EXAMINATION OF A PROPOSAL TO ALTER THE BOUNDARIES OF THE COOTAMUNDRA GUNDAGAI LOCAL GOVERNMENT AREA AND CREATE A NEW LOCAL GOVERNMENT AREA

Report by the Local Government Boundaries Commission to the Minister for Local Government

lgbc

FEBRUARY 2021

Local Government Boundaries Commission
Locked Bag 3015
Nowra NSW 2541

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

Dear Minister

Proposal to Alter the Boundaries of the Cootamundra Gundagai Local Government Area and Create a New Local Government Area

On behalf of the Local Government Boundaries Commission, I have pleasure in providing our report on the above proposal under section 263(1) of the *Local Government Act 1993*.

Yours sincerely

Bob Sendt
RJ Sendt
Chairperson
22 February 2021

Contents

Glossary of terms used

Term	Meaning
"Boundaries Commission" or "Commission"	the Local Government Boundaries Commission established under section 260 of the Act
"Act"	the New South Wales *Local Government Act 1993*
"Minister"	the NSW Minister for Local Government
"area"	a local government area constituted under the Act
"demerger"	the reversal of a previous amalgamation of two or more local government areas (see also note below)
"merger"	the May 2016 amalgamation of the then Cootamundra and Gundagai local government areas
"Proposal" or "demerger Proposal"	the elector-initiated proposal under section 215 of the Act that, in effect, seeks to reverse the 2016 merger
"factor(s)"	the matter(s) that the Commission must, under section 263(3) of the Act, have regard to in examining a proposal
"economies of scale"	the concept in economics that larger organisations can produce goods or services at a lower unit cost due to their ability to spread fixed costs over a greater number of units
"diseconomies of scale"	the concept that economies of scale cease to operate after a certain point as additional costs (such as co-ordination) arise
"Delegate"	the person appointed by the Chief Executive of the Office of Local Government to examine the Government's proposal that ultimately led to the May 2016 merger.
"OLG"	the Office of Local Government
"CGRC"	according to the context, either the Council of the Cootamundra Gundagai local government area, or the area itself.
"Proponent" or "GCIE"	Gundagai Council in Exile Inc, the co-ordinator of the elector-initiated Proposal
TfNSW	Transport for NSW (having taken over the role of the former Roads and Maritime Services)
"SRV"	Special Rate Variation
"LGA"	local government area
"IPART"	Independent Pricing and Regulatory Tribunal

Note: The term "demerger" has been widely used to describe the outcome sought by the proponents of the current proposal. While (for ease of reference) the Boundaries Commission uses that term in this report, it is important to understand that the *Local Government Act 1993* makes no reference to the "demerger" of an LGA and makes no specific provision for such a process. If the proposal were to be implemented (following a recommendation by the Minister for Local Government to the Governor), the mechanism by which this would occur is to (i) create a new LGA out of the current Cootamundra Gundagai LGA, with boundaries consistent with the boundaries of the former Gundagai LGA and (ii) reduce the boundaries of current Cootamundra Gundagai LGA accordingly (ie consistent with the boundaries of the former Cootamundra LGA).

1. Background to the Proposal and the Commission's Examination

The current Cootamundra Gundagai local government area was created by Proclamation published in the NSW Government Gazette on 12 May 2016 from the amalgamation of the former Gundagai and Cootamundra local government areas[1]. The amalgamation followed a proposal by the then Minister for Local Government which was part of a suite of proposals involving amalgamations of local government areas across metropolitan, regional and rural New South Wales.

From the time the Cootamundra Gundagai amalgamation proposal was announced and during the course of the proposal's examination by the Delegate, substantial opposition was expressed by many in the existing areas.

The opposition to the amalgamation continued after it was proclaimed. Ultimately this opposition led, on 16 October 2018, to the submission of the current proposal (the Proposal) to the Minister under section 215(1) of the Act. This section allows for a proposal to be made by the Minister, by a council affected by the proposal or by an appropriate minimum number of electors. In the case of an elector-initiated proposal, section 215(2) specifies the minimum number as being 250 of the enrolled electors for the existing area or 10 per cent of them, whichever is the greater.

A copy of the Gundagai Council in Exile Inc covering letter to the Proposal is included as Attachment 1. The Proposal did not include a business case or any financial information that could be referenced as part of the Commission's examination of the proposal. However, it did append two reports prepared by Professor Drew of the University of Technology, Sydney in connection with the 2016 merger proposal.[2] Cootamundra Gundagai Regional Council also commissioned a report by Professor Drew[3] and, as well, engaged him to provide advice to it about its financial sustainability. At the Gundagai sessions the Council tabled the report prepared by Professor Drew and used by the Council to assist in formulating its long-term financial strategy.[4]

It is important to understand that the Proposal does not involve a 'demerger' in the sense of two new LGAs being formed out of the current Cootamundra Gundagai Regional area. Rather, the Proposal would establish a new local government area with boundaries corresponding to those of the former Gundagai Shire that existed prior to 12 May 2016. The existing Cootamundra Gundagai Regional area would continue to exist but with reduced boundaries corresponding to the former Cootamundra Shire boundaries prior to 12 May 2016.

It is also important to understand that, in accordance with the Act, the Commission's role is to examine the merits of the Proposal. Its role is not to provide - as many of those making submissions to the

[1] When proclaimed, the new area was named Gundagai. This was changed to Cootamundra Gundagai Regional by Proclamation on 7 September 2016.

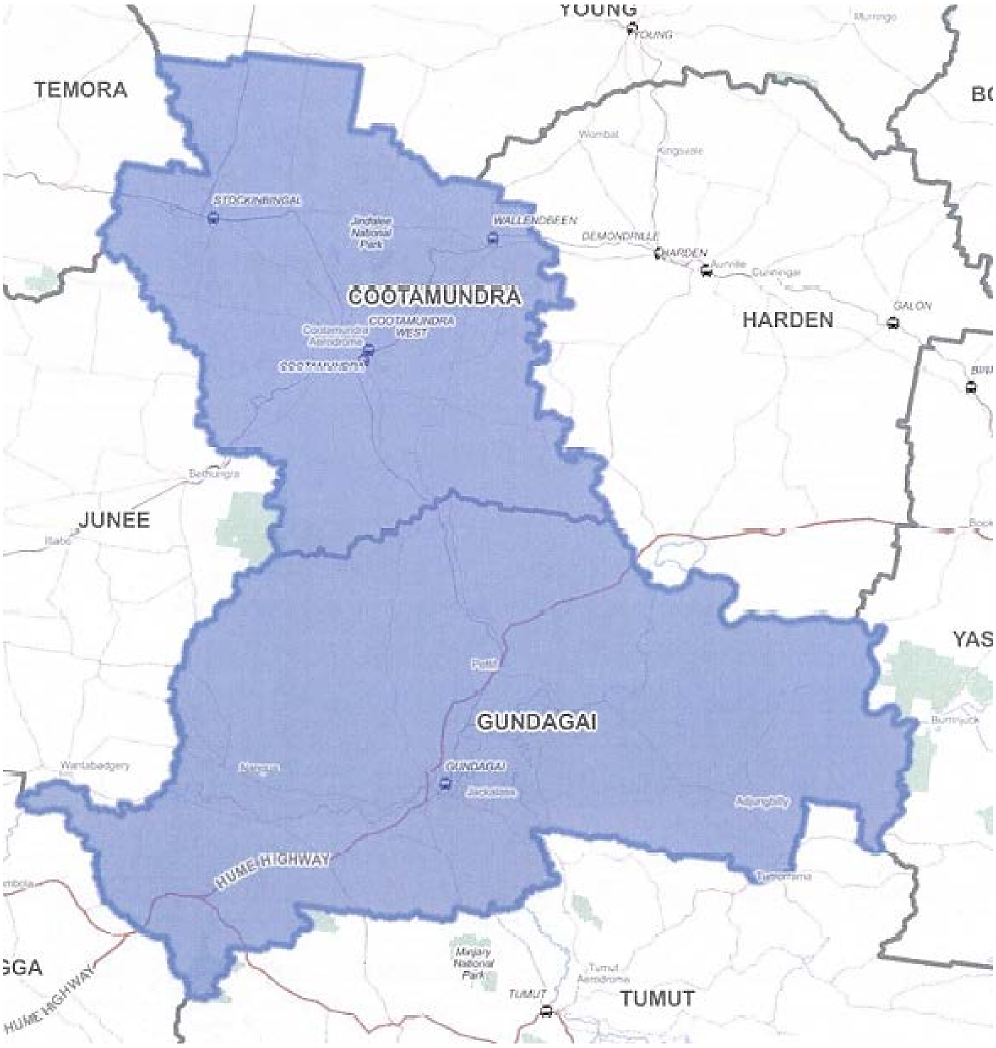
[2] Drew #1 *Response to KPMG Assumptions*, Doc #2 *Report on the NSW Government Merger Proposal: Cootamundra Shire Council and Gundagai Shire Council*.

[3] Drew #3 *Report to the Boundaries Commission*.

[4] Drew #4 *Cootamundra-Gundagai Financial Sustainability Review*.

Commission, including in the report by Professor Drew have argued - an '*opportunity to right past injustices*.'[5]

The following map shows the boundaries of the former shires before their 2016 amalgamation. Together they form the current Cootamundra Gundagai Regional Council.



Area	**Area (sq km)**	**Population (2016) (a)**
Former Gundagai Shire	2,457	3,597
Former Cootamundra Shire	1,524	7,570
Existing Cootamundra Gundagai Regional Council	3,981	11,141

(a) Figures for the former Gundagai and Cootamundra Shires are estimates only by the ABS as Census figures were not aggregated by the former boundaries.

5 Drew #3, page 1.

Before deciding whether to refer the Proposal to the Boundaries Commission, on 9 December 2019 the Minister gave public notice of the Proposal as required by section 216 of the Act. The public notice invited submissions as to whether she should refer the proposal to the Commission. In response the Minister received approximately 1,048 representations, the majority of which addressed the merits of the proposal.

On 25 February 2020, the Minister referred the proposal to the Boundaries Commission. A copy of the Minister's letter is included as Attachment 2. As indicated in that letter, copies of the elector and Council representations that had been made to the Minister were subsequently supplied to the Commission. These representations have been considered as part of the Commission's examination of the Proposal.

2. Summary and Recommendation

The Commission has had regard to all submissions put to it (including those forwarded by the Minister as discussed above) and all oral presentations made at the various public inquiry sessions including later review of the transcripts of those sessions. It has commissioned its own research and has had regard to all the factors in the Act that apply to this Proposal.

In undertaking its examination of the Proposal, the Commission has been very aware that it took place in an atmosphere that was heavily reflective of the opposition to the then Minister's 2016 merger proposal and the continuing antagonism to its ultimate implementation. Indeed a very substantial proportion of the arguments presented to the Commission dealt largely or exclusively with why the 2016 proposal should not have been implemented, rather than why the current Proposal should be.

The Commission was conscious that its role was not to review the 2016 merger. It specifically made this clear at the beginning of every public inquiry session held in Gundagai and Cootamundra. However the view of many residents continued to be that implementation of this current Proposal was the appropriate 'solution' to whatever objections they had to the 2016 merger.

Regardless of the merits of the 2016 proposal and the ultimate decision, the proposal reflected a lawful option available to the Minister under the Act. The legal challenge to the proclamation was unsuccessful and the merger was implemented.

It is very clear - from the submissions made to the Minister and to the Commission, from the oral presentations at the Commission's public inquiry sessions and from the telephone survey undertaken on behalf of the Commission – that a substantial majority of residents in the former Gundagai Shire area support the proposal. The telephone survey undertaken for the Commission showing 82% of these residents either "agreeing" (10%) or "strongly agreeing" (72%) with the Proposal is broadly consistent with (albeit lower than) the level of support evidenced in the written and oral views expressed to the Commission. The numbers attending the Commission's public inquiry sessions in Gundagai (200 separate individuals attending across four sessions) and lodging submissions (138 separate individuals, not including former residents) also demonstrated the greater engagement of these residents with the Proposal.

Residents in the former Cootamundra Shire area are less supportive of – and less engaged with - the Proposal. Far fewer submissions were received (31 separate individuals) and far fewer attended the Commission's public inquiry sessions in Cootamundra (53 separate individuals across three sessions). Nevertheless the telephone survey showed a majority (70%) of residents in the former Cootamundra Shire area agreeing with the proposal, 10% not agreeing but with 20% being neutral or not sure.

More specifically, there was a very strong view advanced in many written submissions and oral presentations that there is no shared 'community of interest' between Cootamundra and Gundagai. This view was advanced both as a criticism of the 2016 merger and as an argument for the demerger now being proposed.

The Commission accepts that contact between residents of the two main towns and the broader areas consistent with the former two LGAs is limited. However the Commission believes that communities of interest tend to be very location-specific, and the residents in smaller towns and villages (such as

Adjungbilly, formerly part of the then Gundagai Shire) may have their own community of interest and feel little connection with Gundagai or Cootamundra.

It is almost inevitable that most LGAs will be made up of various individual communities of interest, some perhaps overlapping, others more discrete. In itself the existence of multiple communities of interest does not preclude them being part of the one LGA. The challenge is more for councils to be able to recognise the different views and needs these communities have through sound planning, community consultation and service delivery strategies.

There seems to be a growing awareness amongst CGRC residents and ratepayers that the Council has significant financial issues. This awareness has been enhanced by the various SRV proposals that the Council has put out for community consultation.

What may not be well understood is the extent and urgency of the financial problems and the need for budget repair actions beyond the SRV.

Many submissions and presentations laid the blame purely on the 2016 merger, with cost increases arising from 'diseconomies of scale' being seen as the outcome of the merger. However the Commission is not convinced that diseconomies of scale exist in councils the size of CGRC, nor play any significant role in CGRC's financial problems.

There is less recognition that the growth in staff numbers and costs has been a major contributor to the budget problems. There is probably even less recognition that the SRV (if approved) and the cost saving measures already planned will only maintain a degree of cash solvency and not achieve financial sustainability. It is instructive to note that CGRC's consultant, Professor Drew, in his financial sustainability review report to the Council[6], recognised that not all the problems facing the Council could '*be laid at the feet of amalgamation*'. As he told the Council: '*Each one of us bears some responsibility for the current crisis – so there is nothing to gain by finger pointing'.*

Many residents and ratepayers feel that a demerger will result in a better outcome financially for the demerged areas. Based on the Deloitte analysis, the Commission accepts that this may be the case for a 'demerged' Cootamundra Council, but only relative to the current (problematic) outlook for a continuing CGRC. For a demerged Gundagai Council, the financial outlook appears even more challenging.

The current CGRC's future viability depends heavily on the success of its application to IPART for a 53.5% SRV. What is not known to the Commission is how (or whether) an approved SRV would apply to the two councils in the event of a decision to implement this Proposal. Even with the SRV, neither a demerged CGRC nor a new Gundagai Council will be able to avoid the urgent need to implement cost-saving measures. But the demerger may delay preventing the taking of cost-saving measures planned or already in train by CGRC.

There would be immediate and on-going costs incurred by a new and diminished (and presumably renamed) CGRC. A new Gundagai council, if the Proposal is implemented, would start with an uncertain cost base, new and additional establishment costs and ongoing expenses directly

[6] Drew, *Cootamundra-Gundagai Financial Sustainability Review* (undated), tabled at Session 1, Gundagai (Drew #4).

attributable to the demerger. The cost impact is likely to be more pronounced in the new Gundagai council as it will have a relatively smaller scale of operation and higher separation costs. Both councils will have recurring costs due to necessary duplication of some roles in the new structures including councillors and executive leadership teams.

At any level of government, financial viability is a key driver of an entity's ability to provide the range and quality of services that its clients or customers can reasonably expect. If the outcome of this Proposal is meant to be the provision of efficient and effective local government in the existing and proposed new areas, then for the Proposal to warrant recommendation, the outcome should not result in either or both of the new councils becoming mendicant on the State Government from inception.

The best outcome should be that both councils will be financially sustainable. But, it seems, not even the Proponent or its advisor anticipates that this will be the outcome. The additional costs and expenditure associated with the implementation of this Proposal will accordingly have to be borne by the community of the existing area.

It is legitimate and proper for the Commission to have regard to the views of those expressing, often strongly, the view that they want 'their' council 'back.' However that is but one of the factors the Act requires the Commission to take into account.

The most urgent task facing the CGRC community is the task of fiscal repair. A demerger is not the solution to this problem. Even if the SRV is approved, there will still be a substantial and urgent task to implement it and to undertake other budget repair measures. In the Commission's view, CGRC is best placed to do that.

Recommendation: The Commission recommends that the Proposal not be implemented.

While this is the Commission's recommendation, it does not represent the unanimous view of the four Commissioners. The recommendation was carried on the casting vote of the Chairperson. A dissenting report under clause 12 of Schedule 2 of the Act is being submitted to the Minister by Commissioners Lesley Furneaux-Cook and Rick Firman.

3. Role of the Local Government Boundaries Commission

The Boundaries Commission is an independent statutory authority constituted under section 260 of the Act.

The Commission consists of four Commissioners appointed by the NSW Governor for a fixed five-year term. The Chair is nominated by the Minister for Local Government, one Commissioner is nominated by the Chief Executive of the Office of Local Government, and two Commissioners are appointed from a panel of councillors nominated by Local Government NSW, a non-government organisation that represents and supports its member local government councils.

The Commission has several functions, set out in section 263 of the Act.

Its principal function is to examine and report 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. That is the function it has undertaken in respect of the current proposal.

The Commission also has a function if the Minister elects to refer any matter to the Chief Executive of the Office of Local Government, rather than to the Boundaries Commission, for examination and report. This was the process adopted for the 2016 amalgamation proposals by the then Minister for Local Government.

In that case, the Chief Executive (or a person appointed by the Chief Executive as a delegate), has substantially the same functions and responsibilities as if the matter had been referred to the Boundaries Commission. The Chief Executive (or delegate) must then furnish their report to the Commission for review and comment. However the Commission's review relates only to the report itself; it does not extend to re-examining the merits of the proposal. After completing its review of the report, the Commission sends its comments to the Minister.

4. The Examination Process

The Act requires the Commission to have regard to the views of residents and ratepayers in examining a proposal and, in forwarding the Proposal to the Commission, the Minister had directed the Commission under section 263(2)(b) to hold an inquiry. Such an inquiry involves holding public meetings to allow residents and ratepayers to present their views.

At its meeting on 6 March 2020, the Commission resolved to call for submissions, with a closing date of 24 April. However, because of the emerging coronavirus pandemic and the NSW Government's health orders restricting the number of people who could attend gatherings, the Commission resolved that was unable at that stage to set dates for public meetings. The Commission made this decision as it wanted to give as many residents and ratepayers as possible the opportunity to attend these meetings.

On 24 March, the Commission issued a media release (i) advising that it had received the Proposal, (ii) calling for submissions and (iii) indicating that details of the venues, dates and times for the public inquiry meetings would be advertised once determined. The Commission also arranged for a public notice to be made available on its website and published in the following newspapers –

- Cootamundra Herald
- Gundagai Independent
- Sydney Morning Herald
- Daily Telegraph.

Depending on the date of publication of each newspaper, this notice appeared between 24 March and 26 March. A copy of the notice is included as Attachment 3.

Shortly thereafter, with the rapidly growing increase in COVID-19 infections, the Commission decided that there was little likelihood that public meetings could be held in the immediate future. Accordingly the Commission issued a further media release on 1 April to that effect, while also advising that the closing date for submissions would be extended until a date to be further advised.

On 16 July 2020, the Commission issued a media release advising that at least 40 days' notice would be given of the proposed dates for public hearings and the submission closing date. It also advised that the Commission had engaged Deloitte Touche Tohmatsu to assist the Commission in its understanding of the financial impact of the Proposal. Details of the issues that Deloitte was engaged to advise on were also released.

On 30 September, the Commission issued a media release and public notice advising of the venues and dates for the public meetings in Cootamundra and Gundagai. The media release and public notice stated that due to COVID-19 restrictions, the number of attendees at each venue would be limited and prior registration by those residents and ratepayers wanting to attend would be required, with priority to be given to those seeking to address the Commission. The media release and public notice also advised of the Commission's decision to webcast the proceedings for those unable to attend in person. A copy of this notice is included as Attachment 4. The Commission also directly advised representatives of Gundagai Council in Exile Inc and Cootamundra Gundagai Regional Council of the arrangements.

On 13 November 2020 the Commission released key findings from the Deloitte report ahead of the public inquiry sessions.[7] At that time the Commission also announced that the closing date for submissions would be 5 pm, 4 December 2020.

