

subsection 6(4) of the Local Government (Financial Assistance) Act 1995 (CTH) that a new national principle would come into force being that 'the general purpose grant provided to the new body for each of the four years following amalgamation should be the total of the amounts that would have been provided to the former bodies in each of those years if they had remained separate entities'. The reason why this proclamation was made was to re-dress a number of situations whereby FAG grants had altered significantly following amalgamation (which will almost certainly happen any time that councils without identical demographics are amalgamated). I have emailed the NSW Local Government Grants Commission back on the 8th of January (and 18th of February) to ask for: (i) the Local Government Grants Commission report for 2016-17, and (ii) the precise formulas and factors used to calculate the grants. I was told there would be no 2016-17 report which seems to be inconsistent with s3(4)(a) of the Act (1995) which states the Parliament's goal to 'increase the transparency and accountability of the States in respect of the allocation of funds under this Act to local governing bodies'. I have pointed out the inconsistency of the approach taken by the NSW Local Government Grants Commission but not received a satisfactory response. Without this degree of detailed information, I have no way of verifying that the proclamation under subsection 6(4) of the Act (1995) has been observed correctly⁷, nor can I model by how much the FAG grant would likely be increased following de-amalgamation. It is regrettable for the community of Cootamundra-Gundagai that the NSW Local Governments Grant Commission has not been sufficiently transparent in their operations.

Of interest is the fact that a de-amalgamation is expected to yield a saving of *at least* \$2.406 million over ten years. This saving, based on rigorous analysis, stands in contrast to the guestimate that was used to justify the original amalgamation of \$3 million over 20 years. Otherwise stated, what I have shown here is a commensurate saving that occurs in almost half the time as what was assumed might occur from the amalgamation. However, unlike the work that was done in 2016 my calculations are prudent and rigorous.

If a saving of \$3 million over 20 years was deemed sufficient cause to bring about an amalgamation, then the same logic must dictate that a saving of \$2.4 million over 10 years is even more cause to bring about a de-amalgamation.

I will now proceed to answer a number of questions that are typically posed during de-amalgamation debates regarding how matters should be managed prior to the proclamation and during the transition period.

⁷ Although in email correspondence it was confirmed that 'in 16/17 and 17/18 the FAGs were simply aggregated for amalgamated councils and apportioned based on population (ABS) or local road lengths (as reported by councils) where boundary changes occurred...in 2018/19 the FAGs went into a transition towards a revised model.' This seems inconsistent with the aforementioned proclamation and it is very possible that Council has received less FAGs than its entitlement.

How Should the Transition be Managed?

The transition should be managed by a team of executives and political representatives headed by an independent Transition Manager, who understands the council's structure and challenges and has the complete confidence of the community. This person should come from outside of the community and should be appointed for a temporary period of ten weeks.

It is absolutely imperative that the Transition Manager is appointed by the *existing Council* as quickly as possible after the Minister makes her decision known. A big part of the problem that we have been dealing with over the past four years or so, is that the community has felt (with good reason) that they have had little input into the structural decisions which significantly affect their lives. The community, not the Minister, must appoint the Transition Manager, because it is the community who will bear the consequences of the decisions made by this person. There needs to be no room for doubt, this time, that the community has had control over the process and have had a real say over the decisions. The most appropriate way to ensure that this occurs is for the Council to appoint a Transition Manager at a Council Meeting that is open to the public.

The transition team should include the current General Manager, the current Mayor and Deputy Mayor, and the new General Managers of the emerging entities (as soon as they have been appointed⁸). The Transition Manager must have the authority to have the final say on all matters described below. However, the Transition Manager should in all instances first seek a consensus and all members of the transition team should have equal say prior to a decision being made. This is similar to the model that has been used in successful de-amalgamations elsewhere.

The Transition Team and the Transition Manager should be communicating with the Council and public throughout the process. The most expedient way to achieve this Council and public consultation would be for the Transition Team to report to the fortnightly Council workshops. Part of this workshop time should be open to the public, so that interested members of the community have a chance to both hear about the progress being made, as well as raise any questions that they might have.

I have absolutely no doubt that the current senior political figures and executive of Council will work respectfully and co-operatively for both communities. Each person understands that *both* de-amalgamated local governments must thrive and prosper subsequent to de-amalgamation, for the decision to be validated, and will work hard to ensure that this result is the outcome.

⁸ Two General Manager Employment sub-committees should be formed from the body of existing Councillors as soon as the Minister has made her decision to de-amalgamate. The first sub-committee should comprise only Cootamundra Councillors and should be tasked with engaging a General Manager for Cootamundra. The second sub-committee should be formed from only Gundagai Councillors and should be tasked with engaging a new General Manager for Gundagai. The Transition Manager should observe the engagement process to ensure that it is consistent with the de-amalgamation plan and provide her or his comments, but should not be given a binding say on any appointment.

Who Should Pay?

Principles of natural justice are generally considered to suggest that if one person inflicts damage upon another – whether intentionally or through negligence – then the person responsible for the damage is liable for the rectification of same. For instance, if I crash my vehicle into that of an innocent person going about their lawful business, then I would be responsible for the cost required to bring that person as close as possible back to their position prior to the accident.

This concept is clearly directly applicable to the amalgamation event. The people in Cootamundra and Gundagai did not act to bring about the amalgamation – indeed, many tried to bring facts to bear in the hope that the amalgamation architects would realise that the proposal was a particularly poor idea. However, the NSW government – probably relying heavily on some poor advice from their agents – drove the amalgamation vehicle into the community and, as I have shown, this caused significant financial damage. If we extend the principles of natural justice to this situation then there seems to be a clear case for the NSW government to bear some of the costs required to repair the damage done to the community. Notably, the current NSW government is under different management to the government that inflicted the damage. However, it seems that the current government is conscious of its obligations under principles of natural justice and the community might therefore have some reason to hope that the one-off costs of de-amalgamation might be granted to them (indeed, the one-off costs for de-amalgamation are likely to be far less than the ongoing support required from the NSW government to keep the Cootamundra-Gundagai Regional Council financially sustainable into the future and thus represents a wise investment). Even if one-off costs are covered by the NSW government, it should be noted that the damage that has occurred to the finances of the community over the last few years will still probably have to be repaired through future increases to fees and taxes.

