EXAMINATION OF A PROPOSAL TO DE-AMALGAMATE COOTAMUNDRA-GUNDAGAI REGIONAL LOCAL GOVERNMENT AREA

Dissenting Report by Commissioner Gleeson to the Minister for Local Government

27 JULY 2022

Local Government Boundaries Commission
Locked Bag 3015
Nowra NSW 2541

The Hon Wendy Tuckerman MP
Minister for Local Government
52 Martin Place, SYDNEY NSW 2000

Dear Minister

Proposal to De-Amalgamate Cootamundra - Gundagai Regional Local Government Area

I provide for your consideration my dissenting report on the above proposal as allowed under clause 12 of Schedule 2 of the *Local Government Act 1993*.

Yours sincerely

Grant Gleeson
Commissioner
27 July 2022

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Glossary of terms used

Term	Meaning
"Act"	the New South Wales *Local Government Act 1993*
"area"	a local government area constituted under the Act
"Boundaries Commission" or "Commission"	the Local Government Boundaries Commission established under section 260 of the Act
"CGRC"	according to the context, either the Council of the Cootamundra-Gundagai Regional local government area, or the area itself.
"DAA"	Data Analysis Australia
"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.
"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
"demerger" or "de-amalgamation	the reversal of a previous amalgamation of two or more local government areas (see also note below)
"factor(s)"	the matter(s) that the Commission must, under section 263(3) of the Act, have regard to in examining a proposal
"IPART"	Independent Pricing and Regulatory Tribunal
"IP&R"	Integrated Planning and Reporting
"LGA"	local government area
"LTFP"	Long-Term Financial Plan
"merger" or "amalgamation"	the May 2016 amalgamation of the then Cootamundra and Gundagai local government areas
"Minister"	the NSW Minister for Local Government
"OLG"	the Office of Local Government within the Department of Planning and Environment
"Proposal" or "demerger Proposal"	the business case submitted by Cootamundra-Gundagai Regional Council pursuant to section 218CC of the Act, that seeks to reverse the 2016 merger
"SRV"	Special Rate Variation
"TfNSW"	Transport for NSW (having taken over the role of the former Roads and Maritime Services)

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

I adopt the analysis of the Majority Report regarding the background to the Proposal and the Commission's examination of it, with the following additional analysis and comment.

The current Cootamundra-Gundagai Regional local government area (CGRC) 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. The Court has upheld the validity of the process undertaken by the former Minister in relation to the Proclamation of CGRC.[2]

The reason for the Commission's current review is that on 6 July 2021 CGRC submitted to the Minister a business case proposal pursuant to section 218CC of the Act.[3] A copy of the CGRC covering letter to the business case is included as Attachment 1. On 3 August 2021, the Minister referred the business case proposal to the Boundaries Commission. A copy of the Minister's letter is included as Attachment 2.

The business case consisted of an undated report prepared by Associate Professor Joseph Drew of the University of Technology Sydney (Prof Drew), which had been commissioned by CGRC.[4] This report had also been relied upon in relation to the 2020 Commission review of the elector-initiated proposal.

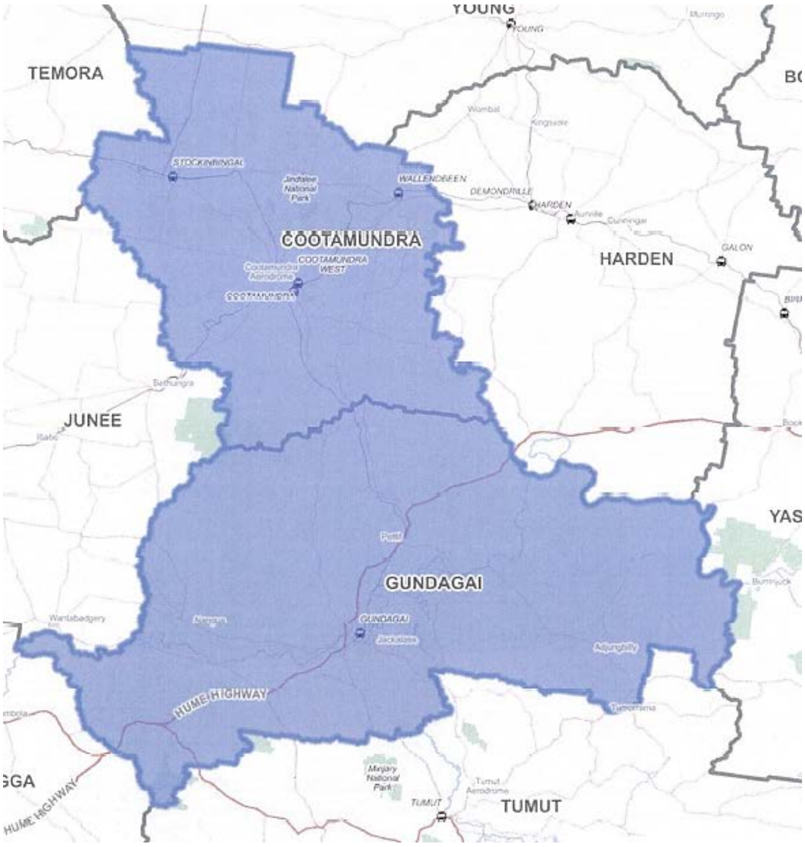
As the Majority report notes, it is important for the community to understand that under the Act the Commission's role is to examine and report to the Minister. The Commission's role is not to provide an '*opportunity to right past injustices*,'[5] as many of those making submissions to the Commission, including in the report by Prof Drew, have argued. Rather, it is, in this case, to examine and report on the business case submitted to the Minister. The business case is examined in more detail in Section 6 below.