On 25 and 26 November 2020, in accordance with the 30 September 2020 public notice and the Government's Public Health Orders, public meetings were held at the following times and venues, with attendance numbers as shown –

Cootamundra Ex-Services Club, Parker Street Cootamundra				
Date	**Session Time**	**No. of Attendees (a)**		
		Speakers	**Observers(b)**	**Total**
25 November 2020	11:00am – 1:00pm	7	12	19
" " "	1:45pm – 3:30pm	9	12	21
" " "	4pm – 5:30pm	4	9	13
TOTAL		**20**	**33**	**53**

Gundagai District Services Club. Sheridan Street Gundagai				
Date	**Session Time**	**No. of Attendees (a)**		
		Speakers	**Observers(b)**	**Total**
26 November 2020	10:00am – 12:00pm	18	40	58
" " "	1:00pm – 2:30pm	14	38	52
" " "	3:00pm – 4:30pm	11	35	46
" " "	5:00pm – 6:30pm	13	41	54
TOTAL		**56**	**154**	**210**

(a) A small number of individuals attended more than one session.

(b) Excluding non-speaking attendees from the Cootamundra Gundagai Regional Council and Gundagai Council-in-Exile Inc.

The numbers of submissions received by the Commission were as follows -

[7] LGBC: *Cootamundra Gundagai Demerger Proposal - Key Findings from the Deloitte Financial Analysis*, 13 November 2020

Submissions to Boundaries Commission		
By Residence (Previous LGA)	**Total Submissions Received**	**Separate individuals (a)**
Gundagai	141	138
Cootamundra	32	31
Non-Resident/former resident/unknown	3	3
Total	**176**	**172**

(a) Some individuals made more than one submission to the Boundaries Commission.

Submissions forwarded by the Minister		
By Residence (Previous LGA)	**Total Submissions Received**	**Separate individuals (a)**
Gundagai	998	998
Cootamundra	42	42
Non-Resident/former resident/unknown	8	8
Total	**1048**	**1048**

The Commission was cognisant of ensuring that submissions made by residents and ratepayers were treated confidentially and were de-identified in this Report. The Commission also ensured that all responses to the telephone survey were treated confidentially and anonymously.

In examining the Proposal – from the time it was referred by the Minister to the completion of this Report - the Commission met physically or virtually on 17 occasions.

The examination of this Proposal by the Boundaries Commission was undertaken by the following Commissioners - Bob Sendt (Chairperson), Rick Firman, Lesley Furneaux-Cook and Grant Gleeson.

In that examination and the editing of this Report, the Commission wishes to acknowledge the contribution made by its Executive Officer, Ms Alice Beasley, assisted by a small group of OLG staff temporarily seconded to the Commission. These officers worked under difficult circumstances due to the COVID-19 pandemic to organise and manage the public inquiries in Gundagai and Cootamundra, without which we would not have been able to hear from the local communities.

5. The Commission's Approach in Considering the Proposal

Under section 263(3) of the Act, the Commission is required to have regard to a number of factors when examining a proposal referred to it by the Minister. An extract of the relevant provisions of the Act is included as Attachment 5.

The Commission undertook this responsibility *inter alia* by –

- considering the views put forward in each written submission made by residents and ratepayers (and others) – both those submitted directly to the Commission and those that had been previously submitted to the Minister;
- taking account of tabulations of those submissions according to whether the Proposal was supported or not, and which factor(s) were commented on;
- taking note of the oral presentations made at the public meetings by the proponent, the Cootamundra Gundagai Council, residents and ratepayers, including where appropriate later reviewing the transcripts and/or audio-visual recordings;
- engaging an external party (Deloitte Touche Tohmatsu) to assist the Commission in its understanding of the financial impact of the Proposal;
- commissioning a research company (Micromex Research and Consulting) to conduct a telephone poll of a sample of residents to ascertain the views of the wider Cootamundra Gundagai community (ie beyond those residents who had made oral or written submissions);
- noting comments made by the Delegate in his report on the 2016 merger proposal; and
- taking account of relevant research available, including on the issue of economies of scale in local government.

It should be noted that the Commission's examination of the Proposal is not a review of the Government's May 2016 decision to merge the then Cootamundra and Gundagai Shires. That is not the purpose of this examination. It is important to understand this as very many submissions and presentations to the Commission were heavily focussed on why they believed the 2016 decision was wrong, and provided little in the way of comment on the merits of the Proposal.

Even if the 2016 decision was wrong (and the Commission makes no judgement to that effect), that does not mean that the "demerger" being sought is the appropriate solution.

Circumstances have changed in the (almost) five years since the merger. Land valuations have changed. Rates were harmonised from 2020-21. New land valuations by the Valuer-General also applied from that year, with changes not necessarily uniform across the Shire. Substantial infrastructure spending has occurred with consequent maintenance costs and depreciation charges to be met. The Council's organisational structures, staff numbers and pay rates have changed. Some internal systems (such as finance) have been replaced or impacted to varying extents. Like a merger, a demerger will involve significant transactional costs.

Accordingly, and consistent with its understanding of the intent of the Act, the Commission adopted the position that any recommendation arising from its examination of the Proposal should be based on what is the better outcome for the residents and ratepayers of the existing local government area. That is, would residents and ratepayers as a whole be "better off" (and acknowledging that this cannot be a purely objective judgement) remaining under the one existing area, or under two "demerged" areas? Clearly, neither option can necessarily guarantee that every individual will be better off – but this is inevitable.

6. The Commission's Observations Relating to each Factor

6.1 Financial Advantages or Disadvantages

Section 263(3)(a) of Act requires the Commission 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".*

6.1.1 Submissions and presentations made

The following table shows the number of written submissions that addressed this factor -

Written submissions addressing this factor			
Forwarded by Minister	**Submitted directly to Commission**	**Total (a)**	**As a percentage of total submissions**
817	116	993	81%

(a) Note that many individuals made submissions both to the Minister and to the Commission, often in largely similar terms.

This was one of the most consistently addressed factors in the written submissions received and presentations made at the public meetings.

The arguments that were made addressed both why the original merger was wrong from a financial perspective, and the current and future position of the Council -

> *As we know, Gundagai was a financially stable, viable council wanting to stand alone, and Cootamundra Council, with major financial issues, wanting to merge with Harden. We have been forced to take on their problems.*[8]

> *As outlined by Dr Joseph Drew at a public meeting in Gundagai in March this year, the financial analysis has proven to be flawed. This was pointed out prior to the forced merger and has been borne out by subsequent events. As a result, claimed financial benefits were illusionary.*[9]

> *Recent media coverage has shown substantial financial issues with the merged councils. CGRC recognised this some time back and took the step to engage Dr Joseph Drew, to do a complete financial and operational review to establish our true financial position and to plan a way forward.*
>
> *His in depth report shows that the Governments projected efficiencies and savings through the merger have failed to materialise. The report shows that two previously sound councils have now been compromised as far as the ability to deliver in the future.*[10]

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8 Speaker at Session 2, Gundagai.
9 Submission #015 to the Commission.
10 Submission #103 to the Commission.

> *It appears that the longer the two Councils are forcefully joined together the more debt we are in and that it won't be long before another Administrator is put in place.*[11]
>
> *I would also like to express my concerns of the gross waste of funds that has occurred since the original amalgamation with the increase of unessessary [sic] middle management staff and the wastage caused by staff having to travel between Cootamundra and Gundagai on a daily basis.*[12]
>
> *This merger is proving to be a financial disaster. It is estimated that in 10 years time the CGRC will be in debt to the tune of $40 million.*[13]
>
> *This merger has proved to be very unpopular with regard to the satisfaction of the citizens, and the forecasts of our financial future will see that council will struggle to meet the needs of our citizens.*[14]

A more detailed argument in support of the Proposal was submitted by Cootamundra Gundagai Regional Council which engaged Associate Professor Joseph Drew of the University of Technology Sydney to prepare a report on the demerger.[15]

The Commission noted that, with a few exceptions, a large proportion of the arguments presented by residents and ratepayers related to the sound financial position of the former Gundagai Council prior to the merger rather than to the merits (or otherwise) of the Proposal at hand.

6.1.2 Discussion

CGRC is not a 'large' area in comparison with many other councils. With a total area of 3,981 sq km, it is ranked the 54th largest of the 128 council areas in New South Wales.[16] In terms of population, CGRC is ranked 89th.

If demerged, Gundagai would return to an area of 2,457 sq km and would rank about 71st in terms of area and 116th in terms of population. This information is relevant in terms of the diseconomies of scale argument.

Approximately 62% of rateable properties and 66% of the population of the current Shire lies within the footprint of the former Cootamundra Shire.

Since the May 2016 merger, there has been limited integration of roles and responsibilities across the new Shire. There has been minimal integration of council service centres, depots or assets, with CRGC continuing to operate with a team in Gundagai and a team in Cootamundra. CGRC continues to maintain separate wage structures for its non-management team. In a practical sense, these aspects would not create major impediments to a demerger.

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11 Submission #027 to the Commission.
12 Submission #062 to the Commission.
13 Submission #098 to the Commission.
14 Speaker at Session 1, Cootamundra.
15 Drew #3.
16 OLG Time Series Data 2018/2019.

However there has been some integration of back office functions (eg finance and ICT), and the Council operates under a single brand. A new tourism website was launched in 2019. The Council currently operates on the Authority IT system which has enabled financial reporting of all financial information from across the LGA. As well, a degree of harmonisation of service levels across the LGA has occurred. An example of Council's approach to harmonisation is the establishment of a Tourism and Economic Development office in Cootamundra (partially grant funded) to promote tourism and support a new Cootamundra Visitors Centre. Previously, Cootamundra did not have such a facility though Gundagai did.

According to the Deloitte analysis, the merger has led to an increase in both operating and capital expenditures across the LGA, partly funded by the merger grant funding ($21.0 million). This new and additional funding has enabled the provision of additional services.

In the former Cootamundra area, CGRC has -

- opened a new Community Recycling Centre in Cootamundra;
- opened a new Visitor Centre at the Heritage Centre;
- upgraded old cast iron water main pipe infrastructure at an estimated cost of $7.6m;
- erected a waterpark playground at the Cootamundra Swimming pool;
- constructed fitness infrastructure at Wallendbeen;
- constructed new playground equipment in Wallendbeen, Stockinbingal and Cootamundra;
- contributed funding -
    - $50,000 to Elouera Association Inc for the 'Revolve' Store;
    - approximately $42,200 to Cootamundra Scouts for hall maintenance;
    - approximately $35,000 to Cootamundra Pony Club for construction of a shade shelter;
    - $50,000 to the Cootamundra Cycle Club to upgrade its clubhouse;
    - $28,000 to the Stockinbingal Cricket Club to upgrade its clubhouse; and
    - $5,200 to the Wallendbeen Combined Church Guild to revitalise the Wallendbeen markets.

In the former Gundagai area, CGRC has -

- opened a new Community Recycling Centre in Gundagai;
- extended Library hours;
- committed to upgrade the 100-year-old sewerage treatment plant at an estimated cost of $13 million;
- installed a zero-grade depth ramp at Gundagai Swimming Pool;
- constructed new playground equipment in Nangus and Gundagai;
- contributed funding -
    - $49,300 to Gundagai Pre-School towards construction of a soft-landing facility;

- approximately $15,000 to Gundagai Scout Group community kitchen;
- approximately $23,500 the Coolac Recreational Trust towards the reconstruction of the collapsed bore and pump;
- approximately $36,500 to Nangus Recreation Reserve Trust towards the provision of access to the public hall; and
- approximately $15,300 to the Tumbalong War Memorial Hall Association towards a kitchen upgrade.

As part of the work of implementing the 2016 merger, Council adopted its Community Strategic Plan in April 2018. After public exhibition and consultation, Council adopted its 2020-21 to 2029-30 Long Term Financial Plan (LTFP) in June 2020. Rates and annual charges were harmonised in 2019-20. Concurrent increases to annual charges and usage fees appear to have delivered sustainable outcomes in the Water Fund and the Sewer Fund.

In mid-2020, Council publicly notified its intention to seek approval from IPART for a special rate variation (SRV) of 52% over the three years to 2023-24. The Deloitte analysis suggests that this SRV would align rates more closely with its peer Large Rural councils.

Following the completion of its draft 2019-20 financial statements (and after the Boundaries Commission's public meetings and completion of the Deloitte analysis), Council put on public exhibition an addendum to its SRV proposal. Council advised that it proposed to seek approval from IPART for a cumulative rate increase of 62.6% over the five-year period to 2025-26.

However on 3 February 2021, Council decided to further amend its intended application to IPART and has now sought approval for a 53.5% increase over the four years to 2024-25.

6.1.2.1 CGRC Financial Overview: 2016-2020

CGRC's financial performance has fluctuated significantly from year to year, mainly due to the timing of grant income (including merger grants) and the timing of expenditures associated with those grants.

The Deloitte analysis - as summarised in the following table - shows that CGRC has recorded a $3.1 million aggregate operating deficit over the four years to 2019-20[17]. This accumulated result includes the benefit of $21.0 million in merger grants.

[17] The Deloitte analysis on behalf of the Boundaries Commission was completed before CGRC's 2019-20 financial statements were finalised and audited. Deloitte's analysis was based on draft accounts provided by CGRC management and discussions between Deloitte and the Council's management team. The audited accounts show a significantly stronger result for 2019-20, with a net operating surplus of $1.4 million rather than the $5.4 million deficit based on the draft accounts. However the variation is largely due to changes in accounting standards and policies impacting the recognition of revenue. While these accounting changes affected the reported operating result for 2019-20, as a "book entry" they do not affect Deloitte's forward years' projections referenced in this Boundaries Commission Report.

Summary Operating Result | 2016 to 2020

$m	FY16	FY17	FY18	FY19	FY20	4 Yr
					DRAFT	
Rates and Annual Charges	11.1	12.9	12.6	12.9	13.0	51.4
User Fees and Charges	4.5	6.6	6.1	8.6	8.1	29.4
Other Revenue	1.4	2.5	2.5	2.0	1.9	8.9
Operating Grants	8.5	16.8	8.3	12.0	8.4	45.5
Capital Grants	2.9	9.9	2.3	7.3	3.5	23.0
Revenue	28.5	48.6	31.8	42.8	34.9	158.2
Employees	(8.2)	(12.1)	(12.5)	(12.4)	(12.7)	(49.7)
Materials	(5.2)	(9.6)	(13.4)	(12.5)	(14.7)	(50.2)
Depreciation	(6.6)	(9.3)	(8.1)	(8.9)	(9.2)	(35.5)
Other	(2.9)	(5.7)	(3.6)	(3.8)	(3.7)	(16.7)
Non operating expenses	(0.0)	(6.9)	(1.3)	(0.8)	0.0	(9.1)
Expenses	(23.0)	(43.6)	(38.9)	(38.5)	(40.3)	(161.2)
Net Operating Result	5.5	5.1	(7.1)	4.3	(5.4)	(3.1)
Net Operating Result before Capital Grants	2.6	(4.9)	(9.4)	(2.9)	(8.9)	(26.0)
Merger Grants						
Operating	0.0	6.0	0.0	3.4	0.0	9.4
Capital	0.0	9.0	0.0	2.5	0.0	11.5
Total	0.0	15.0	0.0	6.0	0.0	21.0

Using the more normal measure of operating result excluding capital grants, CGRC's aggregate operating result over the period was a deficit of $26.0 million. This demonstrates that CGRC - like many other rural councils - is reliant on capital grants to fund both asset renewal and maintenance.

The deficits sustained through the post-merger period have resulted from CGRC's expenditure growth against a relatively stable revenue base, noting that revenue has been partly constrained by the rate path freeze preventing CGRC from pursuing an SRV until recently.

CGRC's expenditure is materially higher than pre-merger levels. Employee costs have increased due to new roles, award increases and the engagement of consultants. Other factors include the impact of merger activities, grant funded programs, the level of TfNSW and private works, and a change to the roads depreciation rate to align with industry standards.

The significant growth in expenditures has been a significant contributing factor to the decline in operating results over the period. While the Council forwarded the report by Professor Drew to the Commission, it made no submission in its own right. However, from the presentations made to the Commission by the Mayor[18] and Deputy Mayor[19], it is clear that Council largely attributes this growth in expenditures to the impact of the 2016 merger.

[18] Speaker at Session 1, Gundagai.
[19] Speaker at Session 1, Cootamundra.

There is also the view held by some (including some Councillors) that decisions made by one or more of the Administrators and/or Interim General Managers appointed after the merger have contributed to the Council's current financial position -

> *The current financial position has its origins in the decision of the Government appointed Administrators and General Managers during the administration period and beyond.* [20]

> *… some of the previous Administrators and executives did not perform as well as one might have expected.*[21]

Some have also attributed this growth to spending decisions made post-administration -

> *The attitude is that if Cootamundra has a particular functionary, Gundagai should have one of the same … Rather than thinking of what is in the best interests of the whole Cootamundra-Gundagai Shire, senior staff are parochial in their thinking.*[22]

> *If Gundagai wants $10,000 for a street Xmas party, then Cootamundra wants same… Cootamundra wants a visitor centre, just like Gundagai. It's a white elephant financially … Now we are heading towards two white elephants!! … the merger sees us harmonising to the higher levels.*[23]

The Commission noted that CGRC is classified by OLG as a "Large Rural (Category 11)" area with a population between 10,001 and 20,000.[24] (Also classified as 'Large Rural' areas are Category 10 rural councils, ie those with a population between 5,001 and 10,000.)

According to OLG benchmarking, in 2018-19 CGRC was below average for its operating performance ratio,[25] and own source revenue ratio,[26] relative to both Category 11 councils and 'Large Rural Councils' in aggregate (ie Categories 10 and 11).

The benchmark for the operating performance ratio is >0% (ie the ratio should be positive). Councils consistently below this benchmark need to rely on capital grants to fund their operating expenditures. As shown in the following graph, CGRC at minus 5.8% is below the OLG benchmark and also below the average for both Category 11 councils and 'Large Rural Councils'.

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[20] Submission by Gundagai Council in Exile Inc to the Minister.

[21] Prof Joseph Drew "Report for Boundaries Commission" (page 1) - submission by Cootamundra Gundagai Regional Council to the Minister.

[22] Submission #046 to the Minister.

[23] Submission #169 to the Commission.

[24] These categories are used by OLG in order to better compare councils according to their characteristics (principally metropolitan/regional/rural and population size). The OLG categories are derived from the Australian Classification of Local Governments (ACLG) determined by the Australian Bureau of Statistics.

[25] According to OLG, the *Operating Performance Ratio* measures a council's ability to contain operating expenditure within operating revenue. For a full definition of how it is calculated, see Performance-Benchmarks.pdf (nsw.gov.au).

[26] According to OLG, the *Own Source Revenue Ratio* measures the level of a council's fiscal flexibility, indicating the degree of reliance on external funding sources such as grants and contributions. For a full definition of how it is calculated, see Performance-Benchmarks.pdf (nsw.gov.au).

The benchmark for the own source revenue ratio is >60%. Councils consistently below this benchmark need to rely on grants to fund their operating expenditures. As shown in the following graph, CGRC at 54.9% is below the OLG benchmark and also below the average for both Category 11 councils and 'Large Rural Councils'.

OLG Benchmarking FY19 – CGRC classified as Large Rural Category 11

- Large Rural – Category 11 refers to an agricultural demographic, with a population size of 10,001 to 20,000.

Metrics	CGRC FY19		Min	Average	Max
Operating performance ratio (%)	(5.8%)	Large Rural	(29.4%)	1.9%	59.8%
		Category 11	(12.4%)	3.0%	25.2%
Own source revenue (%)	54.9%	Large Rural	39.1%	57.0%	76.9%
		Category 11	47.5%	62.1%	76.9%

CGRC's performance on both these performance measures is driven in part by the level of its rates. As can be seen from the following graph prepared by Deloitte, the average residential and farmland rates currently levied by CGRC are significantly lower than both the 'Large Rural Council' and Category 11 averages, with only business rates (a much smaller category) being above average.

OLG Benchmarking FY19 – CGRC classified as Large Rural

- Large Rural – refers to an agricultural demographic, with a population size of 5,001 to 20,000.

Metrics	Assessment	Base Case	52% SRV	Min	Average	Max
Average Residential Rate	4,620	$602	$915	$371.4	$835.2	$2,811.9
Average Business Rate	531	$2,042	$3,104	$496.0	$1,806.8	$5,571.4
Average Farmland Rate	6,443	$2,656	$4,037	$1,544.9	$3,029.8	$11,134.3
Average Total Rate	6,443	$1,128	$1,714	$921.1	$1,496.9	$3,609.9

CGRC has recognised that its existing rate structure is inadequate to enable it to continue to provide an appropriate level of services. Council has stated -

> *In early 2020 Council had Professor Drew conduct a financial sustainability review of Cootamundra Gundagai Regional Council. He concluded that without a substantial SRV, Council solvency was at risk and that Council was likely to be placed into financial administration (Deloittes, in their work for the Boundaries Commission, also confirmed that Council's financial position was grave).*[27]

The above graph also shows the impact of the 52% SRV that was formerly proposed by CGRC[28]. It clearly shows that, had that SRV been applied for and granted, the average rate paid by all categories of ratepayers would be above the 'Large Rural Council' averages. The SRV now being sought by CGRC makes no difference to that conclusion.