In the past the precedent has been that the break-away community bear the entire cost of de-amalgamation (although in Victoria, in actual fact, the amalgamated entity bore most of the cost prior to de-amalgamation; see Drew and Dollery 2014b; 2015a). It is problematic for entities currently not in existence (Cootamundra council and Gundagai council respectively) to be bound to debts that they have had little say in (see, Drew and Dollery, 2014b). In Queensland, a particular piece of legislation had to be passed to facilitate this outcome, and there were grounds to contest both the morality and legality of doing so (Drew and Dollery, 2014b).

My strong preference (in the event that the NSW government declines to pay the costs of de-amalgamation) would be for the costs that are incurred by Cootamundra-Gundagai Regional Council – as it goes about the tasks that must be executed prior to de-amalgamation – to be borne by Cootamundra-Gundagai Regional Council. Costs that are incurred after amalgamation would also be borne by the Council that incurs the cost. This is clearly the most efficient and practical arrangement, but as I have alluded to earlier, also the arrangement with the least moral hazard.

In Table 4 I have set out the timing and responsibilities for most of the costs (if the state government declines to fund the de-amalgamation). As can be seen, a good

proportion of the costs would be borne by Cootamundra-Gundagai Regional Council, simply because of the fact that they need to be incurred prior to the actual day of de-amalgamation.

Table 4. Apportioning One-Off Costs of De-Amalgamation

Communications and Branding	477	Community communications about actual de-amalgamation born by CGRC, branding cost born by each emerging council
staff expenditure	211	Borne by CGRC for legal and practical reasons
ICT and finance	600	CGRC, but some borne by emergent councils
Governance	108	Borne by council where cost originates, mostly CGRC
Asset Management	18	Borne by CGRC
Legal	177	Borne by all three parties
Plant	0	
Transition Manager	120	\$96k CGRC, remainder shared between new entities. Alternatively, this could also be paid out of Stronger Communities funding
Other	39	Borne by council where cost originates
TOTAL	1,750	

I emphasise that my preferred position is that the NSW government pay for the one-off costs. However, if the state government declines to do so, then my calculations demonstrate that there is still a nett benefit for the community even if they bear the cost and my plan in Table 5 is the most economic and morally defensible way of accomplishing what must be done.

How Should Assets be Allocated?

There are three types of assets to consider, which all require different treatment – fixed assets, movable assets and cash and cash equivalents (Drew and Dollery, 2014b).

Fixed assets, such as buildings and sports infrastructure, are the simplest to deal with and should be allocated to the council in whose borders the asset is located.

In Cootamundra-Gundagai the moveable assets have mostly stayed within the pre-amalgamation borders and in most instances it will not be controversial to continue to keep the asset where it is currently located. Assets associated with specific staff (ICT equipment) should travel with the staff. There will inevitably be a small number of assets that do not fall into any category. These assets should be transferred according to the judgement of the independent Transition Manager after consulting with the relevant staff and representatives. I cannot emphasise enough the critical role that an independent Transition Manager will play in a de-amalgamation scenario. Inevitably judgements will need to be made by someone in authority and

hence it is imperative that a truly independent and knowledgeable Transition Manager is appointed.

Cash and cash equivalents should be allocated as part of a division of nett liabilities, as I will detail below.

How Should Staff be assigned?

In most cases staff have remained within the borders of the area that they were located in prior to amalgamation. In a few instances, key staff have been split between the two council chambers, and in other instances new staff have been taken on to fill positions that have become vacant over the last four years or so.

Staff who were located at a particular council chamber prior to and since amalgamation should remain at that location. Staff who have been split between the two locations should be assigned as follows:

For positions that will not be operated as a shared service, the views of the staff member involved should be given the greatest weight, followed by the needs of each emerging entity, followed by the preferences of the new entity management. If a shared consensus cannot be reached, then the Transition Manager's decision must be considered binding.

How Should Liabilities be Allocated?

The objective of the Transition Manager should be to ensure, as far as practical, that both emerging local governments end up with nett current assets and nett non-current assets respectively in proportion to those that existed immediately prior to amalgamation. Clearly liabilities associated with a particular fixed asset should be transferred to the new entity where the asset is located. Similarly, liabilities associated with staff (for example, leave entitlements) must be transferred to the entity where the staff member will be employed. Next, liabilities associated with a particular movable asset should be transferred to the entity where the movable asset will be located. The remainder of the nett current and nett non-current assets should be allocated *separately* such that the new entities are placed as close as possible in the situation that existed immediately prior to amalgamation. In this matter – as in most others – the independent Transition Manager will have a binding say on final allocations.

How Should Natural Attrition be Managed?

The objective of both councils should be to reduce the number of executive positions down to one General Manager and three Directors. There are currently one General Manager, one Deputy General Manager and 10 Director-equivalent positions at Cootamundra-Gundagai Regional Council. These 'legacy costs' of the amalgamation will, unfortunately, continue to weigh on the emerging councils for many years, and have substantially reduced the savings that would otherwise have arisen from de-amalgamation.

After de-amalgamation some changes to the job position of each Director-like position will need to be made to ensure that each emerging organisation has

oversight over all key functional areas of council. This will have to be done in consultation with the affected staff and in cognisance that no changes can be made to salaries. Soon after the de-amalgamation work has been completed the General Manager at each emerging entity should interview all senior staff with a view to understanding their career and retirement plans. At this point a succession plan should be put into place whereby ultimately functions of the departing executives are divided among the Directors who will be staying on. Appropriate plans should then be put into place to ensure that the remaining Directors will have the required skills and knowledge to absorb the function when their colleague ultimately leaves.

It will be tempting to replace positions as executive retire or resign. However, this should be resisted strenuously as many of the savings associated with de-amalgamation are contingent on reducing the numbers of managers over the next decade.

Similarly, the number of FTE that existed immediately prior to amalgamation – 51 at Gundagai and 89 at Cootamundra – should be set as the ceiling for the new de-amalgamated entities. Until numbers have reduced below this ceiling new staff should not be put on, unless there is both (i) a dire need for a certain expertise, *and* (ii) a plan to reduce the FTE by not filling a specifically identified position which will soon be vacated. Ideally this cap should be regulated somehow and perhaps there is a role for the new Councillors to play in approving any proposal to add extra staff to the payroll that would result in the ceiling being breached. At the very least, the General Managers of the emerging councils should be required to complete a new business case to justify positions other than those already modelled in the ongoing costs and savings⁹ detailed in Table 3.