At the time Prof Drew prepared his report he noted that CGRC '*was experiencing chronic fiscal stress, arising from the amalgamation as well as some poor decisions that were made in the administration phase.*'[6] In that context, it was anticipated by the Delegate in 2016 that any new merged council would struggle to avoid an operating deficit in the short to medium term. With the benefit of hindsight, that expectation has been realised. It may be the case, as Prof Drew has observed, that what has contributed to this state of affairs is that: '*Senior management, for at least 4 years* [ie from 2016] *has not been made responsible for their Department's budget blowouts*.'[7] But the financial situation

[1] When proclaimed, the new area was named Gundagai. This was changed to Cootamundra-Gundagai Regional by Proclamation on 7 September 2016.
[2] See *McAlister and Graham v Minister for Local Government* [2016] NSWLEC 131 accessed at: https://www.caselaw.nsw.gov.au/decision/57f3004ae4b0e71e17f547cf .
[3] Section 218CC came into effect on 24 May 2021.
[4] *Report to the Boundaries Commission* (Drew #3).
[5] Drew #3, page 1.
[6] Drew #3, p44.
[7] Drew, Cootamundra-Gundagai Financial Sustainability Review (undated), tabled at Session 1, Gundagai 2020 (Drew #4), p14.

confronting the community as a result of a multitude of choices which have been made is as set out in the Key Findings document.[8] That is not a past situation, rather, it is the current and present situation.

In a de-amalgamation new Gundagai will retain responsibility for approximately 61.7% of the existing area but it will have to service it with a relatively smaller population and ratepayer base. The following map shows the boundaries of the current Cootamundra-Gundagai Regional local government area with the former shires before their 2016 amalgamation identified.



Area	Area (sq km)	Population 2016 (a)	Population 2021 (a)
Former Gundagai Shire	2,457	3,597	3,715
Former Cootamundra Shire	1,524	7,570	7,705
Existing Cootamundra- Gundagai Regional LGA	3,981	11,141	11,403

(a) Figures for the former Gundagai and Cootamundra Shires are estimates only. The ABS does not tabulate Census data on the basis of the boundaries of the former shires. Data shown here relate to the Gundagai and Cootamundra 'Statistical Area(s) Level 2' whose boundaries are similar to those of the former shires.

[8] LGBC, *Boundaries Commission Summary of the Key Findings from Deloitte's Analysis of the Financial Implications*, March 2022 (Key Findings).

2. Overview and Recommendation

I depart from my fellow Commissioners on the ultimate recommendation. In my view, recommending a de-amalgamation to the Governor will not be conducive to the provision of efficient and effective local government in the existing or proposed former areas.

Along with the Majority Commissioners, I too have had regard to all submissions put to the Commission and to all oral presentations made at the various public inquiry sessions (including later reviewing the transcripts of those sessions). I note that the Commission has also commissioned its own research and it has had regard to all the factors in the Act that apply to this Proposal.

I remain of the view that the best outcome should be that if a de-amalgamation is to occur, then both resultant councils should have the prospect of being financially sustainable. As was noted in the Majority Report in 2021: '*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*.' I remain concerned that unfortunately, this may be exactly what could occur if Gundagai returns to the status of being a stand-alone council. In contrast, there is still the chance that CGRC, especially after the December 2021 elections, will seize the opportunity to realise benefits of the merger for the community.

It has been suggested by Graham Sansom, the Chair of the 2013 ILGRP, that '*experience across Australia and internationally shows that realising [the benefits of mergers] takes a considerable time (5-10 years rather than 3-5) and cannot be left to chance*.'[9] In support of that observation he cites Hoffman and Talbot, who suggest that '*Amalgamations are an opportunity, not an outcome… Success will and has been achieved over time (5-10 years) depending on leadership, policy choices and response to external impacts*.'[10]

There is also some substance in John Comrie's observation that:

> '*In local government, as elsewhere, the key to financial sustainability is being committed to achieving and maintaining financial sustainability. It sounds obvious but is not necessarily easy to achieve. Other factors are important too but insufficient without such a commitment. For example more money in itself will not solve financial problems. It potentially can make the challenge worse as there will always be no shortage of opportunities to upgrade service levels and acquire additional assets that will lead to higher long-run costs*.'[11]

Given the history of opposition to this merger, it is arguable that the opportunity presented in 2016 has never been seized. From the time the Cootamundra-Gundagai amalgamation proposal was announced, during the course of that proposal's examination by the Delegate, following the proclamation of the new council in May 2016, during the consideration of the 2020 elector proposal, following the rejection of that proposal by the Minister in 2021, and during the consideration of this

[9] G Sansom, Submission to Central Coast Public Inquiry 2021

[10] Hoffman, Greg and Simone Talbot, *Amalgamation – The Queensland experience to date: Learnings, Outcomes and Sustainability?* Future of Local Government National Summit, Municipal Association of Victoria, May (2013).

[11] Comrie, J, *Roadmap to Financial Sustainability for Local Governments in NSW* (2013), p4.

s218CC proposal, substantial opposition has been expressed by many in the existing areas. That opposition continues to today.

That opposition notwithstanding, circumstances have also continued to change in the six years since the merger. As was noted in the 2021 Majority report, CGRC has made some substantial decisions. Rates were harmonised from 2020-21. Substantial infrastructure spending has occurred with consequent maintenance costs and depreciation charges to be met. Since the 2021 Commission report, the Council has been granted the Special Rate Variation by IPART and it is being implemented. 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. As well, land valuations have changed. New land valuations by the Valuer-General now apply to all assessments.