6.1.2.2 CGRC Employment Overview: 2016-2020

At the time of the 2016 merger, actual FTE was 142 within an approved structure of 144 FTE. The structure consisted of 91 in the former Cootamundra Council and 53 in the former Gundagai Council, with one vacancy in each. On merger, one General Manager position was deleted.

An interim structure was implemented by the then Administrator in 2017, establishing 11 new FTE positions across the organisation and increasing the structure from 142 FTE to 153 FTE, predominately driven by additional resources to support the integration and merger-related projects.

The interim structure established four Director positions, each responsible for a division across the Council. Whilst the operational and management structures were integrated, the operations within each former council area remained separate with duplicate teams in each area.

The need to address the different salary structures between staff of the two former Councils resulted in an increase in some management salaries to achieve equity. While Cootamundra salaries were in line with the Local Government award, the former Gundagai salary structure was above the Award - this being argued as necessary to attract staff to a smaller council. As a result, management salaries in the new merged Council were increased to align with former Gundagai management salaries and to reflect staff responsibilities across a larger council area.

Since the interim structure was put in place, CGRC's approved organisation structure has been further increased to 163 FTE, an overall increase since merger of 19 FTE, or13%. (At June 2020, there were eight vacancies, giving an actual EFT of 155.)

Some of these new positions were created to undertake work (such as town planning) that had previously been contracted out, to meet increased demand (eg additional building surveyor to reflect

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27 CGRC "Fact Sheet: Proposed Special Rate Variation", page 1.

28 CGRC had announced its intention to apply for a 52% SRV, comprising cumulative increases of 17.5% in 2021-22 and 2022-23, and 10% in 2023-24.
On 3 December 2020 (after completion of Deloitte's analysis of CGRC's finances and the Commission's public meetings), CGRC resolved, subject to public consultation, to apply for a 62.6% SRV comprising cumulative increases of 19% in 2021-22, 18% in 2022-23, and 5% in each of 2023-24. 2024-25 and 2025-26.
On 3 February 2021, the Council resolved to apply for a 53.5% SRV comprising cumulative increases of 20% in 2021-22, 16% in 2022-23, and 5% in each of 2023-24 and 2024-25.

building developments in the area) or to manage merger projects. Others however reflected decisions by the Council to duplicate positions that had previously only existed in one of the former councils.

The new leadership structure includes the General Manager, a new Interim Deputy General Manager and 10 Managers, with the four Director positions abolished. The overall structure continues to largely duplicate operational roles in each of Cootamundra and Gundagai.

Over the period since the merger, employee costs have increased by at least $3.2 million or 29.3%. Deloitte has estimated that this increase comprises approximately 12% in award increases and 18% due to increased FTE numbers and the higher cost of consultant and senior leadership roles. The average cost per EFT employed at June 2020 was approximately $90,000.

By comparison and over the same post-merger period, Snowy Valleys Council has had no increase in actual employee numbers (EFT 222) and a total employee cost increase of 16.0% (10.4% award and 5.6% other). The average cost per EFT employed by Snowy Valleys Council at June 2020 was approximately $98,400.

6.1.2.3 CGRC Financial Outlook

The examination of this Proposal by the Boundaries Commission is not simply about the advantages or disadvantages to a proposed new Gundagai Shire and its residents. The examination must encompass the situations of all residents and ratepayers affected by the proposal, ie including those who would be in a demerged (and reduced, and certainly renamed) Cootamundra Gundagai Regional Council. This necessarily involves comparison with CGRC continuing to exist as a merged area.

In respect of the financial advantages and disadvantages of the Proposal, the Commission therefore asked Deloitte to compare the financial positions of each council under a demerger scenario with forecasts for CGRC. This section outlines the projected financial position of a continuing CGRC, ie the 'base case' against which the demerged councils can be assessed.[29]

The Commission notes the Deloitte advice that CGRC will continue to be constrained in managing staff costs due to the requirement under the Act to maintain FTEs in Gundagai. This may limit options in relation to resetting service levels or considering alternative models for service delivery such as outsourcing. It does not mean that these staff cannot perform work or tasks remotely that benefit the community generally. As the pandemic has revealed, we have not yet found the limits of working remotely and the efficiencies that lie withing this emerging opportunity.

It is true that most rural and regional councils in NSW rely heavily upon grant funding. LGNSW recently made a submission to a Legislative Council Inquiry recommending that: '*grant programs should continue in recognition that they are an essential funding source for local government to deliver vital community infrastructure and services*.'[30]

[29] Details of the scope of the advice sought were set out in the Commission's 16 July 2020 media release published on the Commission's website accessible at www.olg.nsw.gov.au/lgbc.

[30] LGNSW submission to the Inquiry into Integrity, efficacy and value for money of NSW Government grant programs August 2020, p4.

The receipt of $41.5 million in capital grants assisted Council in delivering new infrastructure and asset renewal projects. Since the merger CGRC has, with the assistance of grant funding, embarked on a range of projects and programs to first set and then deliver on the Council's adopted Community Strategic Plan (CSP).[31]

As the Deloitte analysis noted, the 2016 merger benefits were modelled for CGRC over a 20-year period commencing after the initial three-year protection period, so CGRC was not expected to achieve material savings in the period to date.

That said, CGRC's cost base is materially higher than pre-merger levels.

Key drivers for the Council's declining financial performance have been -

- the higher cost of the organisational structure (the underlying salary increase, excluding the annual award increases, is estimated to be $1.9 million which is an 18% increase on the pre-merger cost base);
- the statutory rate freeze which prevented the making of the SRV application until now;
- an increase in depreciation expenses; and
- the management decision to allocate capital spending between Cootamundra and Gundagai on a 50/50 or equal basis.

Those factors being noted, CGRC has made some steps towards improving its financial position. Council cites the following as key milestone achievements -

- implementing a merged organisation structure under a single CGRC General Manager;
- preparation and adoption of long term strategic, community and financial plans;
- delivery of a range of CGRC infrastructure and community projects enabled by grant funding;
- harmonising rates, annual charges and usage fees completed during 2020-21 delivering sustainable outcomes in the Water Fund and Sewer Fund;
- Developing a 30-year Asset Management Plan to provide a clear roadmap for ongoing asset maintenance and renewal requirements;
- addressing key asset management priorities including planning and securing funding for upgrades Cootamundra Water Mains and Gundagai Sewer Treatment Plant projects; and
- establishing a Finance Committee to address financial sustainability initiatives.

[31] See Council website accessed at: https://www.cgrc.nsw.gov.au/wp-content/uploads/2018/04/Community-Strategic-Plan-v1.4.pdf

The starting point for Deloitte's review of CGRC's financial outlook was the Council's Long Term Financial Plan ("LTFP") 2020-21 to 2029-30. Deloitte then made a number of adjustments to the LTFP projections to incorporate (i) the 2019-20 opening cash position (ii) consistent CPI assumptions for income and expenses, and (iii) certain cost components that had not been included in the forecast, including materials and contracts (aligned to 2020-21 budget), depreciation (per management estimate) and employee costs (to include overtime run rate). These adjustments resulted in a $2.0 million reduction in the forecast operating surplus in 2024-25 relative to the LTFP.[32]

The projected CGRC operating results from the Deloitte analysis are shown in the following table –

Profit and Loss ($m)	FY20	FY21	FY22	FY23	FY24	FY25
	Actual	*FCast*	*FCast*	*FCast*	*FCast*	*FCast*
Revenue						
1 Rates and annual charges	13.0	15.0	16.5	18.2	19.4	19.4
User charges and fees	8.1	7.9	8.6	8.8	9.0	9.2
Interest and investment revenue	0.4	0.3	0.3	0.3	0.3	0.3
Other revenues	1.5	0.3	0.3	0.4	0.4	0.4
Own source revenue	23.0	23.5	25.7	27.7	29.1	29.2
Grants and contributions – financial assistance	5.4	5.3	5.4	5.5	5.6	5.7
Grants and contributions - operating purposes	2.9	4.9	2.9	2.9	3.0	3.1
2 Grants and contributions - capital purposes	3.5	16.1	1.1	0.1	0.1	0.1
Total Revenue	34.9	49.9	35.1	36.2	37.7	38.1
Expenses						
Employee benefits and on-costs	(12.7)	(12.8)	(13.1)	(13.4)	(13.7)	(14.1)
3 Materials and contracts	(14.7)	(9.8)	(10.3)	(10.5)	(10.7)	(10.9)
Other Expenses	(3.6)	(3.4)	(3.4)	(3.5)	(3.6)	(3.6)
Borrowing costs	(0.1)	(0.3)	(0.2)	(0.2)	(0.2)	(0.1)
Depreciation and Amortisation	(9.2)	(9.4)	(9.4)	(9.4)	(9.4)	(9.4)
Net losses from the disposal of assets	-	-	-	-	-	-
Ongoing demerger costs	-	-	-	-	-	-
Total Expenses	(5.4)	14.3	(1.3)	(0.8)	0.2	(0.1)
One-offs:						
Merger grants	-	-	-	-	-	-
Impact from revenue policy change	-	-	-	-	-	-
One-off demerger cost	-	-	-	-	-	-
Operating Result	(5.4)	14.3	(1.3)	(0.8)	0.2	(0.1)
Excluding capital grants	(8.9)	(1.8)	(2.4)	(0.9)	0.1	(0.1)

Reported KPI's (%)		FY20	FY21	FY22	FY23	FY24	FY25
	Target	*Actual*	*FCast*	*FCast*	*FCast*	*FCast*	*FCast*
Operating performance ratio	>0.0%	-28%	-5%	-7%	-2%	0%	0%
Own source revenue ratio	>60.0%	66%	47%	73%	76%	77%	77%

Deloitte's key assumptions in projecting the above operating results are as follows -

[32] It should be noted that CGRC's 2019-20 financial statements had not been completed at the time of the Deloitte analysis although some preliminary information was available to Deloitte.

Key drivers and trends within the revised FY21-FY25 forecast include:

1. Uplift in FY22–FY25 user charges and fees is due to a permanent SRV (17.5%, 17.5% and 10.0% across 3 years). The decrease is FY25 is a result of a legacy SRV in Gundagai ending.

2. Significant capital grants in FY21 are related to the Timber Haulage Roads in Gundagai ($2.7m in FY21 and $0.8m in FY22) and the Gundagai Sewer Treatment Plant replacement ($12.0m FY21).

3. Decrease in Materials and Contracts in FY21 is a combination of a reduction in community projects spend ($1.6m), reduced availability of RMS contracts ($0.9m) and other saving initiatives, that management indicate are on track to be achieved.

4. CPI growth: assumed CPI growth of 2.0% p.a. has been applied year on year for FY21-FY25, with the exception of employee costs (2.5% as above).

The achievement of virtually balanced operating results in 2023-24 and 2024-25 (whether before or after capital grants) reflects the 52% SRV that CGRC had previously intended to apply for. In the absence of that SRV, CGRC's 2024-25 operating result (excluding capital grants) is forecast as a $6.8 million deficit.

To achieve a break-even result in 2024-25, the Deloitte analysis shows various "sustainability pathways" or combinations of (i) increases in rates and charges and (ii) cost savings or additional external revenue that CGRC would need to have in place. These pathways are shown in the following matrix -

Example: How sustainability could be achieved

Impact of cost savings or additional grant funding and a SRV on FY25 operating surplus (ex capital grants)

Additional external funding or cost savings		SRV		
$m	0%	25%	52%	75%
-	(6.8)	(5.3)	(3.2)	(1.4)
1.0	(5.8)	(4.3)	(2.2)	(0.4)
2.0	(4.8)	(3.3)	(1.2)	0.6
3.1	(3.7)	(2.2)	(0.1)	1.7
4.0	(2.8)	(1.3)	0.8	2.6
5.0	(1.8)	(0.3)	1.8	3.6
6.0	(0.8)	0.7	2.8	4.6

Sustainability in FY25 is planned to be achieved via SRV (52%) and operating cost savings ($3.1m). At a lower SRV of say 25%, $5-6m in operating costs savings or additional funding would be required.

While it is possible to reach "financial sustainability" by targeting only (i) increases in rates and charges or (ii) cost savings or additional external revenue, the boxed sections within the overall table show more realistic combinations that would achieve a balanced operating result by 2024-25. As an example, CGRC could achieve a balanced operating result in 2024-25 by targeting a 52% increase in rates and charges and approximately $3.1 million in cost savings or additional external revenue. It is important to note that this table is for illustrative purposes only. Neither the Commission nor Deloitte is recommending any particular course of financial action.

The Commission notes that CGRC's current (2021-22 to 2029-30) LTFP and the "Budget Repair" scenario set out therein were prepared assuming the former 52% SRV[33]. The scenario indicates a return to operating surpluses (excluding capital grants) starting in 2022-23, based on a $3.1 million reduction in operating expenditure. This is consistent with the Deloitte example financial sustainability pathway discussed above, apart from the timing difference.

CGRC is now seeking IPART approval for an SRV of 53.5% over the four years to 2024-25, broadly similar to the SRV originally contemplated.

Regardless of the Minister's decision on this Proposal, there will be impacts on ratepayers. CGRC has recognised the urgent need to bring its rates into line with peer councils, a need that has existed for some time. Unlike many merged councils, CGRC has already taken the first step towards this by implementing rate harmonisation from 2020-21. CGRC's future viability depends heavily on the success of its SRV application but, as the Deloitte analysis suggests, substantial additional measures will be needed Financial projections of CGRC's General Fund submitted to the Council when it met on 3 February 2021 to approve the SRV application showed continuing deficits out to 2029-30, even with the benefit of an assumed SRV approval and existing savings targets.

If the demerger Proposal is implemented, neither the continuing CGRC nor the new Gundagai will be able to avoid the urgent need to increase rates and find additional savings measures.

If the sustainability of the existing council is contingent upon financial improvement being driven by the planned SRV and achieving around $3.1 million in operating cost savings, then that will be the financial situation facing the new councils. Each will likely need to share in the burden of the operating cost savings identified by both Deloitte and the CGRC as well as implementing an SRV (if approved) similar to the percentage currently being sought.

So regardless of the scenario under consideration, ratepayers will be subject to rate increases.[34] Based on the Deloitte findings (as discussed in Section 6.1.2.7), the task facing a demerged Cootamundra is less severe relative to the base (ie non-demerged CGRC) case. But a new Gundagai council will immediately face a more difficult position (as discussed in Section 6.1.2.6) and it may have to apply for an even greater SRV, while still finding the cost savings.[35]

6.1.2.4 The Approach to Demerger Scenarios

In order to assess the financial viability of demerged Cootamundra and Gundagai shires, Deloitte modelled individual forecasts based on an allocation of the CGRC 'base case' forecast (see above) and specific demerger impacts.

The methodology is briefly described as follows.

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[33] See footnote 29.

[34] Indeed, Professor Drew observes that the '*blame for this situation goes way back to the amalgamation, and even before then*' – Drew #4 pp23-4.

[35] LGBC Key Findings p7.

- **Starting Point** – the revised CGRC financial forecasts to 2024-25 (as shown above)
- **Demerger Allocations** - CGRC financials were allocated to either Cootamundra or Gundagai (or both).

  In doing this Deloitte noted that (i) CGRC had integrated some of its back office operations under one structure, (ii) financial information is fully integrated, (iii) some activities and projects can be attributed to either Cootamundra or Gundagai and (iv) CGRC has not changed its physical footprint post-merger, therefore comparison to pre-merger organisations is appropriate.

  Deloitte allocated profit and loss and cash flow items based on budget data and forecasts provided by CGRC; directly allocated specific activities to a single council where possible; where activities related to both councils, Deloitte reviewed underlying workings and/or selected relevant revenue or cost drivers.
- **Demerger Allocations** – Deloitte noted that CGRC's post-merger financial performance did not indicate specific cost savings or economies of scale that have been achieved to date.

  Deloitte estimated potential one-off costs of separating one organisation into two based on (i) limited benchmark data available, and (ii) discussions with CGC management and estimated the ongoing costs associated with two Councils (including Councillors) and administrative roles.
- **Demerged Cootamundra and Gundagai Forecasts -** Deloitte noted that in the context of CGRC's financial outlook and forecast assumptions through to 2024-25, it is likely that a demerger will result in continuing operating deficits in a demerged Gundagai Council while a demerged Cootamundra Council will achieve operating surpluses earlier than would CGRC; and (ii) there is an expectation that the two councils will likely have an ongoing reliance on operating and capital grants.

  Deloitte (i) modelled individual profit and loss and cash flow forecasts to determine sustainability gaps (if any); (ii) compared ratepayer impacts within each of the two demerged councils to CGRC to determine whether ratepayers are better or worse off; and (iii) considered factors that may affect financial sustainability within the two councils (as compared with CGRC).

6.1.2.5 Demerger Costs

If the Proposal is implemented, it is clear that costs will be incurred in "demerging" CGRC, to be borne by the two new councils. Deloitte has estimated these costs as follows –

Estimated one-off demerger costs ($m)			
Item	Estimated range	Cootamundra	Gundagai
ICT costs	0.6 – 1.40	0.3 – 0.7	0.3 – 0.7
Transition management	0.3 – 0.5	0.2 – 0.3	0.2 – 0.3
Financial	0.3 - 0.5	0.2 - 0.3	0.2 - 0.3
Legal	0.2 - 0.4	0.1 - 0.2	0.1 - 0.2
Communications and branding	0.1 - 0.5	0.1 - 0.3	0.1 - 0.3
PPE	0.1 - 0.3	0.1 - 0.2	0.1 - 0.2
Staff retraining and redundancy	0.2 - 0.6	0.1 - 0.3	0.1 - 0.3
Total	$1.8m - $4.2m	$0.9m - $2.1m	$0.9m - $2.1m
Mid point assumed for modelling		**$1.5m**	**$1.5m**
Per Rateable Assessment ($) - mid		*375*	*617*
Recurring Costs			
Councillors		0.1	0.1
Executive Leadership		Nil	Nil
Total pa		**$0.1m**	**$0.1m**
Per Rateable Assessment ($) - mid		*25*	*41*

In projecting the financial positions of the two "post demerger" councils, Deloitte used the mid-point of $3.0 million for one-off costs, split equally between Cootamundra and Gundagai. Deloitte also estimated additional recurring costs of $0.5 million for each demerged council.

The lower end of the range ($1.8 million) is consistent with CGRC's own estimates, supported by the Drew Report, with the higher end ($4.2 million) reflecting available benchmarks from Queensland council de-amalgamations.

A number of parties have criticised the Deloitte demerger cost assumptions and their inclusion in the financial forecasts for the two demerged councils.

The first criticism stems from the argument that these costs should met by the State Government as it was the State Government that merged the two former councils. While parties may argue for this funding, there is no Government policy or commitment that this will occur. It would be inappropriate for the Commission to base its deliberations on the Proposal and its recommendation to the Minister on such an assumption and that is why it instructed Deloitte to estimate demerger costs and attribute them to the two demerged councils.

The second criticism relates to the magnitude of the estimated one-off demerger costs. The Commission notes the lower estimates ($1.750 million in total) provided by Professor Drew in the report submitted by CGRC.[36]

[36] While Professor Drew argues that a substantial part of his estimated one-off costs should be borne by CGRC prior to the demerger taking effect, this would reduce CGRC's cash position and hence the amount of cash to be apportioned between the two newly-demerged councils.

Independent of this view being expressed by some parties, the Commission requested Deloitte to provide alternative financial scenarios for both Cootamundra and Gundagai, based on a range of one-off demerger costs (including down to a level of $0.5 million for each council). While changing the assumed one-off demerger costs impacted on the estimated 2020-21 operating results for each demerged council and their ongoing cash positions, it had no impact on their subsequent years' operating results. It was the Year 5 (2024-25) operating results that formed the basis of the “pathways to financial sustainability” assessments by Deloitte.

One saving in any demerger is that due to geographic and legislative provisions, CGRC did not change the physical footprint of the two councils post-merger. An administrative building and depot continue to operate in the former Gundagai area. These would again be available for use by the new council.