I cannot stress strongly enough how strict discipline will be required to manage a successful de-amalgamation. There are always good reasons that can be found for hiring new staff, however if the communities are going to successfully recover from the damage inflicted to them through amalgamation, then these reasons will have to be vigorously resisted. This may mean that service levels might need to be reduced slightly, and that some job descriptions may need to alter, but prudence must win out on every occasion. I have complete faith in the community and the staff that they will be able to make the difficult decisions required to recover.

How Many Councillors Should the New Entities Have?

There are currently nine Councillors, including a Mayor and Deputy Mayor. Prior to amalgamation Cootamundra had nine Councillors and Gundagai had eight. Section 224 of the Local Government Act (1993), states that a council must 'have at least 5 and not more than 15 councillors'. I have discussed the matter with both the current Mayor and Deputy Mayor and propose that a new Cootamundra council should have

⁹ In my modelling I have included the salaries and on-costs to recruit a new Chief Financial Officer, increase the rate of pay for the current Human Resource Assistant to the rate for a Human Resource Manager, employ an additional Executive Assistant for the Gundagai General Manager, and convert the existing accounts payable traineeship position at Gundagai to a permanent position. All other non-duplicate positions will be conducted in the same way that they were performed prior to amalgamation.

7 Councillors and a new Gundagai, 5. This is a significant decrease on pre-amalgamation representation, but represents a large improvement on the representation ratios that have occurred over the last four years. Based on the numbers proposed Cootamundra residents would have just over 1,100 people per Councillor, and Gundagai residents just over 750 people per Councillor. This compares favourably to the current representation ratio which is a little less than 1,280 people per Councillor.

Furthermore, I have modelled for the Councillors to be paid at the bottom range of the annual fee guidance provided by the Local Government Remuneration Tribunal. In view of the sacrifices the community will be asked to jointly make and the relatively lower workload after the de-amalgamation has been bedded down, I believe that the lower level of remuneration is warranted.

Who Should Sit on the Inaugural Council?

When the Governor's proclamation is read then the currently elected Councillors should be considered duly elected Councillors of the emergent local governments. Three of the current Cootamundra-Gundagai Councillors hail from Gundagai, and six from Cootamundra. Until the September 2020 local government elections, the existing Mayor should assume the role of Mayor for Gundagai and the existing Deputy Mayor should assume the role of Mayor of Cootamundra (subject to s294(4) of the Act (1993)). A by-election would be impractical, and depending when a de-amalgamation occurred, unnecessary under the Act (1993).

When Should a De-amalgamation Occur?

This largely depends on when the Boundary Commission produces their report and when the Minister makes her decision. However, it would reduce work considerably if the proclamation was made on the first day of the new financial year (1 July, 2020). Given the large number of tasks that will fall to an inaugural council all efforts should be made to execute the de-amalgamation on this date providing that it falls at least eight weeks away from when the Minister makes her decision known, so that the Transition Team can undertake necessary pre-requisite tasks.

What Should Happen to Service Levels?

A consequence of amalgamation is that service levels tend to be increased to the highest that existed in the constituent councils. This is referred to as service harmonisation, and its neglect in modelling is one reason why amalgamations don't always deliver on the projected savings.

It will be critical that with the establishment of each new entity that service levels are immediately reduced to those that existed prior to May 2016. This is the absolute minimum necessary to ensure that the de-amalgamated entities do deliver on projected savings.

However, it is also important for the de-amalgamated entities to each conduct a service level review with their communities within the first 12 months of operations. If the fiscal damage inflicted by the amalgamation is to be repaired with minimal hardship, then it is imperative that service levels be dropped wherever practical.

Moreover, great care needs to be made with respect to capital spending. Discretionary capital spending needs to be halted and maintenance focussed only on essential infrastructure for the first 5 years, *at least*. One of the unfortunate side-effects of the amalgamation has been the very high levels of discretionary capital spending on community assets that had the characteristics of ‘wants’, rather than ‘needs’. Depreciation and required maintenance on these assets will be a burden on the community for decades. Moreover, this spending has engendered fiscal illusion with the effect being that the community was not always aware of the serious nature of the local government finances. Therefore, capital spending on non-essential infrastructure will need to be put on hold until budget repair has been completed – which could be a decade or so away. Notably, it would be prudent to cease all non-essential capital expenditure on ‘wants’ even if the de-amalgamation doesn’t progress – indeed it would probably be more important to do so under that scenario given the very large gap in revenue adequacy.

What Should Happen to Rates?

In all likelihood there will not be time to develop and put on public display a new rate structure for the new local governments, for the 2020/21 year. To ensure each new entity has sufficient revenue for its first year of operations, rates should default to the pre-amalgamation paths that would have existed had the Cootamundra-Gundagai Regional Council not resolve to harmonise rates in accordance with the Local Government Amendment (Rates – Merged Council Areas) Act 2017, No 8.

However, the new entities should be required by the Minister to resolve and put on public display a new rating structure within nine months of de-amalgamation. Ideally the new structure should be simple and transparent and based on the principles adopted by the former Cootamundra-Gundagai Regional Council – to have just three categories and to minimise rate shock for any one given category.

Moreover, it should be presumed that both councils will submit a Special Rate Variation in November 2020 for the 2020/21 year. Furthermore, it should be presumed that the Boundaries Commission hearing and determination constitutes *prima facie* evidence of four of the five IPART assessment criteria, specifically:

- Community awareness of plans for a SRV
- Demonstrated need for higher increases
- A sustainable financing strategy
- A history of well-documented council productivity improvements

Emergent Councils will still be required to address the criteria that the proposed SRV has a reasonable impact on ratepayers, although the burden should be shifted to ratepayers to prove that a proposal is unreasonable in impact given the financial sustainability position of the emergent councils.

Otherwise stated a SRV should be considered a definite necessity for each emergent council.

