delegate I do not recommend the establishment of wards, some consideration could be given to implementing Cootamundra and Harden Shires' proposal for a transitional process of electoral representation to ensure all three merging communities have the opportunity for equal input into the establishment of the new entity.*

## 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 151 written and verbal submissions from the public, community and other organisations and Councils.

The Delegate held three public inquiries on 5 and 6 April 2016 at the Harden Country Club, the Gundagai District Services Club, and the Lockhart Ex-Servicemen's Club.

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

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

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

***Overall, the Commission's view is that the Report shows the Delegate adequately considered all the factors with the exception of diverse communities.***

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

The Commission makes the following comments relating to each factor:

#### 5.2.1 Financial factors

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

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

The Delegate noted that according to modelling provided by the Office of Local Government, the proposed merger has the potential to provide a \$9 million benefit to a merged council over 20 years which could be used to support investment in critical infrastructure and services or to relieve pressure on rates. The Delegate further noted that the modelling showed an estimated \$13.5 million gross savings over 20 years.

The Report stated that under the proposal being considered, there was no automatic right to the Government grants available to Minister-initiated proposals.

The Report considered the 2013 NSW Treasury Corporation (TCorp) financial assessments of the three merger Councils and each merger Councils' 2014-15 financial results and financial ratios.

The issue of infrastructure backlog was considered and the Delegate concluded that it was difficult to assess what infrastructure backlog there may be if the merger proposal proceeded. The Report further noted that all three Councils had identified a need to replace their filter sewerage treatment works.

The Delegate stated that the NSW Government may offer \$20 million to merged councils to assist with costs and address infrastructure backlogs.

The Delegate also considered the impact of the merger on residents and ratepayers by comparing average rates between the three merger Councils and estimated average rates for the proposed new Council as well as current and planned Special Rate Variations (SRVs).

The Delegate observed that the ratings systems between the three Councils were substantially different; he also noted that all three Council areas *"have a significant population of low income ratepayers for whom the additional costs of balancing the books of a merged council entity may prove unacceptably or unsustainably onerous"*.

The Delegate concluded a new entity could work through the issues raised in submissions, to ensure equity and fairness prevailed in determining rate levies, priorities for a new joint infrastructure backlog fund and the other demands that a new entity would face.

The Delegate stated that, in the medium to long term, there would be financial benefits available to a combined council which would be advantageous when combined against remaining as single entities.

***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 noted that the three existing councils are general purpose rural Councils, with a major emphasis on roadworks and service provision within towns to cater for the needs of both town and rural residents and their local farming communities. He stated that all three are heavily dependent on agriculture for their long term sustainability and there were potential synergies for advocacy as all Councils see local employment and declining populations as key issues, along with the challenges of managing an ageing population and the decreasing significance accorded rural communities in State and Federal government policy and decision-making.

The Delegate considered the demographics of the area and identified a number of similarities in the demographic and economic profiles of Cootamundra, Gundagai and Harden.

The Delegate compared the three LGAs on the basis of median age, average household income, unemployment rates, employment growth rates, education levels and SEIFA scores. The Report also contained a snapshot of the local business profile of each council area.

The Delegate also commented on the strong community spirit within each LGA as evidenced by high levels of volunteerism. He observed that all three of the existing councils support strong progress associations or committees.

The Delegate also noted however that another key message from the submissions suggested that at present, while there is a strong degree of co-operation, shared interests and business crossover between Cootamundra and Harden LGAs, the same cannot be said for Gundagai Shire.

The Delegate considered the level of collaboration between the three Councils through various mechanisms. The Delegate compared and considered other factors relating to communities of interest including transport and connectivity between the three LGAs, access and use of health services, local education facilities, sporting and community events shared between the three areas.

The Delegate concluded that:

*“Given the synergies between the existing Council areas, and the opportunities for advocacy listed above, a merger could result in some significant wins for the region and help overcome the sense of neglect from Federal and State governments as mentioned in the Cootamundra Shire submission”.*

***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 discussed the shared history of Indigenous and European people of the three Council areas.