6.1.2.6 Demerger Scenario – Gundagai

The following table shows the projected operating results for a demerged Gundagai Council -

Profit and Loss ($m)	FY15	FY16	FY21	FY22	FY23	FY24	FY25
	Actual	*Actual*	*FCast*	*FCast*	*FCast*	*FCast*	*FCast*
Revenue							
❶ Rates and annual charges	4.2	4.2	5.1	5.6	6.3	6.7	6.5
User charges and fees	1.5	1.3	2.0	2.1	2.1	2.1	2.2
Interest and investment revenue	0.3	0.3	0.1	0.1	0.1	0.1	0.1
Other revenues	0.4	0.1	0.1	0.1	0.1	0.1	0.1
Own source revenue	**6.3**	**5.9**	**7.3**	**7.9**	**8.6**	**9.1**	**8.9**
Grants and contributions – financial assistance	2.0	2.0	2.2	2.3	2.3	2.4	2.4
Grants and contributions - operating purposes	1.1	1.9	2.4	1.5	1.5	1.6	1.6
❷ Grants and contributions - capital purposes	0.8	2.0	15.6	1.0	0.0	0.0	0.0
Total Revenue	**10.2**	**11.9**	**27.6**	**12.8**	**12.5**	**13.1**	**12.9**
Expenses							
Employee benefits and on-costs	(4.0)	(3.3)	(4.9)	(5.1)	(5.2)	(5.3)	(5.4)
❸ Materials and contracts	(1.3)	(0.9)	(2.9)	(3.0)	(3.0)	(3.1)	(3.1)
Other Expenses	(1.3)	(1.0)	(1.5)	(1.5)	(1.5)	(1.5)	(1.6)
Borrowing costs	(0.0)	(0.1)	(0.2)	(0.1)	(0.1)	(0.1)	(0.1)
Depreciation and Amortisation	(2.9)	(2.9)	(4.1)	(4.1)	(4.1)	(4.1)	(4.1)
Net losses from the disposal of assets	-	(0.0)	-	-	-	-	-
❹ Ongoing demerger costs	-	-	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)
Total Expenses	**(9.6)**	**(8.3)**	**(13.7)**	**(13.8)**	**(14.0)**	**(14.2)**	**(14.4)**
One-offs:							
❺ One-off demerger cost	-	-	(1.5)	-	-	-	-
Operating result	**0.7**	**3.6**	**12.4**	**(1.1)**	**(1.5)**	**(1.1)**	**(1.5)**
Excluding one-offs	**0.7**	**3.6**	**13.9**	**(1.1)**	**(1.5)**	**(1.1)**	**(1.5)**
Excluding capital grants	**(0.1)**	**1.6**	**(3.2)**	**(2.1)**	**(1.5)**	**(1.2)**	**(1.5)**

Reported KPI's (%)		FY15	FY16	FY21	FY22	FY23	FY24	FY25
	Target	*Actual*	*Actual*	*FCast*	*FCast*	*FCast*	*FCast*	*FCast*
Operating performance ratio	<0.0%	-1%	16%	-14%	-18%	-12%	-9%	-12%
Own source revenue ratio	>60.0%	62%	50%	27%	62%	69%	70%	69%
Establishment FTE		54	53	61	61	61	61	61

Deloitte's key assumptions in projecting the above operating results are as follows –

Key drivers and trends within the FY21-FY25 forecast include:

1. **Rates and annual charges:** Uplift in FY22–FY25 user charges and fees is due to a permanent SRV that is planned to commence. The decrease in FY25 is a result of a legacy SRV expiring.
2. **Capital grants:** Significant capital grants in FY21 are related to the Timber Haulage Roads and the Sewer Treatment Plant replacement.
3. **Material and contract** Decrease in Materials and Contracts in FY21 is a combination of a reduction in community projects, reduced RMS contract work and assumed operating cost savings.
4. **Ongoing demerger costs:** The demerger is expected to increase councillors costs by ~$0.1m per annum.
5. **One-off demerger costs:** As a result of a demerger, and the assumption that both councils contribute to the cost, Gundagai would need to outlay $1.5m on one-off costs. This cost could be higher or lower depending on the level or cooperation between the council and ability to achieve commercial agreement on key separation matters. It may also depend on what financial resources are available at the time

The estimated $1.5 million operating deficit for Gundagai in 2024-25 equates to $624 per rateable property.

To achieve a break-even result in 2024-25 (to enable comparison with the CGRC base case scenario), Deloitte shows various "sustainability pathways" or combinations of (i) increases in rates and charges and (ii) cost savings or additional external revenue that Gundagai would need to have in place. These pathways are shown in the following matrix -

What is the pathway to sustainability?

Impact of cost savings or additional grant funding and a SRV on FY25 operating surplus (ex capital grants)

Example: How can sustainability be achieved?

	Increase in rates and charges			
$m	0%	25%	52%	75%
Additional external funding or cost savings: -	(3.8)	(3.2)	(2.4)	(1.7)
0.5	(3.3)	(2.7)	(1.9)	(1.2)
0.9	(2.9)	(2.3)	(1.5)	(0.8)
2.0	(1.8)	(1.2)	(0.4)	0.3
3.0	(0.8)	(0.2)	0.6	1.3
4.0	0.2	0.8	1.6	2.3

Example: if Gundagai achieves the planned SRV of 52% it would require either a $2.5m uplift in annual income from grants and third party contracts or annual cost savings in order to achieve a consolidated operating breakeven result before capital grants in FY25

If the SRV now being sought by CGRC is approved and able to be applied by a demerged Gundagai Council, the Council could achieve a balanced financial result in 2024-25 by targeting additional cost savings or external funding of $2.0-2.5 million per year.

6.1.2.7 Demerger Scenario – Cootamundra

The following table shows the projected operating results for a demerged Cootamundra Council -

Profit and Loss ($m)	FY15	FY16	FY21	FY22	FY23	FY24	FY25
	Actual	*Actual*	*FCast*	*FCast*	*FCast*	*FCast*	*FCast*
Revenue							
❶ Rates and annual charges	7.2	6.9	9.9	10.8	11.9	12.7	12.9
User charges and fees	3.8	3.2	5.9	6.6	6.7	6.9	7.0
Interest and investment revenue	0.5	0.5	0.2	0.2	0.2	0.2	0.2
Other revenues	0.5	0.5	0.2	0.2	0.2	0.2	0.2
Own source revenue	**12.0**	**11.1**	**16.2**	**17.8**	**19.0**	**19.9**	**20.3**
Grants and contributions – financial assistance	2.8	2.8	3.0	3.1	3.2	3.2	3.3
Grants and contributions - operating purposes	1.3	1.8	2.5	1.4	1.4	1.4	1.5
Grants and contributions - capital purposes	0.3	0.9	0.5	0.0	0.0	0.0	0.0
Total Revenue	**16.3**	**16.6**	**22.3**	**22.3**	**23.6**	**24.6**	**25.1**
Expenses							
Employee benefits and on-costs	(5.7)	(5.0)	(7.8)	(8.0)	(8.2)	(8.4)	(8.6)
Materials and contracts	(4.9)	(4.3)	(6.9)	(7.3)	(7.5)	(7.6)	(7.8)
Other Expenses	(1.8)	(1.7)	(1.9)	(2.0)	(2.0)	(2.0)	(2.1)
Borrowing costs	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)
Depreciation and Amortisation	(4.4)	(3.7)	(5.3)	(5.3)	(5.3)	(5.3)	(5.3)
Net losses from the disposal of assets	-	-	-	-	-	-	-
❷ Ongoing demerger costs	-	-	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)
Total Expenses	**(16.7)**	**(14.7)**	**(22.2)**	**(22.8)**	**(23.1)**	**(23.5)**	**(23.9)**
One-offs:							
❸ One-off demerger cost	-	-	(1.5)	-	-	-	-
Operating result	**(0.4)**	**1.9**	**(1.4)**	**(0.4)**	**0.5**	**1.1**	**1.2**
Excluding one-offs	**(0.4)**	**1.9**	**0.1**	**(0.4)**	**0.5**	**1.1**	**1.2**
Excluding capital grants	**(0.7)**	**1.0**	**(1.9)**	**(0.5)**	**0.5**	**1.1**	**1.2**

Reported KPI's (%)		FY15	FY16	FY21	FY22	FY23	FY24	FY25
	Target	*Actual*	*Actual*	*FCast*	*FCast*	*FCast*	*FCast*	*FCast*
Operating performance ratio	<0.0%	-4%	6%	-2%	-2%	2%	4%	5%
Own source revenue ratio	>60.0%	73%	67%	73%	80%	80%	81%	81%
Establishment FTE		88	91	102	102	102	102	102

Deloitte's key assumptions in projecting the above operating results are as follows –

> Key drivers and trends within the FY21-FY25 forecast include:
>
> 1. **Rates and annual charges:** Uplift in FY22–FY25 user charges and fees is due to a permanent SRV that is planned to commence. The proposed SRV is to be 17.5%, 17.5% and 10.0% across 3 years.
> 2. **Ongoing demerger costs:** The demerger is expected to result in an increase in councillor costs of ~$0.1m per annum.
> 3. **One-off demerger costs:** As a result of a demerger, and the assumption that both councils contribute to the cost, Cootamundra would have to outlay $1.5m on one-off demerger costs. This cost could be higher or lower depending on the level or cooperation between the council and ability to achieve commercial agreement on key separation matters. It may also depend on what financial resources are available at the time.

To achieve a break-even result in 2024-25 (to enable comparison with the CGRC base case scenario), Deloitte shows various "sustainability pathways" or combinations of (i) increases in rates and charges and (ii) additional cost savings or external revenue that Cootamundra would need to have in place. These pathways are shown in the following matrix -–

What is the pathway to sustainability?

Impact of cost savings or additional grant funding and a SRV on FY25 operating surplus (ex capital grants)

Example: How can sustainability be achieved?

Additional external funding or cost savings		Increase in rates and charges			
	$m	0%	25%	52%	75%
	-	(3.2)	(2.3)	(1.0)	0.1
	1.0	(2.2)	(1.3)	(0.0)	1.1
	2.2	(1.0)	(0.1)	1.2	2.3
	3.0	(0.2)	0.7	2.0	3.1
	4.0	0.8	1.7	3.0	4.1
	5.0	1.8	2.7	4.0	5.1

Example: if Cootamundra could achieve $2.5m in annual incremental income or operating cost savings, it would require a 25% SRV in order to achieve a consolidated operating breakeven result before capital grants in FY25

Based on CGRC's original intention to apply for a 52% SRV, the matrix shows that a demerged Cootamundra Council would only need to target additional cost savings or external revenue of $1.0 million to achieve a balanced operating result in 2024-25. (The revised SRV that CGRC is now applying for would make minimal difference to that target.)

What is clear from the above forecasts (and accepting their underlying assumptions) is that by 2024-25, a demerged Cootamundra Council would be in a stronger financial position than a continuing (ie not demerged) CGRC and in a substantially stronger position than a demerged Gundagai Council.

6.1.2.8 Proponent and CGRC Submissions

The Proposal documents of 16 October 2018 submitted by Gundagai in Exile Inc included two reports prepared by Professor Drew for the purpose of the 2016 merger and subsequent Land and Environment Court proceedings.[37]

The Council subsequently resolved to support the proposal and it made a submission to the Commission supporting the recommendation of the Proposal and supplying a further report prepared by Professor Drew.[38] At the Inquiry hearings on 26 November 2020 a further report prepared by Assoc Prof Drew was tabled.[39] The Commission has had regard to all of these reports (collectively, the Drew Material).

A substantial proportion of the Drew Material has a focus firstly, on the 2016 proposal made by the Minister and secondly, on the KPMG material supporting that proposal. It is clear from the Drew Material that Professor Drew has had a long association with the Gundagai community opposing the merger. That experience has obviously informed the comments he makes in the Financial Sustainability Review Report (Drew #4) and the comments in the Report to the Boundaries Commission (Drew #3). In essence, Professor Drew posits that the merger in 2016 '*created a council that was too large – that is, the amalgamation generated diseconomies of scale*.'[40]

In 2016, two current councillors of CGRC, Mayor McAlister and Councillor Graham (both formerly councillors of Gundagai Shire Council), allowed their names to be put forward as Applicants in proceedings commenced in the Land and Environment Court (LEC) challenging the creation of the merged council. The thrust of the Drew material and its criticisms was canvassed in those proceedings. Ultimately, the Court rejected the challenge to the 2016 merger process. It is manifest from reading the subsequent Drew Material (Reports #3 and #4) that Professor Drew does not resile from his criticisms levelled against the merger. These later reports continue his ongoing advocacy against the mergers.[41]

In Drew #3 Professor Drew draws upon his analysis to suggest that if a demerger realizes projected savings of $2.4 million over 10 years 'then the same logic … is even more cause to bring about a de-amalgamation.'[42] In that regard it is relevant to note that in the contested series of amalgamation cases the Court of Appeal observed that '*There must be an inherent element of unreliability in prognostications as to financial benefit and detriment over a period of 20 years, or indeed a lesser period*.' It is considered by the Commission that a forecast period of 10 years similarly has an element of unreliability.

Prior to the hearing sessions the Commission released the Key Findings from the Deloitte report which contains the gist of the findings. Mayor McAlister has articulated some concern as to why the Deloitte Report considers only a five-year period. When releasing the scope of the report requested of Deloitte in July 2020 the Commission advised the community in its media release that Deloitte was requested

37 Drew #1 and Drew #2.
38 Drew #3.
39 Drew #4.
40 Drew #3, p21.
41 This is particularly evident in Drew #3 in the section commencing at p28 under the heading '*Who Should Pay*?'
42 Drew #3, p26.

to consider the 'medium term' of 2 to 5 years. This was done to enable a comparative exercise to be undertaken to assist the Commission to understand the financial implications of various scenarios in that medium term.

In that context, it is noted that some emphasis is placed by Professor Drew on certain comments in the 2016 Delegate's report suggesting that the new council may have to run 'as two distinct halves' … as 'two completely separate and almost fully staffed offices.' Those observations were certainly made by the Delegate. But those comments do no more than reflect the administrative conundrum confronting the management of the new council. Those comments do not constitute a mandate or indeed a binding obligation upon the Council, especially when read in conjunction with the legislative scheme of the Act.

A primary and ongoing obligation of the Council, reflected in the Principles of sound financial management referred to in Chapter 3 of the Act, is to ensure that spending 'should be responsible and sustainable, aligning general revenue and expenses.' It is an express role of the Governing Body of the council that it 'ensures' the financial sustainability of the council and that 'as far as possible' that the council acts in accordance with the principles in Chapter 3 of the Act. Accordingly, whilst it is true that local government authorities have a large discretion in the expenditure of what is, in essence, 'other people's monies', there are constraints on how those monies ought to be spent.

The Delegate concluded in 2016 that '*looking ahead to the medium term, any new merged council entity will struggle to avoid an operating deficit in the short to medium term*.' Both Professor Drew and Deloitte note that the council's rates and charges revenue was below its peers. Presumably, this state of affairs could have been ascertained by the council if it was not already known to it. This is an important consideration given, as Professor Drew acknowledges, the council was aware from its inception in 2016 that a 4-year rate freeze would inhibit harmonisation of rates and the making of a SRV to IPART. As well, Professor Drew has identified that '*council is funding a lot more of its operational expenditure from the common tax pool*', that is, it is 'not charging sufficient fees to cover cost and overheads.'[43]

Viewed in the light of those limitations, expenditure decisions taken by the administration, including the retention of separate offices and the functions they were to perform, needed to reflect the fiscal limitations confronting council. In the absence of reliable other own source income, the taking of financial decisions to increase council's cost base on an unfunded basis has meant that, as Professor Drew describes the situation, Council is apparently '*planning to fail some time in 2021/22*.'[44] This is because, as Professor Drews observes, '*the effect of chronic operating deficits (excluding capital grants) will be a reduction in liquidity.*'[45] This problem has been compounded, in Professor Drew's opinion, by senior management not being held accountable for budget blowouts over the past 4 years.[46]

The criticisms of the Deloitte Key Findings released by the Commission have not challenged this aspect of the findings. Even Professor Drew is critical of CGRC's decision to harmonise service levels,

[43] Drew #4, p10.
[44] Drew #4 p21.
[45] Drew #4, p6.
[46] Drew #4, p14.

suggesting they should, in a demerger scenario, be returned to pre-2016 levels.[47] But that observation may itself recognise the failure of the administration, in its various iterations, to undertake that path from the inception of the council in 2016. A similar observation can be made of the decisions taken by the administration of the council to increase the FTE in circumstance where the staff increase was obviously unfunded (given the limitations and constraints to income generation that the administration must have been aware of).

What this suggests is that instead of looking for savings opportunities, the administration (in its various iterations) may have taken the decision to duplicate both services and roles.[48] It is that type of decision, not the merger, which arguably has led to the "diseconomies" claimed by Professor Drew. That is, any additional costs may have been the result of management decisions. As for any council, the Guiding Principles in Chapter 3 of the Act direct the council to act in the best interests of its whole community – by carrying out its functions 'in a way that provides the best possible value for residents and ratepayers.' That, and not the Delegate's observations, was the prime directive to the new Council.

Professor Drew confirms that in the result the council needs to commit itself to '*strict austerity for a period of at least five years*' with senior staff being fully engaged '*in finding tangible savings*.'[49] This assessment is consistent with the Deloitte findings that the current priority and focus is on immediate budget repair and short term liquidly challenges in the General Fund. Both Professor Drew and Deloitte agree that this includes looking at ways to reduce employee costs.

Seen in that context, the 4-year period allowed in the original planning of the merger for making adjustments as contemplated by the Minister's proposal may not have been utilised so as to put the council in a position now to achieve savings into the future, as other councils have done.[50] Further time may be needed to allow the council to get its house in order by delivering on the budget repair project rather than taking a step towards demerger which risks setting up either the continuing CGRC or the new Gundagai council to fail?

Professor Drew's solution is for the demerger to proceed. But, in recognising that the Council is in a difficult financial position, he appears to accept that the solution proffered seems only to be viable if cost and expense can be shifted away from the new council.

In Professor Drew's estimation firstly, the Government should pay the costs incurred.[51] Secondly, if the Government won't pay, then the majority of the costs should be borne, effectively, by CGRC.[52] Thirdly, upon demerger, "diseconomy of scale" decisions taken by the council should be reversed.[53]

[47] Drew #3. P32.

[48] As Assoc Prof Drew notes (Drew #3 p32): '*A consequence of amalgamation is that service levels tend to be increased to the highest that existed in the constituent councils*.'

[49] Drew #4, p24.

[50] Dubbo Regional Council has identified savings of more than $9m as well as an increase of income of $4m over the past 3 years - see https://meltwaternews.com/ext/mediac/290862200.pdf
Northern Beaches has announced that it is on track '*to almost double the NSW Government's $76.3 million estimated savings from its 2016 amalgamation*' – see https://meltwaternews.com/ext/mediac/281364673.pdf

[51] Drew #3, p28.

[52] Drew #3, Table 4.

[53] Drew #3, p32.

This includes returning service levels to pre-merger levels. Fourthly, capital spending needs to be halted.[54] Fifthly, an SRV similar to that which is in train will still need to be secured.[55] Finally, the new Gundagai Council will need to look to secure a shared services arrangement with the reduced CGRC.[56] Regardless, service levels are likely to be reduced.[57]

It is immediately apparent that elements of this proposed solution necessarily involve some cost shifting. Ultimately, whatever is not a cost to the new Gundagai council is likely to become a cost to the continuing CGRC. This is especially the case in the context of there being no Government commitment to fund the demerger. This also has implications on the Drew forecast savings of \$2.4 million over 10 years as any notional saving to the new Gundagai may result in an equivalent (at least) cost increase to the continuing CGRC. That is, the proposed solution for the benefit of new Gundagai will probably increase operating expenditure and decrease operating revenue for the continuing CGRC council.

Another example of potential cost shifting is the suggestion by Professor Drew that for the new Gundagai, the FTE should be set at that which existed immediately prior to amalgamation.[58] Given the increase in FTEs since amalgamation, a continuing CGRC will have to either fund the retention of the existing level of staff, or significantly reduce numbers, potentially requiring redundancies.

Some cost savings measures may have hidden consequences. By way of example, Professor Drew models cost savings on an assumed reduction of councillors for the new Gundagai to the statutory minimum of five (while suggesting that CGRC be reduced to seven).[59] One issue that immediately arises is whether such a reduction will impact on the council's ability to maintain a quorum noting that this is calculated by reference to '*a majority of the councillors of the council who hold office for the time being and are not suspended from office*' (see s. 368).

Finally, Professor Drew also accepts that in all scenarios there will need to be '*significantly higher fees and taxes for the next five years or more*.'[60] This observation is also echoed by Deloitte. In that regard it is to be noted that Professor Drew acknowledges that the residents have a 'typical' capacity to pay suggesting that '*budget repair – although unfortunately painful – will be possible*'[61] which augers well for IPART approval.

6.1.2.9 Economies and diseconomies of scale

The concept of economies (and diseconomies) of scale is well known to economists. The concept has its origin in micro-economics, in particular the study of how manufacturing plants and firms operate.