Notably if the Minister decides against de-amalgamation it must be acknowledged that the need for a SRV will be even greater. In this instance the Minister would be

well-advised to also direct IPART to adopt the presumptions listed above for the case of Cootamundra-Gundagai Regional Council.

What Should Happen to Fees Already Harmonised?

In all likelihood there will not be time to develop and put on public display a new fee structure for the new local governments for the 2020/21 year. To ensure each new entity has sufficient revenue for its first year of operations, fees that have been harmonised downwards should default to those laid forth in the 2019 Operational Plan increased by 2.7% (some harmonised fees in the 2020 Operation Plan may not provide sufficient revenue for a particular emerging council). Fees that have been increased relative to the levels that previously existed at each Council should continue to be charged as detailed in the 2020 Operational Plan.

Moreover, both emergent councils should be directed by the Minister to ensure that new fees and charges are set for the next operational plan. Furthermore, the Minister should direct councils to ensure that new non-regulated fees and charges at least fully recover the costs and overheads of providing the service. As part of the budget repair effort it will be important to review all fees to ensure that the full costs are being recovered (which is often not the case in most NSW local governments). There are also strong moral grounds for ensuring this (and hence reducing cross-subsidisation out of the common tax pool). Notably this exercise would still be required if the council was not de-amalgamated and, because of extant diseconomies of scale, would likely result in higher fees and charges, than might be expected in the de-amalgamation scenario.

Shared service for certain functions?

Previously Gundagai employed consultants or used informal shared service arrangements to meet some specialist skills needs such as town planning, building surveying, IT support, and environmental health. This should continue to be the arrangement going forward in a de-amalgamated Gundagai Shire. The new Council would be advised to give serious thought to engaging specialist skills from Cootamundra Shire when required. Hiring specialist staff from Cootamundra Shire (rather than private consultants or staff from other councils) will increase the overall benefits for the Cootamundra-Gundagai community, and will likely result in better outcomes given that the staff involved are likely to have a more comprehensive understanding of the operational environment at Gundagai.

What Legislation is required

The Queensland Government established the Local Government (De-amalgamation) Regulation 2013, to regulate its four de-amalgamations. The NSW Government is advised to enact similar legislation with respect to the following sections of the aforementioned regulation which should be changed as follows:

Section or Part	Purpose	Recommendation
Part 2	To establish new elections and term of inaugural council	Assuming a de-amalgamation takes place on the 1 st of July section 294 of the existing Act (1993) allows for the Governor to proclaim the two new Mayors nominated by the Council who should be the existing Mayor and Deputy Mayor respectively.
		Current Councillors should be appointed as Councillors to the emerging councils (6 to Cootamundra and 3 to Gundagai). The casual vacancies effectively created (1 at Cootamundra and 2 at Gundagai) do not seem to need to be filled prior to the scheduled September 2020 elections (see Section 292)
		Existing Remuneration Tribunal classification (rural) can be used for the emerging councils.
Part 3	Transfer Manager	This is absolutely critical, however the Transfer Manager should be appointed for 10 weeks, which must extend 2 weeks after the changeover day.
		A clause should be inserted to state that the Transfer Manager should first seek consensus with the Transfer Team before making any decision. However, it needs to be noted in the legislation that the Transfer Manager will have the capacity to make binding decisions even if consensus is not reached.
		A Transfer Team should be specified as being made up of: the current Mayor, the current Deputy Mayor, the current General Manager, the two new General Managers (following appointment)
Division 2	Transfer methodology	This is not ideal. The people in the best position to formulate and execute a transfer methodology are the Transfer Team.
		Potentially the legislation might require the Transfer Manager to present a copy of the transfer methodology to the Minister for her approval. However, it is important not to lock the Transfer Team into a methodology that may ultimately prove insufficiently flexible to respond to the particular situations encountered during the process.
Division 3	Transfer Committee	This should be replaced with the Transfer Team as specified earlier.
		The Transfer Team should be established for a period of up to twelve months. Given that the frequency of meetings is not specified it makes sense to keep the team long enough to deal with problems that might arise at the time that

		the next Operational Plans are being developed.
Division 3, s30	Adjudication by Minister	Won't be required during the term of the Transfer Manager.
Division 4	Local Advisory Committee	Won't be required if recommendations to establish two new Mayors and Councillors are observed.
Division 5	De-amalgamation Costs	This part of the legislation was very problematic. If the NSW Government funds the one-off costs of de-amalgamation then the Division will be redundant. If the NSW Government declines to fund the de-amalgamation, then the clause should state that costs incurred by the Cootamundra-Gundagai Regional Council, should be borne by the Council, and costs incurred by the emerging councils should be borne by the emerging councils.
Part 4	Financial matters	Asset transfer – references to the 'transfer committee' should be replaced with the 'Transfer Manager'.
	Liabilities	As above
	Rates and Charges	In addition to what is already stated there needs to be a clause to clarify that if a council had previously adopted a harmonised rate, then this resolution would be declared void, and the new councils would be required to levy a rate consistent with the Local Government Amendment (rates – Merged Council Areas) Act 2017, No 8 for the first year (only).
	Charges	For charges that have been harmonised downwards it should be declared that fees will default to those laid forth in the 2019 Operational Plan, increased by 2.7%.
	Fees	see above
Part 5	Local Laws and Other Instruments	No major changes appear to be required
Part 5A	Disaster management Matters	Needs to be amended to reflect the situation in NSW
Part 6	Councillors	Needs to specify 5 Councillors for Gundagai and 7 for Cootamundra.
		Needs to reflect the plan for existing Councillors to continue their duties at the respective councils where they are domiciled, until the next Local Government elections.
Division 2	Employees	The new organisational structure should be specified – namely one General Manager and three Directors for each emerging council. Excess Director-like staff should be retained with amended duties.

s55		Allocation of staff must be conducted by the Transition Manager taking into account (i) pre-amalgamated location of staff member, (ii) pre-de-amalgamation location of staff member, (iii) the staff member's preference.
s55		The ideal of returning the Councils as close as possible to their pre-amalgamated FTE staffing (51 for Gundagai and 89 for Cootamundra) should be stated. However, it should be noted that non-contract staff will have their conditions of employment protected, even if this results in staff ceilings being temporarily breached. Notwithstanding the protections for employment and conditions, it should be specifically noted that the new General Managers will have full discretion to re-define employment duties and roles according to operational needs.
s56(4)	Employee conditions	This should be deleted – part of the reason for executing a de-amalgamation is to right an injustice. It is not morally licit to create an injustice to right an injustice.
s56(5)	Retrenchment and redundancy	Should be deleted
Division 3	Major Contracts	the amount in s57(4)(a) should be reduced to \$50,000

In addition to the above, any references to continuing local governments should be deleted to reflect the particular scenario of NSW.