The council has been making decisions. As Prof Drew has noted, the amalgamated council has elected to deliver '*extensive infrastructure projects which have so far been mainly funded through grants and running down of reserves*.'[12] This is supported in the Key Findings document: '*CGRC has reported a cumulative operating surplus of $13.5m in the 5-year period since the merger, after the receipt of capital grants including $21.0m of merger grant funding to support the integration and investment in infrastructure and community projects*.' However, it is also to be noted that the '*majority of the cumulative operating surplus was generated in FY21, with a $9.8m surplus driven by (i) a c.37% uplift in grants and contributions, and (ii) increases in charges implemented during FY20 and FY21. These grants related to the Gundagai Sewer Treatment Plant and additional NSW transport grants across Council's road network*.'[13]

The need to apply to IPART for a significant SRV was a wake-up call. Prof Drew signalled to the Community in his later report that a period of austerity was upon it. He thought this period could be for 5 years during which: '*Staff need to focus on dealing with the situation at hand, and the community needs to have its fiscal illusions dispelled as a matter of urgency*.'[14] This is reflected in the submitted business case as Prof Drew observes that '*De-amalgamation will not immediately fix all of the problems that currently afflict the local government area. There will still likely be a need for increases to rates and charges to mitigate the financial problems that the community now faces, …*'[15]

What all this means is that in either scenario, continue or de-amalgamate, the community (or a significant proportion of it) is in a situation where a period of austerity could be forced upon it. A de-amalgamation will involve a new round of transactional costs, both immediate and on-going. This was the case with the implementation of the 2016 merger. While some of these transactional costs may be funded by the Government under s.218CC(6), in the long run the community may have to bear significant on-going transactional costs and/or lost opportunity costs. As transactional costs were only relatively recently incurred, submitting this community to a fresh set of transactional costs is clearly a waste of public resources. So, the argument in favour of de-amalgamation needs to be compelling.

[12] Drew #4, p17.
[13] Key Findings, p2.
[14] Drew #4, p24.
[15] Drew #3, p1.

Having regard to what is the better outcome for the residents and ratepayers of the existing local government area, noting the disadvantages a new Gundagai will likely suffer, I am of the view that the proposal for de-amalgamation should not be implemented.

Statutory Factors – s.263(3) – Un-democratic narrative

The assessment against each of the statutory s.263(3) factors is addressed in Section 6.

As the Majority Report notes, a very substantial proportion of the arguments presented to the Commission dealt largely or exclusively with why the Government's 2016 proposal should not have been implemented, rather than why the current Proposal should be implemented. This was consistent with the Commission's experience in the examination of the previous elector-initiated proposal co-ordinated by Gundagai Council-in-Exile Inc. This 'undemocratic narrative' remains a feature of the Commission's examination of the current Proposal.

This narrative is captured by the following comments:

- A comment by a retired Magistrate (submission #144) that: 'The whole process to me was a gigantic charade and undeniably a denial of natural justice to the citizens of both Cootamundra and Gundagai.'
- A speaker at the Gundagai Session 2 who said: 'You can recommend the denial on the usual bureaucratic grounds, but this is not about bureaucracy. This is about community and this is about people's lives. We will eventually have this abomination of an amalgamation overturned. The political wheel will turn.'
- A current councillor who spoke at Gundagai Session 1 who said: 'The merger has given us no choice. We must fight for our community. Gundagai is my home, our home, and like President Zelensky, that's what motivates me.'
- A speaker at Gundagai Session 1 who strongly submitted: 'There was nothing democratic about our forced merger, and there is nothing democratic about how the shire is now run. Gundagai and Cootamundra will both benefit if we demerge. Please, please, let us have Gundagai back.'
- A couple who in their written submission (#011) said: 'In our supposedly democratic country, why is the will of the citizens being rudely ignored and brushed aside as though it is a minor issue?'
- Many submissions equated the Commission with being 'the Government' with one (#014) concluding: 'Admit your mistake, apologise to the people of Gundagai, restore both our Council, and the respect that constituents should have for their Government representatives.'
- Finally, a speaker at Gundagai Session 1 expressed it succinctly: 'We want our independence back.'

The 'undemocratic narrative' has been put with passion, and sometimes in heartrending detail. For that part of the community attuned to the un-democratic narrative, the Government doesn't have a 'right' to decide the outcome. It doesn't matter what this Commission recommends, unless of course, it recommends de-amalgamation. Absent that recommendation, 'they' will continue to petition for a return to the former arrangements.

The un-democratic narrative contains an explicit underlying assumption that there could be no change to the local administrative arrangements that the local community did not assent to. That being noted, the un-democratic narrative is a sentiment that is not one of the factors the Commission is called upon to examine under s.263(3). This is the fundamental flaw in that narrative. It seeks to de-legitimise the original decision of the former Minister. The difficulty with this approach is that the Land and Environment Court has upheld the legitimacy of the decision. It was lawful.

Seen in that context, no matter how loud, how many times, or how many ways the un-democratic narrative is raised with the Commission, and submissions are framed around that narrative, those submissions must be seen in their philosophical, or political, context. Given the express provisions in the Act affording to the Minister the power to recommend a merger, even a forced one, and given the task assigned to the Commission under the Act, the un-democratic narrative is therefore not a proper foundation for the consideration of the proposal.

The administrative recommendation, after examining the business case against the factors in s.263(3), turns on the question: Should this de-amalgamation proposal, or something 'like' it, be recommended to the Governor? In that regard, it is still the case, as LGNSW found in 2015, that the research findings about amalgamations reveal many shades of grey in the cases for and against amalgamations. What was said then is still true: 'there are no 'black and white' answers.'[16]

Financial Sustainability

As is discussed in the Majority report, there was a keenness in many submissions and presentations to lay the blame for CGRC's financial problems purely on the 2016 merger. Some, including Prof Drew, attributed cost increases to 'diseconomies of scale' arising from the merger. These matters are analysed and discussed in Sections 6.1.2.8 and 6.1.2.9. It is likely the 'truth' lies elsewhere. Indeed, it is instructive to note that CGRC's consultant, Prof Drew, in his financial sustainability review report to the Council,[17] 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'.*

Leaving aside for one moment the 'forced' nature of the Minister's 2016 decision, the current problems besetting the LGA remain attributable to choices made by the council (in various iterations) which arguably have prevented the new council from succeeding. I accept that what has contributed to this decision-making is the fact that a significant proportion of the community has resisted the merger. Indeed, the whole of the recent history for CGRC has been reactive, not pro-active. The 'loudest' view remains the assertion of an absence of 'democratic legitimacy' in the original decision which justifies, in that community's view, a recommendation in favour of returning to the previous arrangements. That encapsulates the 'community attitude' as expressed to the Commission. But it doesn't answer the question whether or not reverting to two councils is, in the long term, financially sustainable.