The Delegate considered submissions from residents of the three LGAs that raised issues around this factor, noting a recurring theme in submissions from Gundagai that in merging the Councils the identity and historic traditions of Gundagai would be lost, along with the town’s brand potential as an economic driver for tourism and jobs.

The Delegate stated that:

*“...in the event of a merged council, there is no proposal to change the name of the individual towns. In this case, there will still be ample opportunity to promote the separate brands of Gundagai, Cootamundra and Harden-Murrumburrah, especially in seeking to attract tourists and other associated development.”*

The Delegate concluded that;

*“Cootamundra, Gundagai and Harden all have long and proud traditions as pioneering Australian country towns and their communities are rightly proud of their individual history. However, their origins, heritage and rural lifestyles are not vastly different. The fact that all councils have a deep appreciation for history and heritage values could be a positive attribute in the event of a merger as all communities recognise the importance of enshrining and protecting their historical legacies.”*

**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 noted that 98 written submissions were received expressing a range of views. He started that 19 (or 19.4%) were in support of, and 67 (68.4%) were against, the proposed merger.

The Delegate noted that of those who supported the merger, more than half were from Harden Shire, while a significant number of those who did not express a preference either way were seeking a boundary readjustment to allow Jugiong to merge with Cootamundra Shire (or Gundagai) regardless of whether the merger went ahead.

The Delegate noted that each Council, in its submission, referred to local surveys and polling of residents undertaken as part of its Fit for the Future submissions including on alternative merger proposals.

The Delegate noted that since Harden Council put forward the proposal for the three-way merger, it has now revised its position and is no longer seeking the full merger.

The Delegate stated his reporting related only to this merger proposal and that comments or opinions expressed in relation to alternative mergers were not deemed to be relevant to the process.

In regard to the overall submissions, and public inquiry consultations, the Delegate observed that most residents from Gundagai were against the merger proposal, and a few of those from Cootamundra and Harden expressed reservations about the merger’s potential success given Gundagai Shire’s position. The Report noted the number of residents who were actively engaged with the consultation process represented only a small percentage of the overall population. The Delegate concluded that:

*“Whilst it cannot be said that by not making a submission the larger sector of the population is in favour of the merger, the fact that given ample opportunity to make a submission, and submissions were not made one way or the other, the majority of the population did not have a strong attitude one way or the other concerning the merger 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”.*

Using the number of nine councillors in a new entity, the Report outlined the changed ratios of residents to elected councillors for each existing LGA. The Delegate noted that a ratio of 1 councillor to 1,695 residents and ratepayers while higher than existing ratios, was likely to be comparable to those currently experienced in other regional NSW councils.

The Delegate examined the 40 submissions that referred to this factor. He noted that a majority of these were from Gundagai residents who raised concerns that the ratio of population to councillors would increase and they would lose the close personal relationship they enjoyed with their current councillors.

The Delegate concluded if the merger was to proceed, the Cootamundra, Harden and Gundagai communities would have the opportunity to shape the structure of the new merged entity, including the appropriate number of elected councillors. He further concluded that while decisions around the appointment of the Mayor would also be open to community consultation, it may be appropriate in the event of a new merged entity that the Mayor be elected by the Councillors to serve a minimum two year term.

***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 compared the services provided by the three Councils and noted that they were typical of those carried out by rural/regional councils with small townships and shared many similarities. He concluded that this similarity of service delivery and focus should make it relatively easy for a new entity to develop standardised systems and processes across the region.

The Report noted however, that there was a significant difference in the approach to water delivery. The Delegate suggested that, in the event of a merger, consideration be given to bringing Gundagai into Goldenfields County Council to benefit from economies of scale.