Economies of scale reflect that costs of production can be classified (broadly) as fixed or variable. In a manufacturing plant (for example) variable costs are those that correlate to the amount of output produced. The cost of raw materials, power and utilities, transport, and wages staff would tend to be

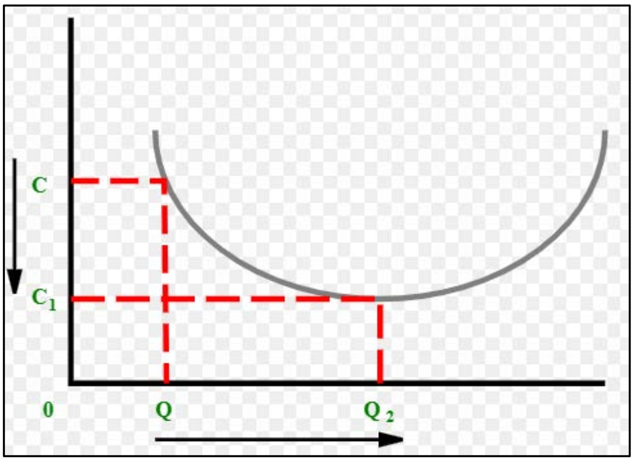
[54] Drew #3, p33.
[55] Drew #3, p33.
[56] Drew #3, p34.
[57] Drew #3, p32.
[58] Drew #3 p31.
[59] Drew #3 p25.
[60] Drew #3 p33, Drew #4 p20, p24.
[61] Drew #4 p20.

closely aligned with the units of output produced. Costs such as management, marketing, regulatory, accounting, and legal would be largely fixed.

Clearly, if a business can increase its quantity of production, those fixed costs would be spread over that larger production and would reduce on a per unit of output basis. Businesses that have large fixed costs require a large market in order to keep unit costs (ie sale price) at a competitive level.

Economic theory also recognises that the benefit of spreading fixed costs over a larger output diminishes at the margin and, at some point, further increases in size can lead to increasing costs (eg additional management, co-ordination, increased costs of obtaining materials or other inputs) and hence diseconomies of scale.

A very simple diagram illustrating economies (and diseconomies of scale) is as follows[62] -



The grey curve shows the average unit cost at differing production levels. As the quantity of units produced increases from Q to Q2, the cost per unit falls from C to C1 (as the fixed costs are spread across a larger number of units). This part of the curve reflects economies of scale. Beyond Q2, the production of additional units comes at a higher cost – due to diseconomies of scale.

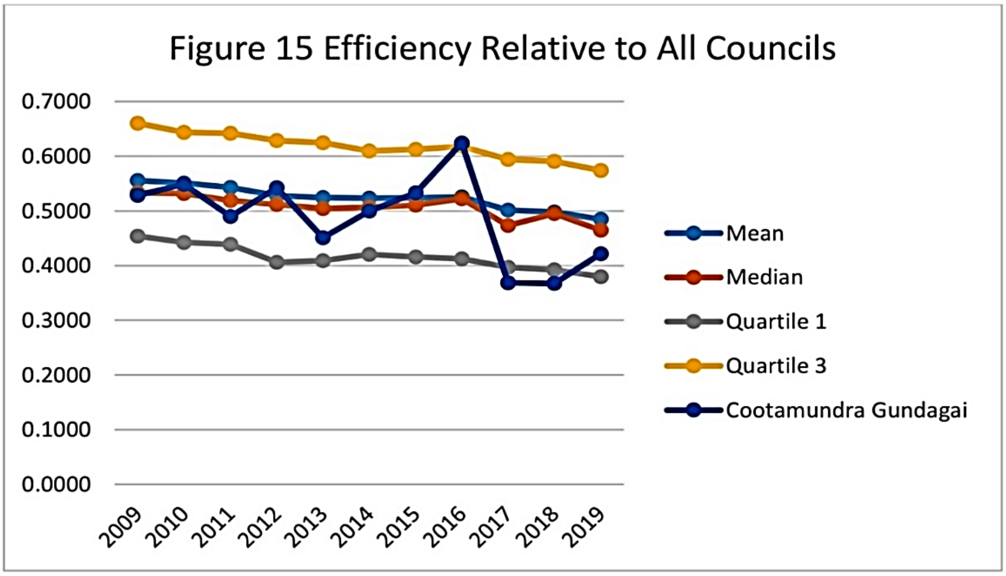
Thus an entity operating in the lowest part of the cost curve is deemed more efficient than one at other points on the curve - ie it can produce its goods or services at lower unit cost.

While the theory is straightforward, its application is fraught with difficulties. There are various approaches for attempting to measure the impact of economies and diseconomies of scale on cost structures. However to be meaningful, most techniques require identification of the outputs that are being produced. Where an organisation produces multiple outputs, some reliable method of apportioning the costs of the organisation across these outputs is generally also needed. Defining outputs and apportioning costs may be relatively straightforward where a business or factory produces a small range of physical goods (light bulbs, soap powder, packaged food). It is much more difficult in respect of entities (such as local authorities) that provide multiple, disparate services. How to delineate services, define what constitutes a unit of service, and attribute costs across the range of services provided is far more problematic.

[62] Source: Wiki

Nevertheless there have been many studies undertaken, in Australia and abroad, to attempt to identify the extent to which economies (or diseconomies) of scale apply in local government[63]. It is fair to say that the results from these studies are inconclusive, largely because of the difficulties in defining, measuring and costing outputs. As Professor Drew notes "while 'efficiency' is amenable to empirical analysis, 'scale' is impossible to contest empirically".[64]

The 'Drew Report'[65] included in the CGRC submission to the Commission presents results comparing the 'efficiency' (as defined by Professor Drew) of Cootamundra Gundagai Regional Council from 2008-09 to 2018-19 (with the pre-merger years involving an aggregation of data for the then Cootamundra and Gundagai Councils). Professor Drew used a well-known technique called Data Envelopment Analysis (DEA) to compare CGRC over time and with the aggregate of all NSW councils. His results are shown in the following graph from his report -



The Report argues that in the years 2008-09 to 2014-15, CGRC's efficiency was generally quite close to the median for all NSW councils. After an upward spike (ie 'improved efficiency') in 2015-16 (due, as Professor Drew acknowledges, to the distorting effect of the financial year finishing on 11 May 2016), CGRC's efficiency fell significantly in 2016-17 (to well below the median level), with a partial recovery in 2018-19[66].

Professor Drew then compared CGRC's 'efficiency' with other NSW councils that were merged in 2016, as shown in the following graph -

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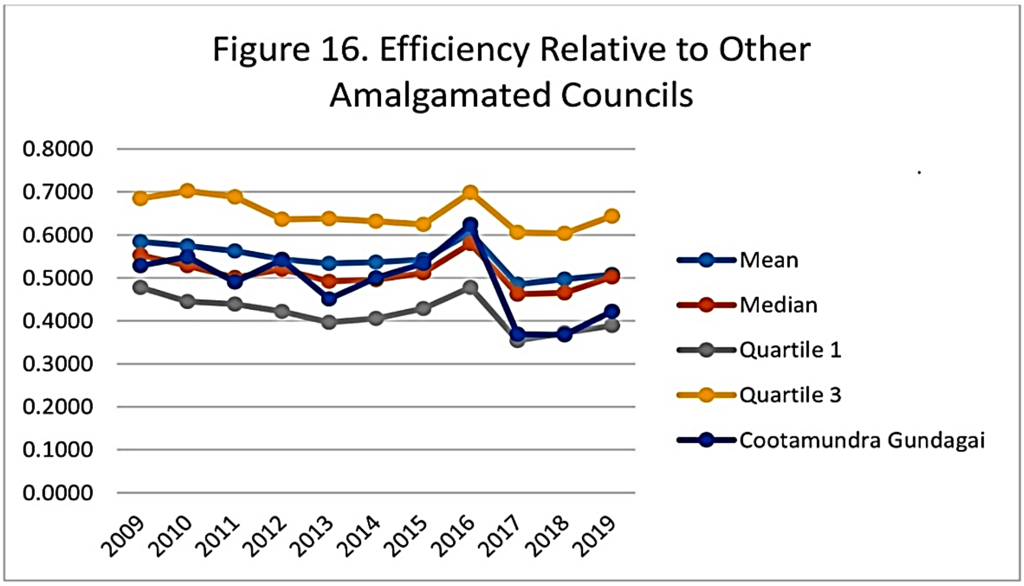
63 While now somewhat dated, see the wide-ranging coverage in Joel Byrnes and Brian Dollery "Do Economies of Scale Exist in Australian Local Government? A Review of the Empirical Evidence" (2002)

64 "The Heresthetic of Local Government Amalgamation: The Saliency of Dimension", page 9 - Joseph Drew, Takahiro Endo, Masayoshi Noguchi (2016)

65 "Report for Boundaries Commission", Joseph Drew (2020)

66 It is not clear if Professor Drew accepts that some or all of the decrease in 2016-17 may have reflected the longer financial year, ie from 12 May 2016 to 30 June 2017.



This shows a similar pattern to the 'all councils' comparison above - CGRC starting close to the median, then an upward spike in 2015-16 followed by a significant fall in 2016-17 and a partial recovery in 2018-19. Interestingly, the 'other amalgamated councils' mean and median values showed similar patterns, although with CGRC being further below the 2018-19 median in this comparison.

Professor Drew concludes that "the reason why [CGRC's] efficiency reduced is because the amalgamation created a council that was too large - that is the amalgamation generated diseconomies of scale".

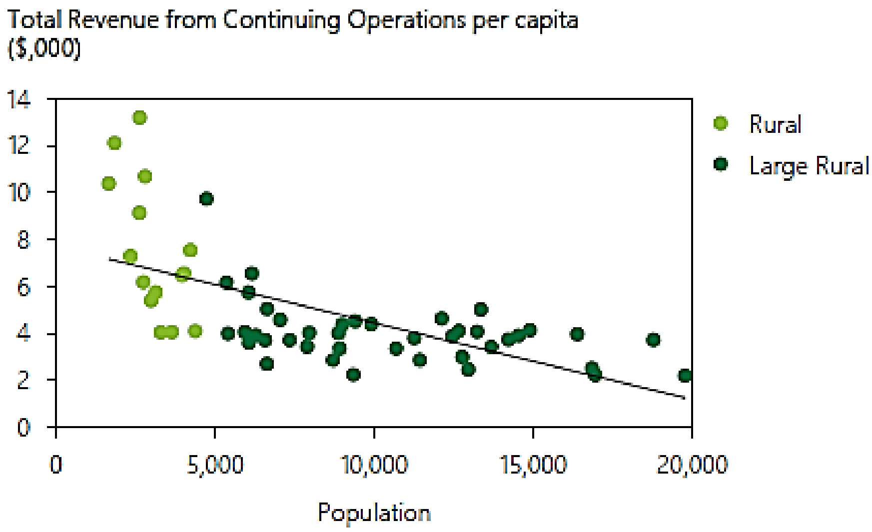
However there are a number of observations that the Commission would make on the Drew Report -

- Firstly the Report does not indicate what 'outputs' were used in comparing the various councils. The use of broad outputs such as 'length of roads' (which appears to be one of the outputs used in the Report) can mask substantial differences in underlying cost-drivers (such as road surface, terrain, number and construction of bridges, heavy vehicle usage). As indicated earlier, defining meaningful outputs is a major difficulty in attempting to measure efficiency and scale in a meaningful way.
- Secondly, in the case of local government amalgamations, it is simplistic to compare the sum of the costs of the pre-merger councils with the costs of the merged council and attribute any increase to diseconomies of scale. It is equally plausible that any increase in costs could reflect factors such as council or management decisions to increase service levels (eg to 'harmonise up' to the higher level of the pre-merger constituent councils), transitional costs (eg to implement common IT, HR or other 'back office' services) or changes in senior staff that result in poor management of costs (unrelated to the merger). It is also possible that savings from economies of scale will not be reflected in net operating results but are redirected by a merged council into increases in the quantity or quality of other services. In any event, merger savings may not arise in the first few years.
- Thirdly, the divergence between CGRC's results and the median and mean for other merged councils indicates that there must be different factors (ie unrelated to any 'diseconomies of scale' argument) influencing CGRC's higher costs.

- Fourthly, Figure 15 in the Drew Report (included above) shows that CGRC was close to both the mean and median levels of efficiency for all NSW councils in the years 2008-09 to 2014-15. However, as most NSW councils would be larger than even a combined Cootamundra and Gundagai, one would expect the 'all councils' mean and median efficiency levels to be lower than CGRC. If, as Professor Drew concludes, the merger has resulted in a council that is too large and therefore on the "diseconomies of scale" part of the average cost curve, then most councils in NSW, being larger than CGRC, would be even less efficient. However the figure does not bear this out.

As shown in the two following graphs, alternative presentations of data on council expenditures can also demonstrate the opposite conclusion to Professor Drew's paper.

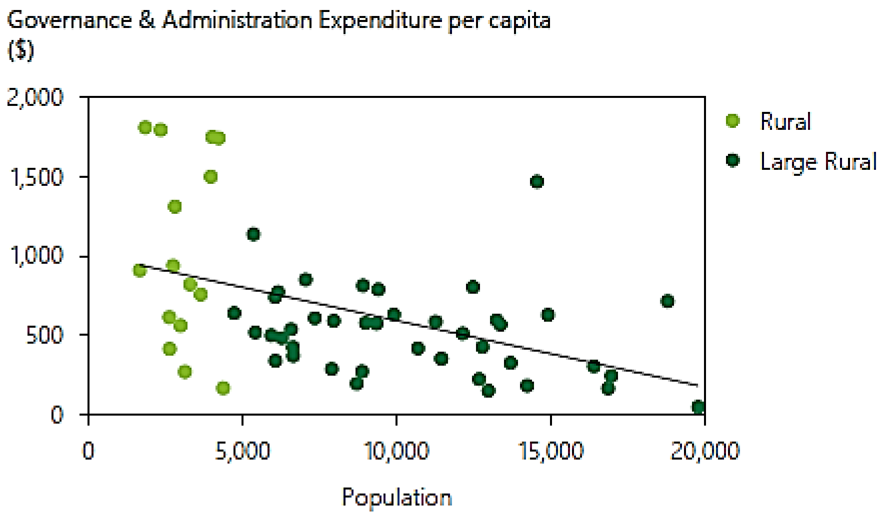
The first graph shows that, for 'Rural' councils (ie populations of 5,000 or less) and 'Large Rural' councils (ie populations between 5,001 and 20,000), there is a strong inverse relationship between size and the per capita quantum of their operating revenue (whether own-source or taxpayer-funded).



Source: OLG Time Series Data 2018/2019

There are two possible inferences to be drawn from this relationship - (i) that the larger councils have collectively chosen to provide a substantially lower range and quantum of services to their residents (and commensurately draw less on ratepayers and taxpayers) or (ii) that the larger councils are able to provide a broadly comparable range and quantum of services to their residents while drawing less on ratepayers and taxpayers. The Commission is not aware of any evidence that the larger rural LGAs are generally choosing to provide lower services, leading to the conclusion that they are achieving economies of scale in their operations.

The second graph shows a similar inverse relationship between councils' expenditure per capita on governance and administration and population. Again, unless the larger councils covered by this graph (with a few outliers) are choosing to underspend on these functions, the logical conclusion is that the larger councils can enjoy economies of scale in undertaking these functions.



Source: OLG Time Series Data 2018/2019

Given the lack of any clear evidence to the contrary, the Commission is not convinced that diseconomies of large scale are likely to exist in CGRC's operations.

The 2016 merger created an LGA which - while admittedly classified as a 'Large Rural' area by OLG - is still relatively small (in population terms) compared with some other rural LGAs and with all NSW LGAs based on regional towns. The Commission considers it is more likely that diseconomies of small scale would apply to the two LGAs that would result if the Proposal were implemented. However, the Commission is unable to quantify the extent to which this would apply.

6.2 Community of Interest and Geographical Cohesion

Section 263(3)(b) of the Act requires the Commission to have regard to:

> *"the community of interest and geographic cohesion in the existing areas and in any proposed new area".*

6.2.1 Submissions and presentations made

The following table shows the number of written submissions that addressed this factor -

Written submissions addressing this factor			
Forwarded by Minister	**Submitted directly to Commission**	**Total (a)**	**As a percentage of total submissions**
786	81	867	71%

(a) Note that many individuals made submissions both to the Minister and to the Commission, often in largely similar terms.

The view that residents of the former Cootamundra and Gundagai Shires have little in the way of "community of interest" is one that that was put forward in many submissions made to the Commission. Often this argument as to limited community of interest was attributed to the distance between the two centres, as well as to the view that Cootamundra was not a regional centre offering

Gundagai residents as full a range of services as Tumut or Wagga Wagga. This is not a new view, with many submissions on the same theme also made to the Delegate in his examination of the 2016 merger proposal.

As one CGRC Councillor submitted -

> *There is a growing social division between the two towns as the communities are quite different, and the merger has only amplified this. Historically Gundagai was an established grazing community and Cootamundra grew as a rail town. Given that they are separated by 60klms, and the people do not regularly visit the other town and pretty much keep to their own community. It is understandable that when it comes to service an "us and them" mentality develops.*[67]

This view was also articulated by residents of Gundagai in their written submissions and presentations at the Commission's public meetings -

> *It was never going to work, as Gundagai's a tourist and a grazing community, and Cootamundra a cropping and railway town. We have nothing in common.*[68]

> *Roads, rivers and valleys unite communities. We have none of these in common with Cootamundra except maybe the road from Coolac to Cootamundra.*[69]

> *The only thing that our two towns have in common is a very poor and windy road.*[70]

Submissions on this factor discussed the lack of connectivity between the two centres in terms of their cultural and sporting interactions, businesses transactions, shopping and service needs. This was particularly expressed by Gundagai residents -

> *We don't play sports together. We don't have joint committees promoting any other areas of interest. We don't shop there and, as far as I'm aware, we don't engage in social activities together. We are two separate communities and this will always be the case.*[71]

The distance between Cootamundra and Gundagai and the condition of the road was also addressed in a number of submissions -

> *All meetings for emergency services in regard to floods, LECOM, meetings, etcetera, are held in Cootamundra. Now, I'm a volunteer and I love the SES and am happy to volunteer, but I waste three hours every meeting driving to Cootamundra and back. I am happy to serve this community in the SES but the size of this new shire is not working for SES specifically and emergency services as a whole.*[72]

> *Gundagai is 40 minutes' drive away, as measured between the centres of the two towns. Most people recognise that this is too far for staff to easily commute between the two centres. At the*

67 Submission #103 to the Commission.
68 Speaker at Session 2, Gundagai.
69 Speaker at Session 1, Gundagai.
70 Submission #009 to the Commission.
71 Speaker at Session 3, Gundagai.
72 Speaker at Session 3, Gundagai.

northern and southern extremities, the distance is of course even greater with well over an hour and a half separating them.[73]

As I have mentioned the two towns are separated by 60 klms, and even councillors do not regularly visit the other town. So to develop a true understanding of the issues we find we are relying on the elected councillors of each town. This is not a good model of representation.[74]

However, one CGRC Councillor disagreed with the view that distance was a major concern -

Many more meetings are held online now, thus reducing the need for staff, or even councillors for that matter, to spend time travelling between offices. I guess you could say one of the small blessings of COVID-19.[75]

6.2.2 Discussion

The views quoted above are consistent with the views of the majority of presentations and submissions made to the Commission in its examination of this Proposal.

The Micromex survey of residents' attitude towards the Proposal (see Section 6.1.4) also cited lack of common interest as a reason by both Cootamundra and Gundagai residents for their support of the Proposal.

As was the case in 2016, the Gundagai community (in particular) continues to strongly express the view that the towns of Cootamundra and Gundagai have no community of interest. In the submissions and presentations reference is made often to the distance between the towns and to the absence of connectivity.'

A number of those in favour of the Proposal argued that Cootamundra and Gundagai have no community of interest as Cootamundra is a "railway town" and Gundagai is a "highway town". While that distinction may have been of great significance once, the Commission believes that both towns have developed much since their earlier beginnings, and the significance of this distinction has diminished over time.

The Commission notes that it is a common feature of inland NSW that local government areas exhibit low population density generally, with towns and villages interspersed throughout.

Because of the distances between many of these towns and villages, it is probably natural that their residents develop a strong sense of community and identify mostly strongly with their own locations. The Commission does not believe that having two or more distinct communities of interest in the one council area is, in itself, a barrier to the council operating efficiently and effectively, and in the best interests of all its residents.

While it may be true that residents of both Cootamundra and Gundagai feel little connection with each other, they do share a number of social and demographic characteristics. In his report on the 2016

[73] Submission #086 to the Commission.
[74] Submission #103 to the Commission.
[75] Councillor Gil Kelly at Session 3, Cootamundra.

merger proposal, the Delegate noted similarities between the two shires in attributes such as household incomes, the level of post-school education, low rates of unemployment, and below average SEIFA[76] scores.