Other Criteria for Consideration by Boundaries Commission (Local Government Act (1993) s263(3)).

Community of Interest and Geographic Cohesion

Anyone who has had even a passing acquaintance with Cootamundra and Gundagai cannot help but realise that they are two fundamentally different communities with very little community of interest and little geographic cohesion. As Gundagai submitted to the Boundaries Commission in 2016 the Australian Bureau of Statistics (ABS, 2015) Socio-Economic Index for Area (SEIFA) clearly reflects this difference¹⁰:

Council	Socio-Economic Rating (State Ranking)	SEIFA (National Ranking)	Largest Industry Employer
Cootamundra	32 (3 rd decile)	129 (3 rd decile)	Retail Trade
Gundagai	64 (5 th decile)	213 (4 th decile)	Agriculture, forestry & fishing

As can be seen the two towns were 32 rankings apart on a state-wide comparison, and 84 rankings apart in a national comparison – thus certainly not similar. Moreover, the dominant industries in the respective towns were recognised by the ABS as being different.

The Boundaries Commission Delegate chose to eschew evidence in favour of his personal perception that ‘the populations are almost exclusively of Anglo-European origin and share a strong tradition of Christian values and conservative politics’ (Turner, 2016, p. 22). By this dubious reasoning Cootamundra or Gundagai might have been just as easily amalgamated with North Sydney, which was also predominately Anglo-European, Christian and vote conservative!

To eschew evidence and then grasp at a ridiculous perceived similarity suggests that there were good grounds for suspecting a misapprehension of bias by the Delegate and a miscarriage of administrative procedure.

The 2020 Boundaries Commission is encouraged to visit both communities and spend sufficient time in each to understand how they operate and the commuting patterns of residents. It will be quite obvious from such a visit that the communities could hardly be more disparate, and that the geography is also plainly different. Moreover, after travelling the Muttama road which links the two towns, it will be clear that there has never been much cause for people to travel between the two communities – for had there been much commuting activity between the towns in the past then the road would have been upgraded substantially many decades ago.

Existing Historical and Traditional Values

The Delegate noted that the two towns are both located on the ancestral lands of the Wiradjuri people. This appears to be correct, but what was overlooked is that the

¹⁰ Since amalgamation the ABS has not compiled statistics for the amalgamated councils, hence my reference to the 2015 data.

Wiradjuri Region was a vast area also encompassing Albury, Bathurst, Orange, Wagga Wagga, Deniliquin and Griffith to name just a few of the towns that share this heritage (Aboriginal Land Council, n.d.). If we were concerned to amalgamate according to this logic, then the resultant council would have encompassed around one fifth of the state of NSW.

Similarly, the Delegate noted that both townships were settled in the early 1800's and were part of the mid-century gold rush. So was Bendigo in Victoria, but it hardly suggests a shared history and values. Most of Southern Australia was settled during this period and the observations made by the Delegate are not salient for decision-making regarding the suitability of local government boundaries.

Indeed, the Delegate failed to recognise the differences in history and values when he conveyed his approval for a proposal that the new local government should be named 'Gundagai Regional Council'. The fact that this name was quickly changed following a post-amalgamation community survey is more evidence that the towns clearly did not feel they shared a common heritage.

Attitude of Residents and Ratepayers

I have already examined the attitude of ratepayers at the time of the first Boundaries Commission in 2016, and it is perfectly clear that the community was not in favour of the proposal. This is likely because the community understood that there was little commonality and a vast distance between the townships, serviced by a pretty ordinary road.

On Monday 9th March, 2020 I conducted a community forum at Cootamundra regarding the response of Council to the Boundaries Commission process. On Tuesday the 10th of March I conducted a similar forum at Gundagai. When interpreting the data which follows it is important to be mindful of a few matters. First, I have been regularly uploading information videos which a number of residents and staff told me they watch avidly – this might mean that people considered themselves already sufficiently informed regarding the Boundaries Commission proposal. Second, as we are all aware the coronavirus scare was in full swing during the week I attended, and many people have clearly decided to avoid public gatherings. Third, there was some confusion in Cootamundra (so I have been reliably informed by two different individuals) regarding the time and place for the forum. Moreover, there is a good deal of cynicism in Cootamundra – many people told me that they weren't bothering to express an opinion 'because it was a waste of time because no-one listened in 2016'. Given that the community went to a lot of trouble to consider a detailed plan for amalgamating with Harden in 2016 – a plan that was approved by various bodies (including IPART) as being fit for the future, only to be summarily dismissed with no reason given – it is probably not surprising that there is a trust deficit with state government in this present instance.

Despite this confusion and trust deficit 70 people registered as attending the Cootamundra forum, and a reliable count was made of 90 attendees (I know for a fact that there are names missing from the registration list of people I met and talked to before and after the event). A simple survey was conducted at the end of the

information and Q & A sessions. A copy of the survey appears in the appendix (this is the example I presented to residents on a PowerPoint presentation). Seventy surveys were received with the following distribution of responses:

Cootamundra – *Were you in favour of the 2016 amalgamation?*

Yes	No	Undecided
6	59	5

Cootamundra – *Do you think de-amalgamation will save money?*

Yes	No	Undecided
54	12	4

Cootamundra – *Are you in favour of a de-amalgamation?*¹¹

Yes	No	Undecided
64	3	2

The responses of informed persons give us a good indication of what people in Cootamundra would likely think if they were exposed to relevant information. Indeed it is indicative of the likely conclusions of anyone who approaches the matter purely on the basis of evidence, sans bias or political concerns.