It is very clear from the submissions made to the Commission, from the oral presentations made 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 de-

[16] LGNSW, *Amalgamations: To Merge or not to Merge?* (2015), p20.
[17] Drew #4, p24.

amalgamation proposal. The telephone survey undertaken for the Commission showed that 82% of these residents either “agreeing” (10%) or “strongly agreeing” (72%) with the Proposal.

I note that that the survey reveals a lower level of support for the Proposal than the support revealed by the oral and written submissions. That notwithstanding, the survey does suggest that some 11% of the residents spread across the LGA disagreed or strongly disagreed with the de-amalgamation proposal. Their reasons are set out in Section 6.4.2. Those comments reveal that within the community the opportunity to deliver on the merger may not be lost.

Their voices deserve to be heard too. They are suggesting that it is perhaps time to move on. They say:

- ‘Most of those people don't live in town [Gundagai] because they don't want to be part of this nasty fight. They don't want to be part of this. So, please, when this decision is made, it is final and it is strong and it is stuck to.’[18]
- ‘Up until very recently, we have had a GM and Mayor from Gundagai and I am certain this merger was always deemed to fail, because that’s what they wanted to happen. The GM has now resigned and we have a new Mayor who is actually interested in seeing this council move forward as one and it is a wonderful change after near 6yrs of negativity.’[19]
- Indeed, a former Councillor was of the view that: ‘Up until now the amalgamation has not been given 100% effort to make it work with the past powers I believe to be trying to bring it down.’[20]

Planning to Fail?[21]

That these are singular voices in a forest of voices in support of the de-amalgamation is acknowledged. But what lends credence to these observations are the decisions taken by the council. This is confirmed by Deloitte: ‘*After incurring higher costs in FY17 due to the merger process, CGRC’s cost base in FY21 (excluding depreciation) has grown to be approximately 47% higher than the aggregate cost base of the former Gundagai and Cootamundra Councils in FY16 (equivalent to 33% when adjusting for inflation)*.’[22] There is less recognition in the community that the growth in staff numbers and costs has been a major contributor to the budget problems.

Having regard to the experience of other councils that approached the merger opportunity differently and yielded savings,[23] noting that the submitted business case, in terms of the economic considerations, is not compelling, it is open to the Minister to conclude that financially, it is not merger in 2016 and diseconomies of scale that makes the council ‘unviable,’ as Prof Drew submits. The Deloitte analysis in the Key Findings points to choices council, in its various iterations, has made so far as suggesting the reason why CGRC, and perhaps any de-amalgamated councils, are exposed to a risk of

[18] A speaker at the Cootamundra Session 2.
[19] Submission #016.
[20] Submission #032.
[21] Drew #4, p21: ‘However, 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. At present Council is planning to fail some time in 2021/22.’
[22] Key Findings, p3
[23] See the discussion in section 6.8.2.1.

being financially unviable. It seems that the past could have been brighter, and the future for CGRC could still be. The IPART approval to the SRV will assist to enable CGRC to move forward.

In the absence of reliable other own source income, taking 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.'[24] This is because, as Professor Drews observes, 'the effect of chronic operating deficits (excluding capital grants) will be a reduction in liquidity.'[25] 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.

I concur with the Majority, for the reasons discussed in Section 6.1.2.9, that the Commission does not believe that diseconomies of scale exist in councils with populations the size of CGRC. The DAA findings suggest that there are economies of scale available to CGRC to realise. In saying that, I also acknowledge that the distance between the two major centres of Cootamundra and Gundagai does impose cost pressures. But this is not an insurmountable problem.

In the context of a continuing CGRC, and for the reasons discussed in Sections 6.1.2.1 and 6.1.2.3, its short to medium-term financial problems are being resolved by the implementation of the IPART-approved SRV of 53.5% over four years. As well, the council has confirmed it has achieved the $2.4 million savings, with additional future cost savings identified by council still to be achieved. Once this Proposal is behind it, the council may be able to initiate and implement the necessary organisational review, which will extend to cultural matters. Achieving that goal is a better outcome for the residents and ratepayers of the existing local government area.

As would be the case in all scenarios, a continuing CGRC will still depend on government grants, particularly to meet its infrastructure financing needs. This remains true for most rural and regional councils in NSW as all rely heavily upon grant funding. This is typical of rural councils. It is likely that grant funding will continue to be available. 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*.'[26]

I also accept, based on the submissions received by the Commission and presentations made at the public inquiry sessions, that most residents and ratepayers feel that a de-amalgamation will result in a better outcome financially for both de-amalgamated areas. What is clear from the Deloitte analysis in the Key Findings is that there is a path to financial sustainability for a continuing CGRC and for a de-amalgamated new Cootamundra. For the reasons discussed in Sections 6.1.2.6 and 6.1.2.8, the same cannot be said for new Gundagai. In that context, de-amalgamation would not be better outcome for the residents and ratepayers of those in the Gundagai part of the existing local government area.

The financial outlook for new Gundagai is certainly more challenging, notwithstanding a number of emerging revenue opportunities. The business case has been considered in its submitted terms. It has been considered by Deloitte as part of its financial analysis. It remains the case that a de-amalgamation

[24] Drew #4 p21.
[25] Drew #4, p6.
[26] LGNSW submission to the Inquiry into Integrity, efficacy and value for money of NSW Government grant programs August 2020, p4.