Data from the 2016 Census (available since the 2016 merger) also show similarities in attributes such as –

- the relatively high proportion of the population born in Australia (90.9% in Gundagai, 85.5% in Cootamundra);
- a relatively high median age of the population (44 years in Gundagai, 49 years in Cootamundra);
- a high proportion of the population aged 65 and over (21.6% in Gundagai, 27.8% in Cootamundra), and growing significantly since 2011;
- median weekly household income typically lower than in metropolitan areas ($1,086 in Gundagai, $920 in Cootamundra); and
- very low proportion of the population who do not speak English well or at all (0.3% in Gundagai, 0.4% in Cootamundra).

On behalf of its residents, Cootamundra Gundagai Regional Council is currently part of the Murrumbidgee Local Health District, Riverina Regional Tourism, Riverina Police District, the South West Slopes RFS region and is in the Murrumbidgee region of the SES. Other than the RFS, the former Cootamundra and Gundagai shires were both members of these districts/regions. These organisations are often large and encompass several relevant local government areas. If the Proposal is implemented the former LGAs would most likely remain within these bodies, with the possible exception of the RFS.

It is informative to note the comments made by the Delegate in his examination of the 2016 merger proposal. In summarising sections of the submissions from the then Gundagai Shire and Cootamundra Shire, he wrote -

> *Gundagai Shire, in their submission, also noted that while both primarily agricultural regions, Cootamundra Shire's agriculture was predominately broad acre cropping while Gundagai Shire comprised of beef, lamb, fodder and wool grazing land, and aligned more closely with agri-communities and businesses to the south and west. This was attributed to the different geographical features with Cootamundra LGA been described as relatively flat with low undulating hills as opposed to Gundagai LGA which exhibited more hilly and mountainous terrain especially in the southern regions which encompass the foothills of the Snowy Mountains.*
>
> *Gundagai Shire residents who made submissions further stated that they had no need to ever visit Cootamundra and would instead drive 30 minutes to Tumut or an hour to Wagga Wagga to access major town facilities. Cootamundra Shire's submission noted there is minimal business crossover with Gundagai businesses primarily travelling to Tumut or Wagga Wagga for major*

[76] 'Socio-Economic Index for Areas' - source: ABS.

> *banking, legal, accounting and professional services. These practices exist now under the current Gundagai Shire and there is no reason why they should differ under a new entity.*[77]

As the Delegate noted above, none of those features would change under a new (ie merged) entity. Nor have they since the merger, and nor would they if the demerger Proposal is implemented. The existence or absence of a single community of interest across the area makes limited impact on people's occupations, pursuits, travel patterns and daily lives.

What can create problems however is the ability to access local government services where distance is a factor. As noted above, numerous submissions and presentations alluded to the distance between Cootamundra and Gundagai and the condition of the road.

The main access between Cootamundra and Gundagai is via Muttama Road which is classified by TfNSW as a Regional Road. Regional roads are the responsibility of councils to fund, determine priorities and carry out works, while they are eligible for annual assistance grants from the State Government in recognition of their relative importance. Several submissions raised the absence of a significant transport corridor between the two main centres and the condition of the road as an impediment to the ongoing viability of the current Council and a factor to support the Proposal.

While the Commission does not see that having two or more distinct communities of interest in the one council area is untenable, it does recognise that a lack of community interactions and connectivity can create challenges for a council in terms of developing priorities in its strategic planning. Cootamundra Gundagai Regional Council has largely adopted a two-town strategy where there is a like for like approach to the delivery of services. The Commission notes the range of initiatives across the merged shire by CGRC since 2016. Deloitte has suggested that the "geographic spread of services and community" is one of the reasons that will constrain the CGRC's ability to undertake cost savings needed to ensure financial sustainability.

The Commission does not believe that the individual communities of interest have altered with the merger. If the Proposal were to be implemented, the communities would continue to exist and each demerged Council would need to consider them in its planning decisions.

Another argument that was put to the Commission was that the distance between Cootamundra and Gundagai imposes additional costs on the existing Council because of staff travel needs[78]. It was claimed that a demerger would save at least $150,000 per year in vehicle costs, with an additional cost saving of $600,000 in staff time.

The motor vehicle cost was calculated by Professor Drew using data he obtained from staff travel records and the ATO motor vehicle travel deduction allowance.

Using the ATO 2019-20 rate of 68¢/km and the 59km distance between Cootamundra and Gundagai implies 1,870 round trips per year, or somewhere between 7 and 8 trips every business day. While this may sound excessive (given that the Council effectively maintains the level of pre-merger operations in both towns), it must be assumed that Council has decided it is more efficient and

[77] Report by Delegate John Turner (2016), p25.
[78] Mayor McAlister, speaking at Session 1, Gundagai.

effective to provide services in this manner than by increasing staff at both centres - which is what would need to happen in the event of a demerger if current service levels are to be retained.

6.3 Historical and Traditional Values

Section 263(3)(c) of the Act requires the Commission to have regard to:

> *"the existing historical and traditional values in the existing areas and the impact of change on them".*

6.3.1 Submissions and presentations made

The following table shows the number of written submissions that addressed this factor -

Written submissions addressing this factor			
Forwarded by Minister	**Submitted directly to Commission**	**Total (a)**	**As a percentage of total submissions**
356	15	371	30%

(a) Note that many individuals made submissions both to the Minister and to the Commission, often in largely similar terms.

Relative to most other factors, a smaller proportion of submissions and presentations addressed this factor, particularly in relation to the "historical values" component. Most that did were by residents of the former Gundagai Shire. Many made the point that Gundagai had its own unique history and expressed feelings that this history was being lost or diminished as a result of the 2016 merger. However this factor was not covered in any depth in any submission or presentation to the Commission.

Those that did present their views on this factor made points such as the following -

> *Gundagai is one of the most historically known towns in Australia, with monuments to the pioneers of our country, with the famous "Dog on The Tucker Box" as a prime example, the historic wooden bridges, and of course the town sits on the original inland route established between Sydney and Melbourne which is serviced by the Hume Freeway to this day.*[79]

> *Cootamundra has, I am sure, a sense of history relating to their community, but it bears no likeness to ours.*[80]

> *Gundagai has a history of bushrangers and river boats. It has been immortalised in song and verse and is known throughout Australia and, indeed the world, as an iconic rural Australian town.*[81]

[79] Submission #047 to the Commission.
[80] Speaker at Session 3, Gundagai.
[81] Dr Paul Mara on behalf of Gundagai Council in Exile Inc, Session 1 at Gundagai.

6.3.2 Discussion

The Commission understands that every city, town, village and region has its own historical and cultural features. No two will be completely identical and in that sense every location is unique. The question for the Commission is whether the differences across the existing CGRC area are of such magnitude to suggest (in conjunction with other factors) that the Proposal would give a better outcome for the area's residents.

Prior the 2016 merger, both Cootamundra and Gundagai Councils had existed for many decades, although undergoing a number of boundary changes.

At the time of Federation, less than one per cent of the NSW land area was incorporated despite the voluntary model available to communities since the enactment of the Municipalities Act of 1858 (22 Vic No. 13).[82] The 1858 Act permitted the voluntary incorporation of a municipality upon the petition of fifty householders and in the absence of a 'sufficient counter-petition'.[83] The communities of both Cootamundra (in 1884) and Gundagai (in 1899) took up that opportunity.

With the passage of the *Local Government Act 1906*, the State Government imposed municipalisation onto local communities, and Gundagai and Cootamundra Municipalities were reconstituted that year.

In 1925 the Gundagai Municipality was abolished when it was merged with Adjungbilly Shire to form Gundagai Shire.

In 1975 the Cootamundra Municipality was abolished when it was merged with Jindalee Shire to form Cootamundra Shire. Jindalee Shire (originally named Cowcumballa Shire) had been proclaimed in 1906, and in 1935 absorbed part of the abolished Wallendbeen Municipality.

From a local government boundary perspective, the above demonstrates that local government areas are not static, but change over time as circumstances change -

> *All over the State there Is a continual movement towards alteration and adjustment of the boundaries of councils and of their wards or ridings … It is, of course, essential that there should be machinery for adjusting the municipal areas as towns and districts develop or decline. Adjustments of this nature will always be a feature of local government in a growing country.*[84]

While local government boundaries may change, the reality is that the stories of both the former Gundagai and Cootamundra Shires are told through the history of their various towns and villages. Each of the towns and villages within the current Shire - Cootamundra Brawlin, Muttama, Stockinbingal, Wallendbeen, Gundagai, Adjungbilly, Coolac, Nangus and Tumblong - will have its own historical and traditional values, each likely to be distinct and different to each other.

If however a wider lens is applied - to the CGRC overall, then a number of commonalities emerge.

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[82] A. H. Kelly, '*The Development of Local Government in Australia*,' (Paper presented at the World Planning Schools Congress 2011, Perth, 4-8 July), p5.

[83] Andrew Kelly, *The role of local government in the conservation of biodiversity* (Ph. D. Thesis, University of Wollongong, 2004), p80.

[84] Sydney Morning Herald, 14 February 1924, page 6.

The towns are all located on the ancestral land of the Wiradjuri people. Many early settlers were attracted to the region by gold and stayed. Agriculture is a dominant industry and there is a shared history of the towns supporting and servicing these agricultural pursuits.

In having regard to this factor, the Commission questions the extent to which history – or historical values – attach to local government bodies rather than to towns, villages, buildings, individuals, geographical features (river systems, mountain ranges), etc. The rich histories of towns such as Gundagai are not changed by the alteration of council (or State or Federal electorate) boundaries. The 'Dog on the Tuckerbox', the historic Gundagai bridges, the statues honouring the Wiradjuri men Yarri and Jacky Jacky who saved some 70 Gundagai lives in the great flood of 1852 - all remain firmly part of Gundagai's history regardless of council boundaries. That is not to deny the responsibility of local government in preserving, interpreting, honouring and promoting local history and historical features, but the Commission is not convinced that these histories and historical features are inherently impacted by boundary alterations.

The Commission therefore believes that proposed changes in LGA boundaries have little impact - positive or negative - on historical and traditional values.

6.4 Attitudes of Residents and Ratepayers

Section 263(3)(d) of the Act requires the Commission to have regard to:

> *"the attitude of the residents and ratepayers of the areas concerned".*

6.4.1 Submissions and presentations made

The following table shows the number of written submissions that addressed this factor -

Written submissions addressing this factor			
Forwarded by Minister	**Submitted directly to Commission**	**Total (a)**	**As a percentage of total submissions**
1040	175	1215	99%

(a) Note that many individuals made submissions both to the Minister and to the Commission, often in largely similar terms.

Overwhelmingly, the submissions and oral presentations made to the Commission indicated support for the Proposal, although the sentiments were often expressed in terms of opposition to the 2016 merger.

Typical arguments raised were -

> *The Gundagai residents never wanted this merger; they never agreed to it; and they will never accept it. People who suggest that, if the proposal for a demerger is ultimately denied, we will just all accept the decision and go away are living in fairyland.*[85]

[85] Dr Paul Mara, speaking on behalf of Gundagai Council in Exile Inc at Session 1, Gundagai.

> *I attended every meeting regarding the forced joining of both councils and there was always well over 95% of residents at every meeting against any form of joining the two Shires together.*[86]

> *Cootamundra and Gundagai have been subjected to an arranged marriage, which was not wanted, and in which we had no practical say. We want a divorce and urge on the commission that you so report to the Minister.*[87]

> *The government at the time said they would honour the wishes of the people in the communities, but despite something like 90 per cent plus voting against amalgamations, it was still forced upon us. It just went against the wishes of the people and it was forced upon us and it was not right at the time and it's not right now. Bigger is not always better.*[88]

> *The Baird government's forced merger of Cootamundra and Gundagai councils in 2016 has been the major local topic over this time. Of concern to me has been the anger and negative impact on their wellbeing and mental health as a result of the forced merger. The merger has been hard for most, including of the staff of the Cootamundra-Gundagai Regional Council. There is a sense of loss of community identity and belonging and, with less representation on council, the feeling of not being heard is greater.*[89]

Nevertheless there were some who opposed the Proposal -

> *The old Gundagai council was a shocker … I feel the General manager and the Mayor have been anti towards the new council and have not tried to make it work … Gundagai shire will never be able to stand alone as its unviable on its own due to lack of rate base.*[90]

> *I believe that accountability has improved under the current council … there has been great improvements made in the shire due to the amalgamation … I think there's a few vocal critics still however they are the ones who have the most to gain by going back to the old ways. They are the ones driving the lingering sentiment.*[91]

6.4.2 Discussion

In the submissions supporting the Proposal, there is a deep vein of resentment at the Government's 2016 merger decision - that it was forced on the community, that Cootamundra and Gundagai are different communities, that the decision was 'undemocratic', that the decision to merge has created anxiety and tension in the communities, that the merger has led to rates and charges increases. On that topic it was put frequently that the community will not accept an SRV without a demerger.

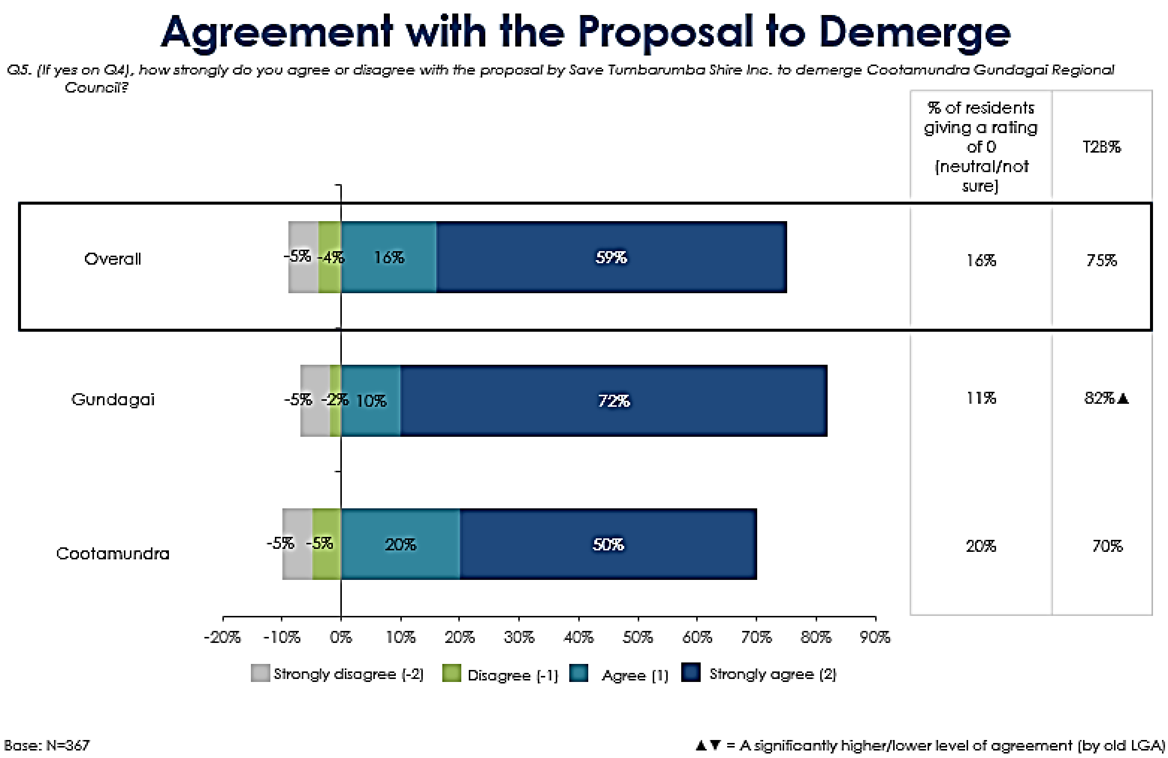
A significant number also expressed the view that they will 'never' support the merger.

[86] Submission #028 to the Commission.
[87] Speaker at Session 1, Cootamundra.
[88] Speaker at Session 4, Gundagai.
[89] Speaker at Session 3, Gundagai.
[90] Submission #134 to the Commission.
[91] Submission #004 to the Minister.

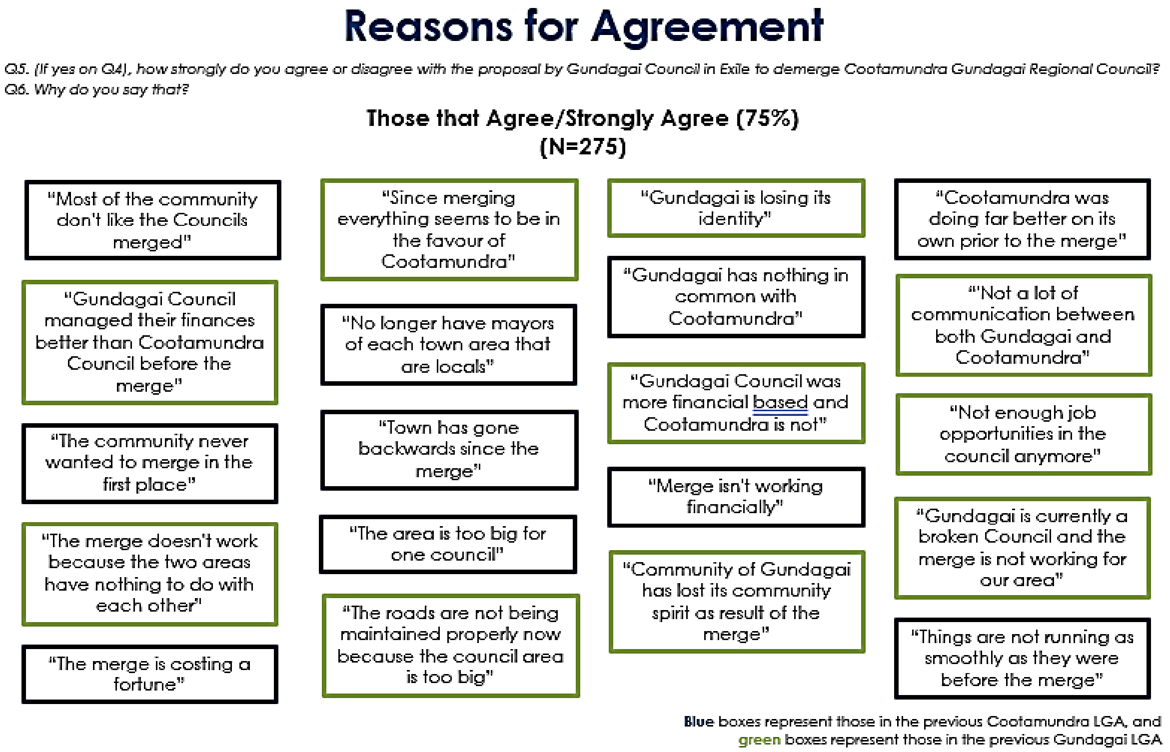
As the submissions received were overwhelmingly in favour of the Proposal, the Commission engaged a market research firm with significant experience in telephone polling to undertake a survey on its behalf. This was done to gain comfort that the views being put to the Commission were reasonably representative of those held by the community generally – and not simply a vocal minority. The survey was designed to capture awareness of, and attitudes to the Proposal overall, and in each of the former shire areas.