What is particularly interesting about these results is that people who had been in favour of the amalgamation in 2016, have clearly decided it is not working (nor likely to work) in 2020. Moreover, the principle motivation for de-amalgamation is not necessarily financial. Twelve people don't believe the projections of savings (which is hardly surprising given how inaccurate projections have been in the past) – yet only three people are not in favour of a de-amalgamation. It seems very clear to me that the far majority of people at the forum understand that things just aren't working – financially as well as in terms of community cohesion and internal Council culture – and that a change is the only sensible option.

The standard of questions during the Q & A session were very sophisticated and clearly indicated that these residents had been watching the videos, doing their homework, and giving the matter serious consideration over a long period of time. Indeed, these were the opinions of very well informed, intelligent people more than capable of making good decisions about matters that will affect their lives consistent with our principles of local democracy.

The forum at Gundagai was heavily attended, but the physical set-up for the room was not ideal, and there is little doubt that many of the attendees failed to register and failed to submit their survey. Unlike Cootamundra, it was simply impractical to have tables at the front of the club to register people as they entered, and the numbers which follow must be considered a significant under-estimate.

¹¹ One response was missing

Gundagai – *Were you in favour of the 2016 amalgamation?*

Yes	No	Undecided
4	253	3

Gundagai – *Do you think de-amalgamation will save money?*

Yes	No	Undecided
241	13	6

Gundagai – *Are you in favour of a de-amalgamation?*

Yes	No	Undecided
256	2	2

Clearly the people at Gundagai want a de-amalgamation and I don't think that this has ever been in doubt (nor was there any reasonable doubt that they didn't want the amalgamation back in 2016). What is interesting is that thirteen people don't think that the de-amalgamation will save money, but the far majority (over 98 percent) want it nevertheless. From the comments made after the presentations it is pretty clear that people are prepared to pay to guarantee more effective and responsive local government into the future for Gundagai.

We also need to be mindful that the decision-making by both communities will have inevitably been clouded by the fact that the real implications of the 2016 amalgamations have largely been hidden from residents due to the Local Government Amendment (Rates – Merged Council Areas) Act 2017 No 8, as well as Administrator and Council inaction on fee harmonisation. In addition, many in the community are still unaware of the pressing need to address substantial operating revenue shortfalls in the order of 2.9 million dollars annually (according to the latest draft of Cootamundra-Gundagai's 2019 Financial Statements). Moreover, Stronger Communities funding (for 'popular' community infrastructure) has been descending on these communities for almost four years now, clearly exacerbating chronic fiscal illusion. However, despite this contextual bias (presenting an unrealistically rosy picture of the current state of affairs) there can be no doubt that the consensus of informed opinions in both Cootamundra and Gundagai is in favour of de-amalgamation.

Whether we take note of the people really depends on our views about democracy (Dahl, 1990). If you – like Aristotle, the late great Robert A. Dahl, and I – believe that most adults are capable of making good decisions about their futures, when appropriately informed, then the survey results from intelligent residents presented with rigorous and reliable evidence will prove compelling for Boundaries Commission and Ministerial decision making. However, if like Plato you believe that the masses are incapable of competent decision making and need to be ruled by their betters, then these survey results will be disregarded and another decision will be made

against the wishes of these people who clearly believe that they have already had their community wealth eroded, community cohesion disrupted and lives adversely affected from being ignored back in 2016.

Requirements in Relation to Elected Representation

I have already detailed the ideal configuration for each emergent council, and the procedure that can be followed to ensure that the community continue to have a voice during the transition period. There is no need to appoint an Administrator, as happened during the amalgamation, and the inadequate performance of the past Administrator confirms that it would not be in the community's interest to do so.

Impact of Proposal on Ability to Provide Adequate, Equitable and Appropriate Services

As things stand it would not be reasonable to conclude that Cootamundra-Gundagai Regional Council is financially sustainable in the long-run. Eliminating the large diseconomies of scale (which unfortunately will take up to a decade to do if we agree that it is not morally licit to force redundancies) will help to ensure that the community can receive adequate, equitable, and appropriate services into the future. However, even with this boundary change there will be a lot of work to do to repair the damage inflicted on the finances of the community. Special Rate Variations are almost certain to be required. The rate system at both councils will need to be simplified and made more transparent consistent with the plan presented to Cootamundra-Gundagai Regional Council in February 2020. Non-regulated fees and charges need to be examined again to ensure that they cover the full cost, plus overheads. Strict discipline will also be required to follow the plan set out in this report and realise the full benefits of a de-amalgamation.

However, not proceeding with the de-amalgamation will require even more extreme measures. Rates will need to be increased even further to make up for the foregone savings of just under half a million dollars per annum which are expected to occur by year 10. Fees and charges will have to be re-assessed and increased. Rates harmonisation – which will bring about high level of rate shock to some residents – will also need to proceed so that the flow of taxation revenue is morally defensible.

As I noted earlier, de-amalgamation is not the whole solution to the financial sustainability problems at Cootamundra-Gundagai – but it is an incredibly important part of the solution. The political certainty that a de-amalgamation brings about will put both councils in a better position to engage with their communities and press forward with essential reforms. It will also lead to much more efficient local government, consistent with the greater community homogeneity achieved, as predicted by the well-known Decentralisation Theorem (Oates, 1972).

Impact of Proposal on Employment of Staff

As I have stated earlier, I do not consider it morally licit to visit a wrong on staff in order to correct a wrong committed to the community in 2016. I have therefore not modelled any redundancies. This, of course, means that the full staff savings won't

occur until the seventh year and that the total cumulative savings will be lower than might otherwise have been realised. However, I firmly believe that it is not acceptable to destroy the lives of staff and their dependents, and I know the community agrees with this position. If a de-amalgamation does not proceed, then there will need to be significant additional reductions to employee expenditure in the future (to offset the considerable diseconomies of scale) in order to bring about desperately required budget repair.

Impact of Proposal on Rural Communities

As has been shown over the course of this report the 2016 amalgamation had a devastating impact on the two rural communities. Moreover, to avoid further damage, and even more hardship for residents it is important to execute a de-amalgamation for the new financial year.

As my modelling has confirmed, de-amalgamation will have positive benefits for the community in terms of financial sustainability. However, a de-amalgamation will also help to heal the respective communities and return their dignity¹² which should lay the foundation for a brighter future. Indeed, discussions with senior management and political representatives suggests to me that de-amalgamated councils will have a strong relationship – sharing resources and expertise well into the future – which will maximise the benefits to both communities. As strange as it might seem to some outsiders (especially those from Sydney), a de-amalgamation is likely to ultimately bring these communities together more and heal the obvious rifts that exist at present.