‘*could impact Cootamundra and Gundagai ratepayers differently, with Gundagai’s capacity to achieve financial sustainability significantly lower than either Cootamundra’s or a continuing CGRC*.’[27]

New Gundagai’s financial security seems to be dependent on cost-cutting measures before financial viability can be contemplated. But even with those measures, the future is bleak. As Prof Drew notes: ‘[New Gundagai] *can expect that its operating environment will grow ever more challenging over an extended period of time which will further hamper its efforts to become financially sustainable*.’[28] The submitted business case does not give the assurance that the requisite fiscal discipline can be maintained.

In that context, if the requirement in section 218CC(6) of the Act requires the Minister to fully fund the cost of any de-amalgamation, and if that is a necessary condition of financial sustainability, then while that would assist the financial position of both de-amalgamated councils, it is not an indicia of on-going financial sustainability.

The current focus of the council ought to be on the implementation of the SRV and continuing to identify and achieve other savings. For the reasons discussed in the body of this dissenting report, I am of the view that the submitted business case does not present a compelling argument for submitting the community to further transactional costs, statutory employment protections, and economic hardship. Incurring a fresh round of transactional costs is not a better outcome for the residents and ratepayers of the existing local government area.

Professor Drew has identified, in a table to his report,[29] a significant number of sections in the Act that he argues should be amended to accommodate the implementation of this Proposal. Paraphrasing the conclusion expressed in the Majority Report of 2021, the Act does not presently contain the machinery provisions for what is to happen in a de-amalgamation. There remain complex issues that need to be considered and resolved at a policy level if de-amalgamations are to occur. The fact that the Council’s advisor sees a need for extensive legislative reform if de-amalgamations are to become policy suggests that implementing a de-amalgamation will involve further delay and disruption. In light of the urgent budget repair task which CGRC is currently tackling, now may not be the time to de-amalgamate this Council.

If it was the case, as Prof Drew alludes to, that the council, in a former iteration, was planning to fail, then the new council, elected only recently in December 2021, deserves the chance to seize the opportunity presented by the merger to show its community that whatever may have been the case in the past, this council does not intend to fail.

Dissenting Recommendation: I recommend that the Proposal not be implemented.

[27] Key Findings, p7.
[28] Drew #4, p33.
[29] Drew #3, pp34-37.

3. Role of the Local Government Boundaries Commission

I adopt the analysis of the Majority Report on the role of the Commission with the following additional analysis and comment.

The Act now provides that a 'new' council, such as CGRC is, may, within 10 years of the constitution of the new area, submit a written business case to the Minister setting out a proposal, and the reasons in support, for the de-amalgamation of the new area, whether by reconstituting the former areas or constituting different areas (s.218CC(1)).

The Boundaries Commission is established under the Act as an independent statutory authority constituted under section 260 of the Act. It is the Minister's referral of the Proposal to the Boundaries Commission pursuant to s. 218CC(2) of the Act that gives the Commission the jurisdiction and power to examine and report on the submitted business case.

In the exercise of its functions under the Act, the Commission is bound to have regard to specific statutory factors set out in section 263(3) of the Act. These statutory factors were considered in the report of the Delegate in 2016. The Commission's review of that Report related only to the report itself; it did not extend to re-examining the merits of the proposal.

The Delegate's report, and the Commission's review of it, led to the former Minister's recommendation of that proposal to the Governor and the subsequent Proclamation constituting the current area. The Delegate's report, and the Commission's review of it, remain relevant to the Commission's consideration of the submitted business case having regard to the fact that it is only a 'new' council which can invoke the s.218CC processes.

The Commission's role is to examine and report on the submitted business case. The Act does not prescribe what is required by the examination of the Proposal or how the examination should be undertaken. These matters are left to the judgment of the Boundaries Commission.[30] However, clause 12 of Schedule 2 of the Act expressly provides for Commissioners to be able to submit dissenting reports.

Where appropriate, I have in this dissenting report also drawn on the content of the Commission's previous 2021 Majority Report, recognising, as does the Majority report on this proposal, that:

- the intended outcome of the Proposal, ie the de-amalgamation of the current CGRC into its former constituent shires, is the same outcome sought in the 2020 proposal.
- the legislative provisions as to how the Commission is to conduct its examination (including the factors that the Commission must have regard to) have not changed.
- the Business Case submitted by CGRC consisted of the same report (Drew #3) that was submitted in support of the 2020 proposal.

[30] *Woollahra Municipal Council v Minister for Local Government* [2016] NSWLEC 86, [153].

- many (but not all) of the submissions and oral presentations made by residents and ratepayers covered (and re-submitted) the same arguments made in support of the 2020 proposal.

- the Commission's previous report was completed less than 18 months ago.

I too wish to acknowledge the support given to the Commissioners by its Executive Officer, Ms Alice Beasley, as well as by the small group of OLG staff who stepped up to assist in organising the Inquiry sessions. Without that support the work of the Commission could not have been undertaken.

Finally, while on this occasion I am in the dissent, I wish to acknowledge the support I have received from my fellow Commissioners. I have listened carefully to their positions and arguments and I have been grateful that they have shown me the same respect and consideration listening to my position.