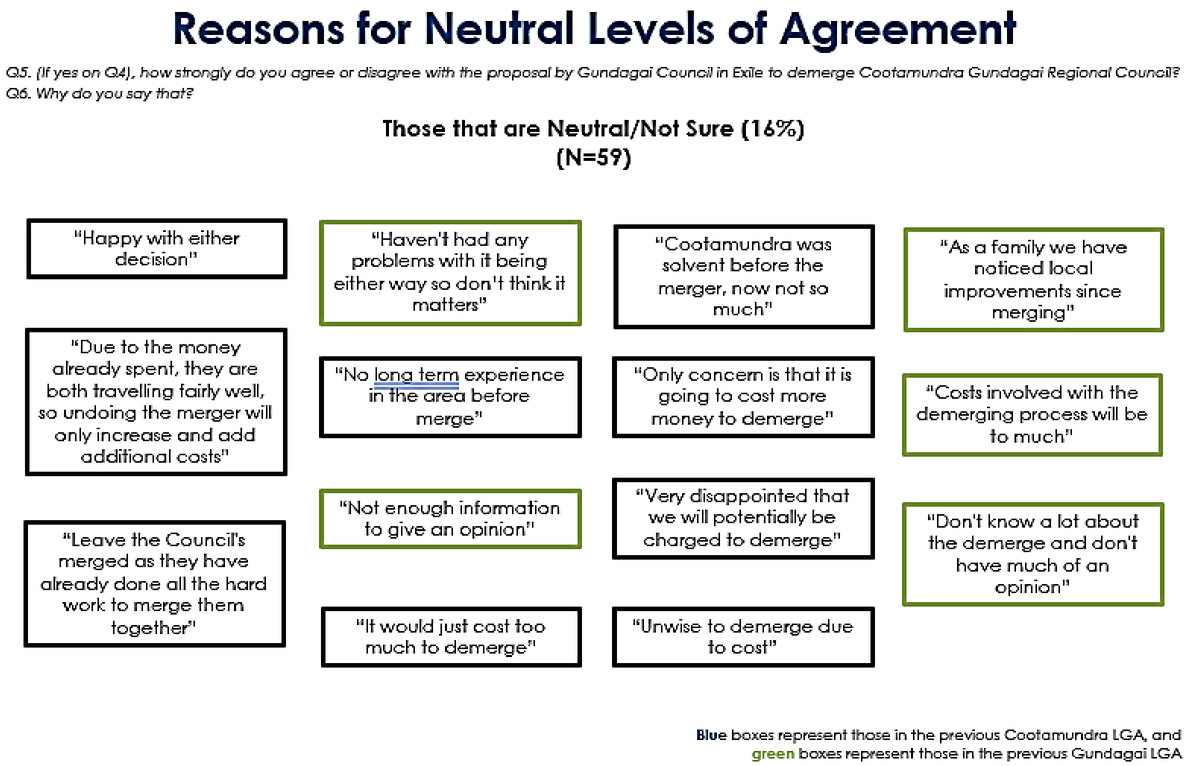
The survey showed an impressively high awareness of the Proposal by those surveyed – 91% of respondents overall, with awareness figures of 99% and 86% for respondents living in the areas covered by the former Gundagai and Cootamundra shires respectively. There was no significant difference in awareness levels by the length of time respondents had lived in the area.

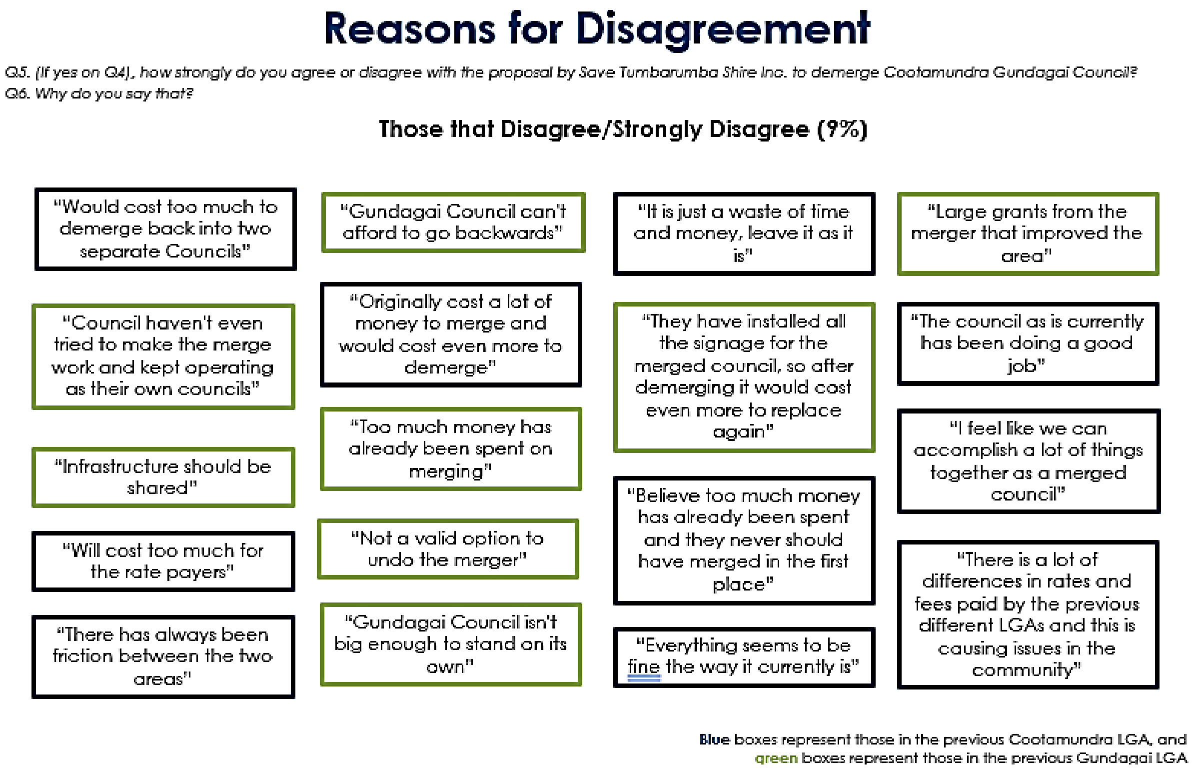
The survey asked respondents whether they agreed or disagreed with the Proposal, and the strength of that view. As can be seen from the following chart, overall 75% agreed or strongly agreed with the Proposal, with 9% disagreeing or disagreeing strongly. As expected, the level of support was higher in the former Gundagai shire area with 82% - compared with 70% in Cootamundra - agreeing or strongly agreeing with the Proposal. Across the whole CGRC area, 16% were neutral or not sure.



Those agreeing/neutral/disagreeing with the Proposal were asked the reasons for their position as shown in the following three charts -







The reasons given by those survey respondents who agreed with the Proposal are very consistent with the views put forward in submissions and oral presentations.

While some of the reasons given by those survey respondents who did not agree with the Proposal were related to the cost of a demerger, there were also some (albeit a very small number of respondents) that saw positives from the merged Council.

These views are consistent with comments made to the Commission by Councillor Gill Kelly -

> *I have asked many people how they have personally been affected since the merger. The overwhelming majority have said they haven't. They can see no change. Service levels have remained the same. The parks still get mowed. The bins still get emptied and the potholes still get fixed. They also know, if not for the merger, we would not have received the many tens of millions of dollars we have received from the New Council Implementation Fund or the many rounds of the state government Stronger Community Fund.*[92]

As the Commission made clear at every session, our role is forward looking. While we need to consider the recent past and the present to understand the future, it is not our role to review whether the 2016 merger decision was appropriate. Equally, our task is to do more than just take a plebiscite, so even assuming that a 'majority' of the community expressed a view in support of the Proposal, that would not be the end of the examination process.

[92] Speaking at Session 3, Cootamundra.

Since municipalisation was forced on communities in 1906 there have been subsequent episodes to reduce the total number of councils. Larcombe charts the history of these episodes in his seminal work.[93] As Larcombe notes, '*the Government's apparent enthusiasm for larger units stirred up considerable opposition in areas desirous of retaining independence*.'[94] This comment dates back to mergers occurring in the 1940s and 1950s. It seems that little has changed. The main arguments in favour of small areas put to the Barnett Committee, established in 1972,[95] '*were the desire to keep local government 'local', and to facilitate the maintenance of public interest and participation*.'[96] These are still the arguments put forward to this Commission. With regards to the view that larger areas took the local out of local government, a view frequently put to the Commission at both Cootamundra and Gundagai sessions, the Barnett Committee observed that if accepted, this argument would mean that '*the number of units [councils] would have to be greatly increased*.' That remains the situation today.

According to the Geographical Names Board there are 356 'places' that are designated or recorded as 'Towns' in NSW.[97] In 1910 there were 324 councils.[98] Many of these councils would have been 'single town' councils. Today, there are 128 councils, the majority of which are no longer single town councils. It has been commonplace for many years now for a council area to encompass a number of towns, especially in rural NSW.

In the context of the current Proposal, the Commission's task is to have regard to that "anti merger" attitude and to weigh that in the balance. It is a factor which remains a concern. CGRC will be constrained into the future if it cannot achieve an alignment between councillors, management and the community, but it is also to be observed that the persistence of that attitude has not meant that the Council has been unable to function.

The Commission's view is that the persistence of an attitude against the merger held by a significant number of the residents and ratepayers in Gundagai is not a reason, *per se*, for the Proposal to be implemented.

6.5 Elected Representation

Section 263(3)(e) of the Act requires the Commission 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".*

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93 Larcombe FA, *The Advancement of Local Government in NSW 1906 to the Present*. A History of Local Government in New South Wales Vol 3 Sydney University Press (1978). See Ch 11 The Local Government System 1919-1977.

94 Larcombe pp411-2.

95 Larcombe pp417-8. The Commission was established with terms of reference including '*the appropriateness of the existing units for economic and efficient local government*.

96 Larcombe p418.

97 See Geographical Names Register of NSW: https://proposals.gnb.nsw.gov.au/public/geonames/search

98 LG NSW Amalgamations: To Merge or Not to Merge? February 2015, p5.

6.5.1 Submissions and presentations made

The following table shows the number of written submissions that addressed this factor -

Written submissions addressing this factor			
Forwarded by Minister	**Submitted directly to Commission**	**Total (a)**	**As a percentage of total submissions**
740	32	772	63%

(a) Note that many individuals made submissions both to the Minister and to the Commission, often in largely similar terms.

There is no denying from the submissions and presentations made to the Commission that one of the issues felt most strongly by Gundagai residents is the reduction in their connection with local councillors -

> *The original Gundagai Shire Council was made up of locally elected Gundagai towns people. I knew three quarters of our councillors on a personal level, and for the remainder I knew their faces. This made communication on a face to face level much easier. Any walk in the main street to pick up groceries, stop into our post office, or drop by Elders, would mean meeting and chatting with several of our local councillors. Many of them were local business people or simply lived and worked in our town. Raising concerns or complimenting current decisions was regular and easy.*[99]

> *Gundagai is a small community and we don't want to be swallowed up by Cootamundra. Due to its substantially large population, Cootamundra has a greater representation on Council and Council votes go their way.*[100]

> *We cannot hope for one moment that our interests are going to be fairly considered by a Cootamundra-weighted Council.*[101]

> *Gundagai now has a distinct lack of representation on Council with only three Councillors. I have not met or seen one Cootamundra Councillor in three years since the local government elections.*[102]

6.5.2 Discussion

The Commission understands that there is often a much stronger connection felt by people in non-metropolitan areas with their local councils and councillors. This reflects, to a large extent, the smaller populations in rural council areas, the higher councillor to resident ratio and the greater likelihood that councillors will be personally known to (or at least recognised by) local residents.

However it is also likely that in any rural shire where there is one more populous town, candidates from that town will be disproportionately able to gain election. This would apply in most rural councils,

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[99] Submission #044 to the Commission.
[100] Speaker at Session 2, Gundagai.
[101] Speaker at Session 1, Gundagai.
[102] Speaker at Session 2, Gundagai.

not only those that may have been merged. It would likely have applied in the former shires of Cootamundra and Gundagai before they were merged. Smaller towns and villages are far less likely to have their "own representative(s)" in council.

it was an inevitable consequence of the 2016 merger that electors resident in the former Gundagai Shire would no longer have their "own" council representatives. In the absence of a system of wards in the new Cootamundra Gundagai Regional Council (but see below), all candidates for election stand for the Council as a whole, with electors voting accordingly. The feeling espoused by so many residents of the former Gundagai Shire that their representation has been diluted since the 2016 merger understandably reflects the larger council area, the population differential between Cootamundra and Gundagai, the much higher ratio of councillors to residents than existed previously, and the Council's administrative centre now being in Cootamundra.

While acknowledging these feelings, it is also true to say that there are now nine councillors whose responsibility it is to serve the collective interests of the whole community, not the town or village they happen to live in – nor the former shire they lived in.[103] That is no different to any other shire that consists of a more populous town surrounded by smaller villages and rural properties, and where the majority of residents live in that larger centre. Nor is it any different to the former Gundagai Shire, whose councillors had responsibilities to the whole population base, including those in smaller towns, villages and on rural properties who may not have had their "own" resident councillor(s).

While the level of representation has changed since 2016, that does not mean that the merger process conducted in 2016 was in some way flawed. That it was strenuously opposed by a section of the community is acknowledged. That the community still keenly feels impacted by a perceived loss of representation does not mean that the current requirements for elected representation are inadequate.

While the Commission is required to consider this aspect, the starting point for that consideration is not an assumption that the current level of representation is inadequate. Having an equality of vote but a smaller voice in a larger council is not undemocratic.

Many submissions focused on the fact of an imbalance in representation suggesting that now Gundagai residents only elect 3 councillors who are residents of Gundagai. Previously, Cootamundra had 9 councillors and Gundagai 8. Now CGRC has 9 councillors. For residents of former Gundagai their representation has been diluted from about 469 residents per councillor to about 1,278 residents per councillor. The Council suggests that if the Proposal is recommended then the remnant CGRC council should have 7 councillors and the new Gundagai council should have 5 councillors.[104] On those numbers Cootamundra residents would have a representation ratio of about 1,100 per councillor and Gundagai about 750 per councillor. There is no magic representation number, and it is to be noted that councillors, once elected, have an individual responsibility to '*represent the collective interests of residents, ratepayers and the local community*.'[105]

[103] See, in particular, section 232(1)(d) of the Act.
[104] Drew #3 p31.
[105] See section 232(1)(d).

6.6 Service Delivery and Facilities

Section 263(3)(e1) of the Act requires the Commission 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".*

6.6.1 Submissions and presentations made

The following table shows the number of written submissions that addressed this factor -

Written submissions addressing this factor			
Forwarded by Minister	**Submitted directly to Commission**	**Total (a)**	**As a percentage of total submissions**
325	32	357	29%

(a) Note that many individuals made submissions both to the Minister and to the Commission, often in largely similar terms.

The Act does not provide guidance as to what is adequate, equitable and appropriate recognizing that this is a matter for the Commission. What is immediately apparent is that if the Proposal is recommended then the ability of the existing council to function will be impaired. The Deloitte report suggests that this will be a more significant issue for the new Gundagai council.

While there were many submissions received on this factor, most referred either to the failure of the 2016 merger benefits to arise or to the current financial position of the Council. While both of these issues impact on the Council's ability to fund an appropriate range of services, financial issues are dealt with in Section 6.1.1.

Some submissions however did discuss specific services or specific locations -

> *There are less local services - for lots of services we go through the Cootamundra office who don't always understand the needs of our littler community.*[106]

> *The Merger Shires responsibility to maintain their … nature strips … Since the merger the grass cutters do not come anywhere near my property to reduce the overgrowth … that is a fire hazard. I have had to ensure that this area is maintained to reduce the fire hazard and protect my property.*[107]

6.6.2 Discussion

As noted elsewhere, the Commission's role does not include investigating individual complaints or reviewing the performance of local councils or. However individual complaints about service may reflect underlying issues such as a council's financial capacity.

[106] Submission #048 to the Minister.
[107] Submission #073 to the Minister.

NSW councils are required to use the Integrated Planning and Reporting (IPR) framework introduced by the NSW State Government to help improve the way they plan for the future, and to ensure council planning is reflective of communities' needs. While this approach does not guarantee that every community need will be met, it does ensure a substantial degree of community involvement and regular reporting against the main deliverables. The IPR requirements apply to the current CGRC and would apply to the two resulting councils if this Proposal were implemented.

In June 2020 CGRC adopted its Long Term Financial Plan (LTFP) after a period of public exhibition. On 3 December 2020 Council placed on public exhibition an Addendum to the LTFP relating to the proposed SRV. The Addendum notes that a status quo scenario with '*no SRV or other drastic measures results in general fund annual operating losses before capital income of between $3.4 and $6.2 million over the 10-year period*.[108]

The purpose of the SRV is therefore to enable the council to have sufficient resources to enable it, into the future, to provide services and facilities to is community. With the SRV approved the council expects that *'[t]he easing [of] liquidity pressures later in the projection also allow capital works on transport assets to be increased to the 2020 Moloney Report recommendation of $4,700,000 pa from the amount of $4,290,000 pa included in the Status Quo Scenario*.[109]

For the reasons discussed above (Section 6.1), it is clear that in all scenarios an SRV will be essential to ensure that the existing Council, and any new council, has adequate financial resources.

As to a new council's ability to provide adequate, equitable and appropriate services and facilities, Deloitte notes that on a comparative analysis against the assumed base case, Gundagai's financial capacity is more constrained than the reduced CGRC's capacity in a post demerger scenario.[110] This is implicitly recognised by the submissions made to the Commission that the proposal requires the Government to fully fund the reinstatement of the former council. Absent that funding, the capacity of the new council to provide adequate, equitable and appropriate services and facilities becomes challenging.

During the time of the preparation of this Report, CGRC has completed its further consultation phase and has submitted its SRV to IPART for consideration. Without approval of that application the situation is potentially dire. In December 2020 the Council informed its community that without an SRV, unrestricted cash and investments will be exhausted in 2021-22.[111] It was because Professor Drew had '*grave concerns for the financial sustainability of Council*' that he was unable to recommend in 2020 that council put off necessary budgetary repair.[112] The Council has now taken the necessary steps to address this situation. Deloitte concurs in this assessment but it also notes that resolution of uncertainty regarding the demerger will also assist to align community stakeholders on financial sustainability objectives, given the urgency of the matter.

[108] CGRC SRV Addendum document p4 accessed at: https://www.cgrc.nsw.gov.au/wp-content/uploads/2020/12/LTFP-Addendum-for-SRV-Proposal-13.12.2020-002.pdf
[109] Addendum p7.
[110] Deloitte Report p12.
[111] Addendum p4.
[112] Drew #4 p32.

It is the Commission's assessment that the existing CGRC should complete its fiscal repair strategy as evidenced in the SRV application (as amended). In light of the difficult financial position confronting the Council, it is the entity best placed to implement the necessary financial measures to enable the council to continue to provide the level of services and infrastructure it currently provides to the community. It is accepted that for CGRC to do this, not only will the Council need approval to the SRV, but it will also need to continuously identify other measures to increase revenue and decrease expenditure.

If the demerger Proposal is implemented both CGRC, in its diminished state, and the new Gundagai council will suffer financial impairment from the start, making it difficult for either council to provide adequate, equitable and appropriate services and facilities to their respective communities. The imposition of a further period of statutory staff protections (discussed below) combined with the uncertainty of the starting position financially for either the reduced CGRC or the new Gundagai council is a factor which weighs against the recommendation of the Proposal.

6.7 Employment Impacts on Staff

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

> *"the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned".*

6.7.1 Submissions and presentations made

The following table shows the number of written submissions that addressed this factor -

Written submissions addressing this factor			
Forwarded by Minister	**Submitted directly to Commission**	**Total (a)**	**As a percentage of total submissions**
786	27	813	66%

(a) Note that many individuals made submissions both to the Minister and to the Commission, often in largely similar terms.

This issue was addressed by councillors, staff and residents. Many expressed concern at the impact of the merger on the well-being of existing CGRC staff -

> *I have worked under two administrators and two general managers. I have been maligned and abused by members of the Gundagai office staff and members of the Gundagai community simply because I am a Cootamundra resident.*[113]

> *Prior to amalgamation … the staff saw themselves as members of the community and the community saw the staff in the same light … Since amalgamation that closeness has disappeared.*[114]

[113] Submission #049 to the Commission.
[114] Submission #090 to the Commission.

> *Staff are at the coalface and they are suffering the community indignation and a lack of respect for this merger. They are the very people who interact with our residents daily and their confidence in delivering services is being undermined.*[115]

> *Staff morale in the Cootamundra office and outdoor staff is currently very low … The current CGRC executive staff has little knowledge and history with Cootamundra and is Gundagai aligned.*[116]

6.7.2 Discussion

In terms of the impact on staff well-being, it is unclear to the Commission the extent to which this stems from the merger itself, or the continuing opposition to the merger by many community members.

Any substantial organisational change can be stressful to those involved. But provided it is well-managed, staff can generally see that the stress of change and disruption will be temporary. Had the community largely accepted the 2016 merger, it is unlikely that most staff would be faced with the continuing tensions as evidenced above. However that is not what happened and staff are still feeling the impact. Whatever the outcome of this Proposal, it is hoped that the community accepts that staff are entitled to go about their roles with courtesy and respect and that CGRC continues to recognise its responsibilities to staff.

If the Proposal is implemented, then a fresh period of statutory protection will apply to transferring staff affected by the implementation of the Proposal.[117] This will apply to the new Gundagai council. It is unclear as to how many staff this will apply to. Despite submissions to the contrary, the ability of the new Gundagai council to 'return' to arrangements under the former situation has been lost.

A new Gundagai council will have a different cost base and it will also be hampered by the imposition of a new period of staff protections. It is also likely that the new council will need to carefully consider how to align staffing roles with desired servicing levels which may necessitate the council incurring additional costs to address levels of specialisation that may not be commercial to retain.