Sub-sections e4 and e5 don't apply

These subsections both start with the words 'in the case of a proposal for amalgamation'. This is not a proposal for an amalgamation, therefore these subsections of the legislation clearly do not apply.

¹² Dignity here refers to the Natural Law position – the ability to choose existential ends without undue interference (see Messner, 1952).

Concluding Remarks

The Cootamundra-Gundagai Regional Council is experiencing chronic fiscal stress, arising from the amalgamation as well as some poor decisions that were made during the administration phase. Indeed, the Council can no longer be considered financially sustainable in the medium or long term. If drastic action is not taken shortly, matters from the last four years will come to a head with serious implications for the community. I emphasise that the current management and councillors are not responsible for the problems that they now face – but they certainly need the help of fair minded people who are courageous enough to honestly consider the robust evidence that has been presented in this report and put the interests of this community first by allowing a de-amalgamation.

Removing political uncertainty will allow the executive the existential space it needs to put in place a number of reforms crucial to the community interest. Even if there was no direct financial benefit to amalgamation it would probably be worth executing boundary change to release the Cootamundra-Gundagai Regional Council from political uncertainty and division which constantly impedes the implementation of sound policy.

However, the proposed de-amalgamation will indeed result in significant financial benefits. In ten years, a benefit of *at least* \$2.4 million will be delivered to the community contingent on de-amalgamation. Notably this figure is not much less than the supposed savings upon which the original decision to amalgamate was based – although in this latter case it was expected to take over twice the time, and was never likely to actually happen in any case.

If it was reasonable to conduct boundary change in 2016 mostly on the basis of a guesswork report projecting savings of \$3 million over 20 years, then it almost obligatory in 2020 to conduct boundary change on a thoroughly researched and robust report projecting savings of \$2.4 million over 10 years. The difference is that this time the savings will actually eventuate, and the proposal is consistent with the wishes and best interests of the community.

References

- Aboriginal Land Council (n.d.). *Wiradjuri Region*. Available at: <http://alc.org.au/media/86224/130520%20Wiradjuri%20powerpoint.pdf>.
- Australian Bureau of Statistics (ABS). (2015). *National Regional Profile*. ABS: Canberra.
- Dollery, B. and Drew, J. (2016). Hired Guns: Local Government Mergers in New South Wales and the KPMG Modelling Report. *Australian Accounting Review*, DOI: 10.1111/auar.12163.
- Coelli, T., Rao, D., O'Donnell, C., and Battse, G. (2005). *An Introduction to Efficiency and Productivity Analysis*. Springer: Singapore.
- Cooper, W., Seiford, L., and Tone, K. (2007). *Data Envelopment Analysis*. Springer: Singapore.
- Dahl, R. (1990). *After the Revolution?* New Haven: Yale University Press.
- Drew, J. (2016). *Report on the NSW Government Merger Proposal: Cootamundra Shire Council and Gundagai Shire Council*. University of New England: Armidale.
- Drew, J., and Dollery, B. (2014a). Estimating The Impact of the Proposed Greater Sydney Metropolitan Amalgamations on Municipal Financial Sustainability. *Public Money & Management*, 34(4), 281-288.
- Drew, J. and B. Dollery. (2014b). Separation Anxiety – An Empirical Evaluation of the Sunshine Coast Regional Council De-amalgamation. *Public Money & Management*, 34(3), 213-220.
- Drew, J. and Dollery, B (2015a). Breaking Up is Hard to do: The De-amalgamation of Delatite Shire. *Public Finance and Management*, 15(1): 1-23.
- Drew, J. and Dollery, B. (2015b) Less Haste More Speed: The Fit for Future Reform Program in New South Wales Local Government. *Australian Journal of Public Administration*, 75(1): 78-88.
- Drew, J. and Dollery, B. (2016). Summary Execution: The Impact of Alternative Summarization Strategies on Local Governments. *Public Administration Quarterly*, 40(4): 814-841.
- Drew, J., Kortt, M. and Dollery, B. (2015a). 'What Determines Efficiency in Local Government? A DEA Analysis of NSW Local Government'. *Economic Papers*, 34(4): 243-256.
- Drew, J., Kortt, M. and Dollery, B. (2015b). Peas in a Pod: Are Efficient Municipalities Also Financially Sustainable? *Australian Accounting Review*, 77(26): 122-131.
- Drew, J., Kortt, M. and Dollery, B. (2015c). No Aladdin's Cave in New South Wales? Local Government Amalgamation, Scale Economies and Data Envelopment Specification. *Administration & Society*, DOI: 10.1177/0095399715581045.

Drew, J. & Grant, B. (2017). Multiple Agents, Blame Games and Public Policy-Making: The Case of Local Government Reform in New South Wales. *Australian Journal of Political Science*, 52(1), 37-52.

Drew, J. (2018). How Losers Can Turn into Winners in Disputatious Public Policy: A Heuristic for Prospective Herestheticians. *Australian Journal of Political Science*. DOI: 10.1080/10361146.2018.1520195

Independent Local Government Review Panel (ILGRP). (2013). Revitalising Local Government – Final Report of the NSW Independent Local Government Review Panel October 2013. ILGRP: Sydney.

Independent Pricing and Regulatory Tribunal. (IPART) (2015). Assessment of Council Fit for the Future Proposals. IPART: Sydney.

KPMG (2016). Modelling Assumptions for Local Government Merger Proposals Technical Paper Prepared for the NSW Department of Premier and Cabinet, 19 January, 2016. KPMG: Sydney.

Messner, J. (1952). *Social Ethics: Natural Law in the Modern World*. Transl. J. Doherty. St Louis: B Herder Book Co.

NSW Government (2016). *Merger Proposal: Cootamundra Shire Council Gundagai Shire Council January 2016*. NSW Government: Sydney.

Oates, W. (1972). *Fiscal Federalism*. Cheltenham: Edward Elgar.

TCorp (2013a). *Cootamundra Shire Council Financial Assessment and Benchmarking Report*. TCorp: Sydney.