4. The Examination Process

I adopt the analysis of the Majority Report on the Examination process. For completeness:

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	Total
27 April 2022	5:30pm – 7:00pm	8	27	35
28 April 2022	9:30am – 12:00pm	6	10	16
TOTAL		**14**	**37**	**51**

Gundagai District Services Club, Sheridan Street Gundagai				
Date	Session Time	No. of Attendees (a)		
		Speakers	Observers	Total
28 April 2022	4:30pm – 7:00pm	20	119	139
29 April 2022	9:30am – 12:00pm	7	44	51
TOTAL		**27**	**163**	**190**

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

Written submissions were accepted up until close of business 6 May 2022, one week after the completion of the public hearings. The numbers of submissions received by the Commission were as follows -

Submissions to Boundaries Commission		
By Residence (Previous LGA)	Total Submissions Received	Separate individuals (a)
Gundagai	138	124
Cootamundra	25	25
Non-resident/former resident/unknown	6	6
TOTAL	**169**	**155**

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

5. The Commission's Approach in Considering the Proposal

I adopt the analysis of the Majority Report about the approach to considering the Proposal with the following additional analysis and comment.

I concur with the Majority Report's view that the consideration of this s218CC proposal was not a review of either Commission's 2021 examination of the earlier elector proposal nor is it a review of the Government's May 2016 decision to amalgamate the then Cootamundra and Gundagai shires.

I also concur that in the examination of the Proposal the consideration should be based on what is the better outcome for the residents and ratepayers of the existing local government area. To assist me to form a view on this aspect I have kept in mind the catch-all provision in s.263(3)(f) which directs the Commission to have regard to matters '*relevant to the provision of efficient and effective local government in the existing and proposed new areas*.' That has assisted me to identify various points of departure from the view of the Majority Report.

For completeness, I too discharged my responsibilities by participating in the processes of the Commission including *inter alia* by –

- considering the views put forward in each written submission made by residents and ratepayers (and others) – both those newly submitted to the Commission and those requests to review those that had been previously submitted.
- 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.

6. The Dissenting Commissioner’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		
Submitted to Commission	**Submissions addressing this factor**	**As a percentage of total submissions**
169	128	76%

6.1.2 Discussion

As the Majority Report notes, this was one of the most consistently addressed factors in the written submissions received and presentations made at the public meetings. I adopt the analysis of the Majority Report under heading 6.1.1 Submissions and presentations made and 6.1.2 Discussion with the following additional analysis and comment:

Councils today have many functions conferred or imposed on them by a number of other Acts. It has been estimated that councils have over 120 regulatory functions, involving over 300 separate regulatory roles, emanating from over 60 State Acts, which are administered by around 30 State agencies. Managing a council successfully requires careful consideration to a broad range of sometimes competing considerations. As is the case 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*.’

As was the case with the previous proposal, it was necessary for the Commission to obtain expert assistance, as reflected in the Key Findings document. On one view, this material supplemented material not in the submitted business case. That analysis was valuable to understand both the current and future situations. That said, I acknowledge that all of the material considered is about ‘the future’. As His Honour Mr Justice Basten noted in the Court of Appeal decision regarding the 5 Councils appeal, at [292]: ‘*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; the exercise of choosing appropriate parameters must have involved evaluative judgment, with a range of possible outcomes*.’

It is not in dispute that it is open to ‘re-create’ the former Gundagai Shire – it can be done, why you would do it is the question. On one view that question is answered in the Council’s submission to the Commission of May 2022. On another view, the business case for a de-amalgamation would ideally not be a piece of advocacy. It should contain analyses of the costs, benefits, risks and assumptions associated with the proposal, assessed against other scenarios.

In that context, it is not the case, as submitted by one member of the community, that: '*Any conclusion against de-amalgamation by the Commission needs to systematically, very carefully and in very strict detail refute the points made in this report, which was endorsed unanimously by the Council*.'[31] This comment suggests that it is for the Commission to 'unpick' the submitted business case. I do not see that as the role of the Commission. Nor is it the role of the Commission to 'fill' any gaps in the business case. What does need to be recognised is that the comparative exercise to assess identifiable financial or quantitative outcomes against non-financial or qualitative benefits is necessarily an evaluative or subjective one.

In terms of possible quantifiable outcomes, the Key Findings are instructive. As noted in the Key Findings, the high-level scenario analysis indicates that in FY26 new Gundagai's forecast operating deficit before capital grants would be $2.1m. This equates to $864 deficit per rateable assessment, $733 per rateable assessment lower than the CGRC Case ($131 deficit). This indicates that a de-amalgamated Gundagai's ability to achieve financial sustainability in the forecast period is much more difficult than either a Continuing CGRC or a de-amalgamated Cootamundra, without significant additional revenue (either from higher rates and charges or other external sources) or further cost savings.[32]

Given that complexity, the current council is likely to be better placed to provide services to its community. As is revealed in the Key Findings, and as was the case when the Commission previously considered the issue, many of the current problems besetting the community remain attributable to choices made in the past by a differently constituted council. Those decisions have arguably prevented or delayed the current council from succeeding. So many decisions seem to have been taken by council on the assumption that at some point in the future, the council would be demerged. Seen in that light, it remains arguable that the steps necessary to enable the benefits of the amalgamation processes to be realised have never really begun. This means that the opportunity to secure real benefits to the community are still available. It is a reason for recommending that the Proposal not be implemented.

It appears from the Deloitte analysis, as reflected in the Key Findings, that a demerged Cootamundra Shire would be relatively 'better off' in a de-amalgamation. By itself, this is not a reason to support the de-amalgamation. I acknowledge that whether or not the former Gundagai council was 'viable', 'fit for the future' or 'financially sustainable' is contestable. The question to ponder now is whether or not a new Gundagai council with the same boundaries as before will be viable and financially sustainable, given that the chance to return to 2016 is lost.

Many community submissions describe the financial advantages of de-amalgamation in terms of outcomes that are not necessarily measurable or quantifiable. The submitted business case itself also expressly refers to this examination as being an 'opportunity' to right a past wrong.[33] In those submissions is the echo of the sentiment that there should be no forced amalgamations. That is a

[31] Submission #075.
[32] Key Findings p8.
[33] Drew #3, p1.

philosophical, or political, context.