The Delegate observed that a number of submissions from Gundagai argued that the proposed new LGA was too big to be serviced efficiently and that the distances staff would be required to travel would increase costs through lost productivity. He stated that it was not uncommon for regional councils covering large areas to run several offices and depots in different towns, and it would be reasonable that the new entity would be able to utilise the existing facilities. He also noted that Cootamundra Shire Council's submission included preliminary suggestions for managing the merger of services and ensuring that the potential for disruptions to delivery could be minimised.

The Delegate concluded that a new council would be able to provide adequate, equitable and appropriate services across the new council area and population. He also stated that, given the distances involved, it would make sense for the new entity to maintain offices and depots in each of the three existing shires at least in the short to medium term to minimise disruption to service delivery and minimise the travelling to a neighbouring town to access council 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)(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 merger proposal included \$12 million in gross savings from staffing changes over 20 years. The Delegate considered however, that the distance and time taken to travel between the three town centres would mean that at least two, possibly three, separate and almost fully staffed offices would need to be maintained.

The Delegate stated that there was no reason to believe that fears around job losses and the subsequent negative impact on the town's economy and viability, as expressed in some submissions, would eventuate in the event that the merger proposal went ahead. He also noted that there are protections for non-senior staff under the Act. He therefore concluded that the merger proposal would not have any adverse impact on the employment of non-senior council staff.

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

### **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 that there were three strong submissions in opposition to the proposed merger from specialist agricultural organisations representing the "Hilltops" district of Boorowa, Harden and Young. It was noted the submissions state that the loss of Harden to a merger with Cootamundra

Shire and Gundagai Shire would have a significant impact on the recently developed tourism and branding programs undertaken to promote the area.

The Delegate considered that:

*“There may be benefits in having a larger council as a participant in the program and the potential to extend membership of the agricultural societies, particularly the Vineyards, to those which fall outside the existing definition of the Hilltops”.*

He concluded that:

*“Given the similarities between the three councils, and the synergies which can be achieved in managing the rural and farmland issues as part of their overall Community Strategic Plans and IPR requirements of the Act, it would appear the potential for negative impacts in the event of a merger is not significant”.*

***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 reported that while several submissions raised concerns about how to achieve fair and equitable electoral representation, very few addressed the subject of wards directly.

The Report considered the advantages and disadvantages of a ward system in a merged entity.

The Delegate concluded:

*“..given the strongly agreed preference against wards of all three councils and the difficulty in determining equitable representation on a geographic basis, it would seem unnecessary and potentially divisive to require them. Instead, Cootamundra Shire’s proposal for a transitional process towards universal representation could address any issues around equity of electoral representation without defining set geographic boundaries”.*

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

### **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 that the demographics of Gundagai, Harden and Cootamundra Shires reflect a strongly homogenous culture, with relatively small communities of Indigenous residents and residents reporting to be from non-English speaking backgrounds.

He noted that none of the submissions made reference to these groups – the only reference to diverse communities was in the context of the perceived lack of community of interest between Cootamundra, Harden and Gundagai Shires.

The Delegate concluded that the proposed merger between Cootamundra, Harden and Gundagai Shires is unlikely to have any impact on the small proportion of residents who identify as culturally or linguistically diverse.

***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 considered the other following issues under this factor:

- *Proposal to merge Cootamundra Shire and Harden Shire:* The Delegate stated that he had heard that Cootamundra Shire and Harden Shire Councils developed a merger proposal and submitted it to the Government for assessment under the Fit for the Future process, which was not put forward for consideration by the Minister.
- *Boundary adjustment – Jugiong:* The Delegate reported that a several submissions from Jugiong residents asked that, in the event the merger does not proceed, a boundary adjustment be made to include Jugiong with either Cootamundra Shire or Gundagai Shire. It was noted that Harden Shire had strenuously objected to this suggestion. The Delegate stated that, while a boundary adjustment of that scale was outside the scope of the proposal, it may be worth considering in the event that the merger does not proceed.

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