TCorp (2013b). *Gundagai Shire Council Financial Assessment, Sustainability and Benchmarking Report*. TCorp: Sydney.

TCorp (2013c). *Financial Sustainability of the New South Wales Local Government Sector: Findings, Recommendations and Analysis*. TCorp: Sydney.

Turner, J. (2016). *Council Boundary Review*. Boundaries Commission of New South Wales.

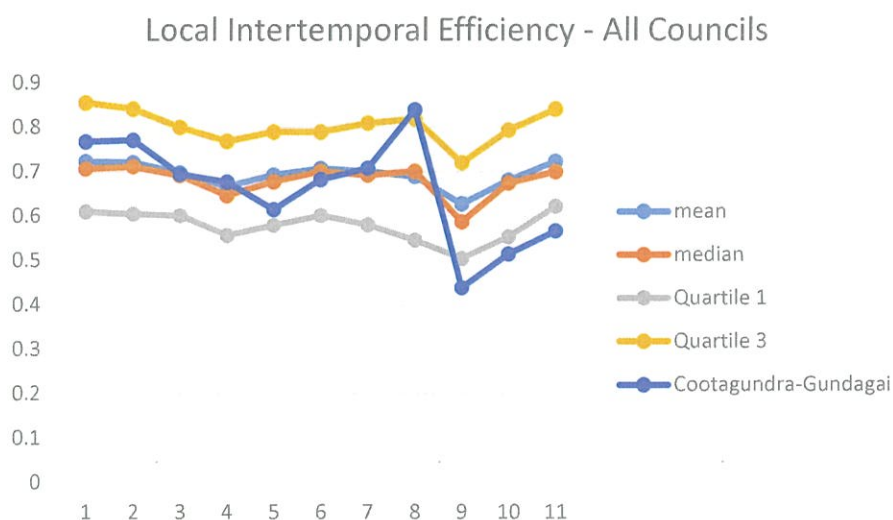
Appendix

Reproduced from Drew (2016) which was submitted to the Boundaries Commission Delegate by Gundagai Shire.

Table 1. Queensland Employee Expense: Mean Annual Change, 2009 to 2015 (standard deviation in parentheses).

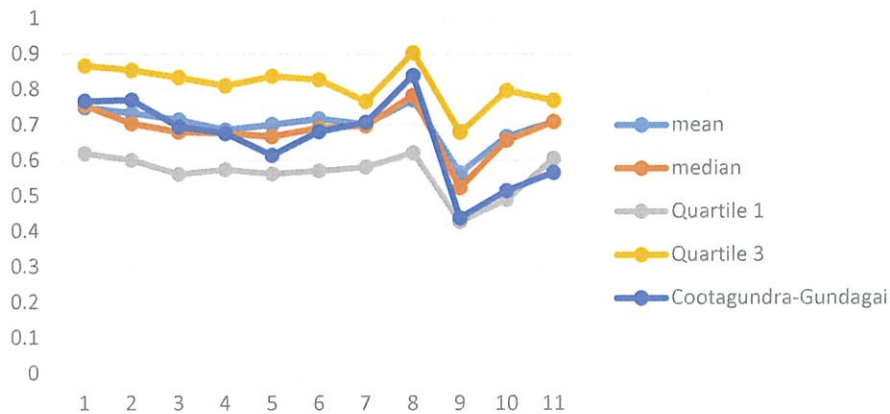
Period	Non-Amalgamated Councils	Amalgamated Councils ¹³
2009 to 2010	10.272% (14.406)	12.037% (18.550)
2009 to 2011	6.708% (8.780)	9.000% (8.961)
2009 to 2012	6.031% (5.674)	7.795% (6.331)
2009 to 2013	6.033% (5.088)	6.404% (5.369)
2009 to 2014	5.098% (3.564)	6.140% (4.862)
2009 to 2015	3.724% (2.985)	4.997% (4.280)

Source: 2009 data from *Queensland Local Government Comparative Information 2008-09*, Department of Infrastructure and Planning 2010, verified to individual financial statements. All other years from audited financial statements.



¹³ Excludes the four de-amalgamated councils from the 2014 financial year onwards.

Local Intertemporal Efficiency - Amalgamated Councils



Ratio Definitions

Definitions, Benchmarks, and Weightings of TCorp Financial Sustainability Ratios

Variable	Weighting	Benchmark	Definition
Operating ratio	17.5%	>-4%	(Operating revenue ^a - operating expenses)/operating revenue ^a
Own-source Revenue ratio	17.5%	>60%	Rates, utilities, and charges/total operating revenue ^b
Unrestricted Current ratio	10.0%	>1.50×	Current assets less restrictions/current liabilities less specific purpose liabilities
Interest Cover ratio	2.5%	>4.00×	EBITDA/interest expense
Infrastructure Backlog ratio	10.0%	<0.02×	Estimated cost to bring assets to a satisfactory condition/total infrastructure assets
Debt Service Cover ratio	7.5%	>2.00×	EBITDA/(principal repayments + borrowing costs)
Capital Expenditure ratio	10.0%	>1.10×	Annual capital expenditure/annual depreciation
Cash Expense ratio	10.0%	>3.0 months	(Current cash and equivalents/(total expenses - depreciation - interest costs)) × 12
Buildings and Infrastructure Renewal ratio	7.5%	>1.00×	Asset renewals/depreciation of building and infrastructure assets
Asset Maintenance ratio	7.5%	>1.00×	Actual asset maintenance/required asset maintenance

^aRevenue excludes capital grants and contributions. ^bRevenue includes capital grants and contributions.



COOTAMUNDRA-
GUNDAGAI REGIONAL
COUNCIL

BOUNDARIES COMMISSION INQUIRY COMMUNITY FORUM

Please complete this survey *after* you have listened to the presentation from Prof Drew and heard answers to any questions raised.

It is important Council understands the views of our residents on this matter and we thank you for your time in attending.

1. Were you in favour of the 2016 amalgamation? Please circle your response.

Yes

No

Undecided

2. Do you think a de-amalgamation will save money? Please circle your response.

Yes

No

Undecided

3. Are you in favour of a de-amalgamation? Please circle your response.

Yes

No

Undecided

Why? (please be brief)

.....