As Comrie notes,[34] the path to financial sustainability lies not in satisfying wants/desires, but in setting up the council to reap the benefits. We want our regional areas to thrive and to be able to provide all the services that metropolitan councils can provide. A constant theme in the sector, dating to well before the Destination 2036 conference in 2011, is that the increasing complexity associated with modern local government has created issues for the sector in terms of financing and resourcing. The expansion of the role of local government over the past decades has certainly coincided with a heightened community expectation for councils to provide more and better services regardless of a city or regional location. The councils at risk of being left behind in this context are those councils with large areas and small populations, as they do not have the scale and capacity to provide an expanded range of services.

6.1.2.1 CGRC Financial Overview: 2016-2021

I adopt the analysis of the Majority Report under heading 6.1.2.1. Financial Overview: 2016-2021 with the following additional analysis.

It remains the case that the deficits sustained by council through the post-amalgamation period have resulted from CGRC's expenditure growth against an inherited but relatively stable revenue base, noting that revenue growth was constrained by the rate path freeze preventing CGRC from implementing an SRV until 2021-22. This explains why CGRC's financial performance has fluctuated significantly from year to year. That performance has also been affected by the timing of grant income (including merger grants) and the timing of expenditures associated with those grants. The Deloitte analysis, as summarised in the Key Findings, shows that CGRC recorded a $13.5 million aggregate surplus over the four years to 2020-21, but an aggregate operating deficit excluding capital grants (the more normal measure) of $28.9 million.

It is worth repeating the comment in the Majority Report that CGRC's cost base has increased significantly relative to the aggregate of the two former councils. This increase reflects -

- increases in service levels including the new Visitor Centre in Cootamundra, increased opening hours at the Gundagai Library, and a new recycling program
- higher levels of grant funding resulting in an increased number of contractors and consultants
- the revaluation of IPPE (infrastructure, property, plant and equipment) combined with the investment in assets contributing to the steady increase in depreciation, including a 13% increase in 2020-21
- employee costs increasing due to new roles, salary increases and progression through OLG bands (see next Section)

[34] Comrie, *Roadmap to Financial Sustainability for Local Governments in NSW*, (2013), p4.

- staff shortages and high turnover in the finance department resulting in challenges with embedding budgetary measures and cost saving initiatives.

I agree with the conclusion in the Key Findings that the significant growth in expenditures has been a significant contributing factor to the decline in operating results over the period. Even Professor Drew is critical of CGRC's decision to harmonise service levels, suggesting they should, in a demerger scenario, be returned to pre-2016 levels.[35] 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.[36] It is that type of decision, not the merger, which arguably has led to the "diseconomies" claimed by Professor Drew. That is, many additional costs may have been the result of management decisions.

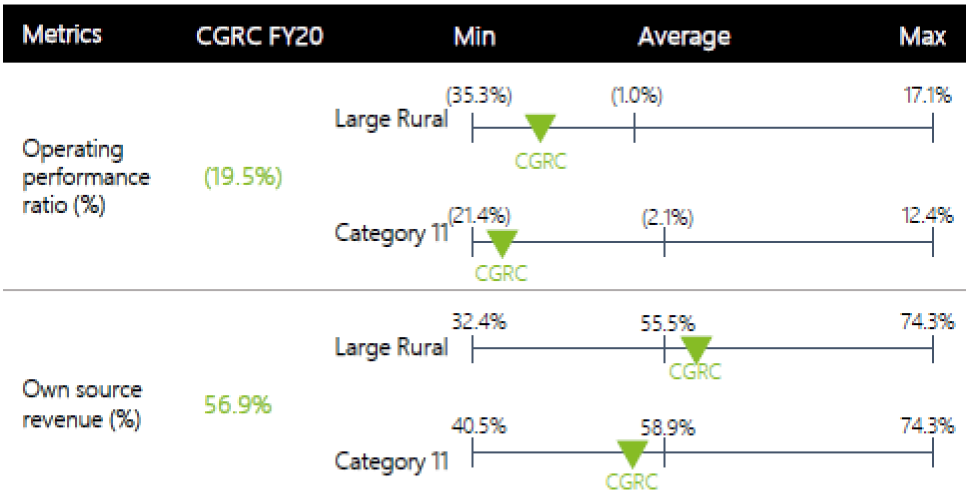
CGRC Operating Result Summary 2016-17 to 2020-21

$m	FY17	FY18	FY19	FY20	FY21	5 Yr Total
Rates and Annual Charges	12.9	12.6	12.9	13.3	14.5	**66.1**
User Fees and Charges	6.6	6.1	8.6	8.3	8.1	**37.7**
Other Revenue	2.5	2.5	2.0	1.9	1.2	**10.2**
Operating Grants	16.8	8.3	12.0	9.9	8.9	**55.9**
Capital Grants	9.9	2.3	7.3	7.7	15.2	**42.4**
Revenue	**48.6**	**31.8**	**42.8**	**41.2**	**47.9**	**212.4**
Employees	(12.1)	(12.5)	(12.4)	(12.9)	(12.2)	**(62.2)**
Materials	(9.6)	(13.4)	(12.5)	(13.8)	(13.2)	**(62.4)**
Depreciation	(9.3)	(8.1)	(8.9)	(9.1)	(10.6)	**(46.1)**
Other	(5.7)	(3.6)	(3.8)	(3.7)	(1.8)	**(18.5)**
Non-operating expenses						
Net gains/(losses) from the disposal of assets	0.0	0.0	(0.8)	0.0	(0.3)	**(1.2)**
Net share of interest in JV and associates	0.0	0.0	0.0	0.0	0.0	**0.0**
Revaluation decrement / impairment of IPP&E	(6.9)	(1.3)	0.0	(0.2)	0.0	**(8.4)**
Expenses	**(43.6)**	**(38.9)**	**(38.5)**	**(39.8)**	**(38.2)**	**(198.9)**
Net Operating Result	**5.1**	**(7.1)**	**4.3**	**1.4**	**9.8**	**13.5**
Net Operating Result before Capital Grants	**(4.9)**	**(9.4)**	**(2.9)**	**(6.2)**	**(5.5)**	**(28.9)**

Note: FY17 reflects a 13½ month period from 13 May 2016 to 30 June 2017.