Under the 2016 merger, the statutory protections in the Act for staff employed in the two former councils required CGRC to maintain rural centres in Gundagai. If the Proposal is implemented, this will no longer be an obligation of CGRC so that is a notional saving to CGRC. But it is unclear how CGRC staff will impacted by the implementation of the Proposal. As is discussed above, there is a suggestion in Professor Drew's report that a staff ceiling should apply referable to the 2016 FTEs.[118] If the new Gundagai council is to 'start' at 2016 FTE levels (if that is possible) then the diminished CGRC would have to absorb the excess positions. If the statutory protections also applied to these staff, then CGRC would be burdened with the cost to employ this additional number of FTEs until the protections expired. If the statutory protections did not apply to CGRE staff, then the impact of any redundancy decision will be felt by CGRC staff and CGRC will have to fund the cost of the redundancies. Either way

[115] CGRC Deputy Mayor, speaking at Session 1, Cootamundra
[116] Submission #117 to the Commission.
[117] See section354F – no forced redundancies.
[118] Drew #3 p31.

this will have a significant impact on the starting position of the council and on its ability to be financially sustainable.

If the proposal is not implemented, then CGRC will retain flexibility in its options for cost reduction. It is recognised that this may involve staff impacts, especially if it becomes necessary for the Council to look to staff reductions to return staffing to pre-merger levels. In that regard it is to be noted that the FTE in Gundagai has remained in line with rural centre protections which are on-going (section 218CA). If the Proposal is not implemented, it is likely that some of these staff, while stationed in Gundagai, would be available to undertake tasks benefiting the community in the council area, remotely.

Given the recent expiration of the 2016 protections associated with the merger, recommending the Proposal will therefore come at a cost to the CGRC community. While a new round of statutory protection will benefit staff employed in the new Gundagai, that may not be in the best interests of the Gundagai community having regard to the urgency of the fiscal repair task to be inherited by the new council. A further 3 years of protection before the council can make necessary organisational change may be untenable.

Either way there will be adverse impacts on the employment of staff. Taking the matters discussed above into consideration, the Commission is of the view that if the Proposal is implemented then the existing staff of CGRC, taken as a whole, will likely be more adversely impacted than the situation that may apply if the existing council is allowed to pursue its budget repair initiatives.

6.8 Rural Impacts

Section 263(3)(e3) of the Act requires the Commission to have regard to:

> *"the impact of any relevant proposal on rural communities in the areas concerned".*

6.8.1 Submissions and presentations made

The following table shows the number of written submissions that addressed this factor -

Written submissions addressing this factor			
Forwarded by Minister	Submitted directly to Commission	Total	As a percentage of total submissions
1	3	4	0.3%

6.8.2 Discussion

The Commission noted that very few submissions specifically addressed this factor.

Matters raised around the delivery of council services and the impact of rate harmonisation as well as the proposed SRV by CGRC, have been considered by the Commission under 263(3)(e1) and 263(3)(a).

In his 2016 report, the Delegate considered rural and farmland issues, including rates harmonisation, as part of his deliberations and concluded that the potential for negative impacts in the event of a merger was not significant[119]. Whether or not the Proposal is implemented, all of CGRC's rural communities in and around the towns and villages will be impacted by the extent of the budgetary repair task confronting the LGA.

Under this factor, the Boundaries Commission also considered submissions relating to the physiological wellbeing of the larger community.

Respondents focussed on the 2016 merger and the merger process itself which they considered to have had a destructive influence across communities. This was more keenly felt by those in Gundagai, while some in Cootamundra expressed anger that they were not amalgamated with Harden LGA during the Fit for the Future process. While acknowledging these feelings, it is not the Commission's task to revisit the 2016 merger but to consider the merits of the current Proposal.

It is clear that a council may play an important role in the economic, social and psychological wellbeing of a whole area. This is particularly true in a rural setting where the council and the larger community may be intrinsically intertwined.

On one view the larger council, being financially sustainable after the approval of the SRV, will have the best chance to ensure that the council maintains its assets, especially the road and bridge infrastructure which is vital to the economic future of the area. The SRV Addendum expressly refers to the approval of the SRV as allowing capital works on transport assets to be 'increased.'[120] The Delegate saw the potential for synergies to be exploited by the merged council given the similarities between the two communities.[121] In contrast, the Commission heard differing views, expressed in the submissions and addresses, namely that a smaller community cares for its people better than a large one does.

Against this is set the hope expressed by many who addressed the Commission that by returning to the former situation material benefit will accrue to the existing rural communities. To that proposition it needs to be said that, whether or not the Proposal is implemented, all of CGRC's rural communities in the towns and villages will be impacted by the urgency of the budgetary repair task confronting the community.

In the Commission's view this factor is neutral in terms of the Proposal as the task of fiscal repair will need to be undertaken under either scenario.

[119] Report by Delegate John Turner (2016), page45.
[120] SRV Addendum p7.
[121] Report by Delegate Turner (2016) p43.

6.9 Wards

Section 263(3)(e4) of the Act requires the Commission 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".*

This factor does not apply to the Commission's examination as the Proposal does not relate to an amalgamation of two or more areas.

6.10 Opinions of Diverse Communities

Section 263(3)(e5) of the Act requires the Commission 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".*

This factor does not apply to the Commission's examination as the Proposal does not relate to an amalgamation of two or more areas.

6.11 Other Issues

Section 263(3)(f) of the Act requires the Commission 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".*

6.11.1 Submissions and presentations made

The following table shows the number of written submissions that addressed this factor -

Written submissions addressing this factor			
Forwarded by Minister	**Submitted directly to Commission**	**Total (a)**	**As a percentage of total submissions**
824	7	831	68%

(a) Note that many individuals made submissions both to the Minister and to the Commission, often in largely similar terms.

While there were many submissions that included comments labelled as 'other issues', most of these were also addressed in other factors and were considered by the Commission under those headings.

6.11.2 Discussion

The Commission notes that less than 5 years have elapsed since the May 2016 merger was implemented, and less than 3 years had elapsed when this Proposal was put to the Minister.

In this regard, the Commission was conscious that the implementation of changes to a newly-merged council's operations would take time, and that any savings arising from the merger may not become apparent for some time.

Quite apart from any logistical constraints on a newly-merged council's ability to effect savings in an short period, to the extent that these savings involve changes to the size or composition of its workforce, a newly-merged council would be subject to a number of legislative constraints (as discussed elsewhere in this Report).

Firstly section 354F of the Act prohibits the use of forced redundancies for a period of three years after the date of staff transfer. In the case of the constitution of the new Snowy Valleys local government area, this period would have taken effect on 12 May 2016, the date of the Governor's Proclamation, and concluded in May 2019.

However, and secondly, section 354C of the Act imposes the same restrictions in respect of the staff (other than "senior staff") of a council that is affected by a proposal during the proposal period. In relation to the Cootamundra Gundagai Regional Council, this period would presumably have commenced when the Proposal was made to the Minister on or about 16 October 2018 and will end either (i) on the date the Minister decides not to recommend its implementation after receiving this Report or (ii) if the Minister recommends to the Governor that the Proposal be implemented, immediately before the date specified in the Proclamation implementing the Proposal.

Given the overlap of the dates of the "3-year" and "proposal period" restrictions on CGRC, the Council has therefore been subject to the "no forced redundancy" provisions of the Act for nearly 5 years from the time of its formation. It is not possible to estimate to what extent this has limited its ability to achieve savings.[122]

It is acknowledged by the Commission that CGRC is the result of a forced merger which was, and clearly remains, bitterly opposed by sections of the community. It is also acknowledged that the long campaign against the merger has meant that for the Council, stakeholder alignment has been challenging. Undoing the work put in train by CGRC to date highlights why this is an inopportune time to pursue this proposal.

It is imperative that, if the Proposal is implemented, both the reduced CGRC and the new Gundagai Council must be financially sustainable if the Proposal proceeds. Yet, on any assessment, this can only occur with approval to the significant SRV. The Commission believes from the evidence before it, that there is a higher certainty of attaining financial sustainability in the no demerger scenario.

The Deloitte analysis does not identify new, additional savings associated with the implementation of the Proposal. Rather Deloitte notes there will be immediate and on-going costs incurred. These

[122] Indeed if the Minister decides not to implement this Proposal, it would seem that successive elector-initiated proposals could be made to the Minister - thus triggering the commencement of further section 354F restrictions.

consequences are not conducive to efficient and effective local government. This is especially the case when there is some form of 'financial crisis' emerging.[123]

The need for urgent and immediate budget repair at CGRC is a matter that has revealed itself throughout the Commission's examination of this Proposal. Many members of the community have raised the existence of this predicament to support the implementation of the Proposal.

Deloitte notes that the immediate financial outlook for CGRC is challenging, with financial sustainability in the medium term reliant on an SRV as well as cost savings above those already envisaged in its Long Term Financial Plan. As Professor Drew has noted: '*we must deal with the numbers before us – the state government, and community will hold us rightly accountable if we fail to react swiftly and decisively on what is currently before us*.'[124] That budget repair exercise seems to be the real priority.

Dependence on grant funding means that councils will face structural deficits. That is a feature of rural councils. It is why there are many avenues provided to councils to seek additional grant funding to supplement the unrestricted Federal Financial Assistance Grants. Council's LTFP aims to address the dependency on grant funding in the long term. But to deliver on that plan it will require both stakeholder alignment and time to implement the necessary SRV. Bringing to a close this period of demerger agitation could well assist this process.

Of concern to the Commission is the possibility that a decision on the SRV may be delayed or deferred if the Proposal is implemented. That cannot be said to be consistent with the aim of efficient and effective local government in the demerged councils.

The Act does not presently make provision for what is to happen in a demerger. Clearly, there are complex issues that need to be considered and resolved at a policy level if demergers are to be addressed feature of the Act. To facilitate this demerger, Professor Drew has identified, in a table to his report,[125] a significant number of sections in the Act that he argues should be amended to accommodate the implementation of this Proposal. A particular policy matter to be resolved is the matter of funding. The fact that the Council's advisor sees a need for legislative reform if demergers are to become policy suggests that in light of the urgent budget repair task, now may not be the time to demerge this Council when there are more pressing imperatives such as securing and implementing the SRV and identifying and achieving other savings.

[123] See Drew #4 p21: '*At present Council is planning to fail some time in 2021/22 and this is simply not acceptable.*'
[124] Drew #4 p21.
[125] Drew Report #3 pp34–37.

Attachment 1

Copy of the Gundagai council in Exile Inc covering letter to the Proposal

GRRRR!!

Tuckerbox

GUNDAGAI COUNCIL IN EXILE INC.

We Want Our Shire Back

Correspondence to:

The Chairperson
Gundagai Council in Exile
PO Box 102
Gundagai NSW 2722

The Hon. Gabrielle Upton,
Minister for Local Government,
52 Martin Place,
Sydney 2000

16 October 2018.

Dear Minister,

Gundagai Council in Exile Inc is an association incorporated under the Associations Incorporation Act. It has been the instigator of a proposal ("the proposal") to alter the boundaries of the Cootamundra Gundagai Regional Council ("CGRC") and to recreate the former Cootamundra and Gundagai Councils with the boundaries applicable as at 11 May 2016.

Although the boundaries are a matter of public record maps depicting the boundaries of the two former Local Government areas are appended.

As at 24 August 2018 CGRC had 8536 enrolled electors. This information was sourced from the NSW Electoral Commission.

A total of 1057 enrolled electors of CGRC have signed the proposal. Those proposal forms are contained in alphabetical order in 3X ring bind folders handed to you herewith. Appended to this letter is a Schedule showing the name and address of each proponent.

Should, as we will expect, you determine to proceed with this proposal and to give the requisite public notice we will be making detailed submissions but to aid you in deciding to proceed with the proposal we provide a non- exclusive summary of those submissions:

- Complete failure to achieve the financial savings predicated prior to the amalgamation with the opposite applying. Since the amalgamation the accumulated loss before grants and capital contributions provided for capital purposes is $14.2 million.
- Projected 40% increase in rates payable after the termination of the moratorium period
- Lack of transparency and accountability in the governance, management and operation of Cootamundra Gundagai Regional Council.
- Lack of Fiscal Responsibility in the failure to realise that each of the grants for specific works will require funding out of rate revenue for recurrent expenditure in their maintenance and repair estimated to be a 28% increase in rates to fund recurrent expenditure on those projects.
- Lack of efficiency in utilisation of staff resources and elimination of the ethos of Council/Staff partnership.

- Removal of 'local' from local government resulting in a lack of representation and a loss of community identity.

In short, the stated benefits of amalgamation have become detriments.

Dr Joseph Drew provided to Gundagai Shire, the Delegate and the Land and Environment Court his report on the likely effects of the then proposed amalgamation. A copy of his report is appended. You might seriously consider engaging Dr Drew to provide to you an independent report on the actual effects of the amalgamation.

We now ask that at your early convenience:

1. You acknowledge receipt of this letter and its appendices
2. You advise whether or not it is your intention to proceed with this proposal and to give public notice of it pursuant to the Act.
3. Whether you would be assisted by representatives of this organisation waiting upon you at a venue and time nominated by you.

Obviously we see this matter as extremely urgent and so we will follow up with your office in 28 days if we have not received your substantive response within that time.

Yours Faithfully,

Dr. Paul Mara AM,

Chair,

Gundagai Council in Exile Inc.

Attachment 2

Copy of Minister's letter referring the proposal to the Boundaries Commission

The Hon. Shelley Hancock MP
Minister for Local Government

Ref: A687585

Mr Bob Sendt
Chairperson
Local Government Boundaries Commission
Locked Bag 3015
NOWRA NSW 2541

By email: Bob.Sendt@lgbc.nsw.gov.au

Dear Mr Sendt

Referral of Elector Proposal affecting Cootamundra-Gundagai Regional Council

I have received an elector proposal (the Proposal) made pursuant to section 215(1) of the *Local Government Act 1993* (the Act) from an appropriate minimum number of electors of Cootamundra-Gundagai Regional Council (Council) to create a new local government area from the Cootamundra-Gundagai local government area.

The Cootamundra-Gundagai local government area was created by Proclamation published in the NSW Government Gazette on 12 May 2016. It resulted from the amalgamation of the former Cootamundra and Gundagai local government areas. The effect of the Proposal, if implemented, would be to reinstate the former local government areas of Cootamundra and Gundagai.

Public notice of the Proposal was given by me in accordance with section 216 of the Act. Representations were received in response to that notice. Having considered the representations, I have decided to continue with the Proposal.

Consequently, as required by section 218(1) of the Act, I hereby refer the Proposal to the Local Government Boundaries Commission for examination and report.

I note that in considering this matter, the Commission must have regard to the factors listed in section 263(3) of the Act. They are:

> (a) 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,
> (b) the community of interest and geographic cohesion in the existing areas and in any proposed new area,
> (c) the existing historical and traditional values in the existing areas and the impact of change on them,
> (d) the attitude of the residents and ratepayers of the areas concerned,
> (e) 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,
> (e1) 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,
> (e2) the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned,

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(e3) the impact of any relevant proposal on rural communities in the areas concerned,
(e4) 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,
(e5) 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,
(f) such other factors as it considers relevant to the provision of efficient and effective local government in the existing and proposed new areas.

Further, for the purpose of exercising its functions in relation to this matter, I hereby direct the Commission, pursuant to section 263(2)(b) of the Act, to hold an inquiry.

To assist the Commission, I will arrange for the Office of Local Government to separately provide to the commission the following:

a. a copy of the Proposal, dated 16 October 2018;
b. a copy of the of elector representations received in response to the public notice; and
c. a copy of the representation received from Council in response to the public notice.

Yours sincerely

Shelley Hancock

The Hon. Shelley Hancock MP
Minister for Local Government

25 FEB 2020

GPO Box 5341 Sydney NSW 2001 ▪ P: (02) 8574 5400 ▪ W: nsw.gov.au/ministerhancock

Attachment 3

Copy of LGBC's public notice dated 24 March 2020

New South Wales Government

Local Government Act 1993

Notice of Local Government Boundaries Commission examination and report into a proposal to create a New Local Government Area affecting the area of Cootamundra-Gundagai Regional Council

The Hon Shelley Hancock MP, Minister for Local Government, has referred a proposal made pursuant to section 215(1) of the Local Government Act 1993 (the Act) to the Local Government Boundaries Commission (LGBC) for examination and report in accordance with section 218(1) of the Act.

The effect of the proposal is to re-establish the former Gundagai Shire local government area and to reduce the area of Cootamundra-Gundagai Regional Council so that it corresponds to the area of the former Cootamundra Shire Council.

The LGBC is required to examine and report on the proposal in accordance with the Act, having regard to the factors set out in section 263(3).

A copy of the proposal, together with a detailed description of the areas subject of the proposal, may be inspected at Council's offices. The proposal may also be viewed on the LGBC website at: www.olg.nsw.gov.au/lgbc.

Call for written Submissions

Submissions already made to the Minister for Local Government on this proposal have been forwarded to the LGBC. However, the LGBC is now inviting any further or supplementary submissions relating to the proposal. Submissions should preferably address one or more of the factors listed in section 263(3) of the Act.

Submissions should be forwarded to the LGBC Executive Officer Locked Bag 3015, Nowra NSW 2541 or emailed to EO@lgbc.nsw.gov.au by COB 24 April 2020.

Persons making submissions should give written indication by COB 24 April 2020 on whether they wish to speak to their written submission at the LGBC's public hearings. Details of the venue and time of the public hearings will be advertised once available. Any changes that must be made to these arrangements due to the impact of COVID-19 will be published on the LGBC website.

Submissions received by the LGBC may be made publicly available at the Commission's discretion.

Further information on the making of written submissions and the conduct of the public hearings is available at the councils mentioned above and via the LGBC website: www.olg.nsw.gov.au/lgbc.

BLZ_SB1250

For more information please visit: www.olg.nsw.gov.au

Attachment 4

Copy of LGBC's Public Notice dated 24 September 2020

New South Wales Government

Notice of Local Government Boundaries Commission Examination and Report into a Proposal to create a new Local Government Area affecting the area of Cootamundra Gundagai Regional Council

Pursuant to section 218(1) of the *Local Government Act 1993*, the Minister for Local Government has referred to the Local Government Boundaries Commission for examination and report a proposal to create a new local government area out of the Cootamundra Gundagai local government area. The effect of the proposal, if implemented, would be to re-establish the former Gundagai local government area and reduce the size of the Cootamundra Gundagai Regional Council so that it corresponds to the area of the former Cootamundra Shire Council.

The examination into the proposal has commenced and written submissions are invited from members of the public. The closing date for written submissions is 5pm AEDT, 4 December 2020.

Submissions can be made by email to
eo@lgbc.nsw.gov.au or by mail to:
Executive Officer, Boundaries Commission
Locked Bag 3015, Nowra NSW 2541

A public inquiry in relation to the proposal will be held under section 263 of the *Local Government Act 1993* at the following times and venues:

Venue 1: Cootamundra Ex-Services Club, 299 Parker Street, Cootamundra **25 November 2020** Session 1: 11am – 1pm Session 2: 1:45pm – 3:30pm Session 3: 4pm – 5:30pm	Venue 2: Gundagai District Services Club, 254 Sheridan Street, Gundagai **26 November 2020** Session 1: 10:00am – 12pm Session 2: 1:00pm – 2:30pm Session 3: 3:00pm – 4:30pm Session 4: 5:00pm – 6:30pm

Registration Requirements
Due to the COVID-19 pandemic, the number of persons attending the above venues will be limited to comply with COVID safety plan requirements.

Members of the public wanting to address the public inquiry should register their intention and nominate the session they wish to attend. Speakers will be allotted three (3) minutes to address the Commission. Members of the public who want to attend but not address the public inquiry should also register their intention and nominate the session they wish to attend.

A failure to register may mean you will be unable to attend the session of your choice and/or address the inquiry. Registrations for each session will close if the maximum number of attendees is reached. Priority will be given to those addressing the public inquiry. Registrations will open from Monday 5 October 2020 and can be made at olg.nsw.gov.au/lgbc or by contacting the Executive Officer on (02) 4428 4160.

The inquiry proceedings will be webcast live for those unable to attend the venue. The webcast will be accessible through the Boundaries Commission webpage.

For more information contact the Executive Officer or visit olg.nsw.gov.au/lgbc

Attachment 5

Section 263(3) of the *Local Government Act 1993*

(3) When considering any matter referred to it that relates to the boundaries of areas or the areas of operations of county councils, the Boundaries Commission is required to have regard to the following factors:

(a) 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,

(b) the community of interest and geographic cohesion in the existing areas and in any proposed new area,

(c) the existing historical and traditional values in the existing areas and the impact of change on them,

(d) the attitude of the residents and ratepayers of the areas concerned,

(e) 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,

(e1) 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,

(e2) the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned,

(e3) the impact of any relevant proposal on rural communities in the areas concerned,

(e4) 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,

(e5) 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,

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