[35] Drew #3, p32.
[36] Drew #4, p24.

CGRC performance relative to OLG performance benchmarking results for 2019-20 (the latest year published by OLG) for the two key indicators of *operating performance ratio*[37] and *own source revenue ratio*[38] were as follows:



What is encouraging is that CGRC's own source revenue ratio of 56.9% was close to the average for both Category 11 councils and 'Large Rural Councils' in aggregate (ie Categories 10 and 11). The OLG benchmark for the operating performance ratio is >60%. Councils consistently below this benchmark need to rely on capital grants to fund their operating expenditures. I concur with the Majority Report conclusion that with the progressive implementation of the SRV from 2021-22, CGRC's performance on this measure relative to its peers will improve significantly (while noting that other rural councils may also increase rates).

6.1.2.2 CGRC Employment Overview: 2016-2021

I adopt the analysis of the Majority Report under heading 6.1.2.2. CGRC Employment Overview: 2016-2021 with the following additional analysis.

The Majority report analysis sets out the history relating to employment numbers since 2016. It has resulted in an administrative decision for CRGC to effectively operate with a team in Gundagai and a team in Cootamundra so CGRC continues to maintain separate wage structures for its non-management team. As was noted in the previous Majority Report in 2021, 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 was 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.

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[37] 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).

[38] 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).

To demonstrate the point about the difficulties confronting the community in seeking to 'return' to 2016, reference only needs to be made to the average cost to CGRC per FTE employed in 2020-21 (approximately $92,200) as compared to the cost in 2015-16 ($76,500) for the two pre-merger councils, an increase of 21%. Past decisions will hamper any new starting point in a de-amalgamation.

Compared with employee costs in the two pre-merged councils in 2015-16,[39] CGRC's employee costs for 2020-21 have increased by $2.8 million or 26.0%, although this increase is partly understated by the much larger vacancy level in 2020-21 (10 FTE as at June 2021 compared with 2 FTE as at merger date).

6.1.2.3 *Continuing CGRC Financial Outlook*

I adopt the analysis of the Majority Report under heading 6.1.2.3. CGRC Financial Outlook with the following additional analysis and comment.

As the Majority Report notes, the 2016 merger benefits that were modelled for CGRC were over a 20-year period commencing after the initial four-year protection period. CGRC was not expected to achieve material savings in the years up to and including 2018-19. That, together with decisions taken by the Council in its various iterations has meant that CGRC's cost base is materially higher than pre-merger levels.

It is informative to repeat that key drivers for the Council's declining financial performance pre-SRV have been:

- the higher cost of the enlarged organisational structure (see Section 6.1.2.2)
- the statutory rate freeze which prevented the making of an SRV application until 2020
- an increase in depreciation and operating costs associated with capital works, including those funded from capital grants
- Council's decision to allocate capital spending between Cootamundra and Gundagai on a 50/50 basis.

It is instructive to note that in his 2020 Financial Sustainability Review, Prof Drew, on two occasions, references that 'Council is planning to fail.'[40] This is obviously a reference to past decisions, some taken by the council in its various iterations since 2016. Some of the explanation related to external restraints such as the four-year rate cap which prevented the Council from making a SRV application to IPART. Some reasons went back to decisions of the former Cootamundra Council (water infrastructure backlog) and former Gundagai Council (sewer works). He notes that 'fees could have been harmonised years ago.'[41]

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[39] For the purpose of this comparison, the reported 2015-16 employee cost figures (which only covered the part-year to 13 May 2016) have been adjusted to reflect a full year estimate.

[40] Drew #4, pp 21 and 23.

[41] Drew #4, p24.

Prof Drew's conclusions inform his advice to Council at the time that it needed to make a plan to achieve financial sustainability, starting with making the application to IPART for a SRV. Noting his comments that the 'blame' for the Council's situation is shared,[42] Prof Drew acknowledges that the path forward involves 'reduc[ing] our costs and increase[ing] our income.'[43] The plan also involves council committing '*itself to strict austerity for a period of at least five years*.'[44]

That recovery plan has begun to be implemented starting with the IPART approval to the SRV. As noted in the Key Findings, '*CGRC's LTFP reflects budget repair priorities to improve CGRC's consolidated operating result across the 10-year forecast period. LTFP forecasts at a fund level show:*

- *The Sewer Fund and Water Fund to generate operating surpluses before capital grants in all forecast periods.*
- *The Water Fund and Sewer Fund are assumed to have been 'reset' to sustainable levels as a result of increased and harmonised fees and charges implemented in FY20 and FY21.*
- *The General Fund to continue incurring operating deficits before capital grants (albeit trending towards a reduction in the deficit position) throughout the 10-year period notwithstanding the approved 53.5% SRV and cost saving initiatives*.

With ongoing General Fund operating deficits forecast throughout the 10-year period, further operating cost savings may be necessary to deliver breakeven operating performance and therefore General Fund financial sustainability.'[45]

The results of Deloitte's projections are as shown in the following table -

[42] Drew #4, p24.
[43] Drew #4, p23.
[44] Drew #4, p24.
[45] Key Findings p4.

Profit and Loss $'m	FY22 Base	FY23 FCast	FY24 FCast	FY25 FCast	FY26 FCast
Revenue					
Rates and annual charges	16.9	18.5	19.2	19.9	20.3
User charges and fees	7.4	7.7	8.0	8.3	8.6
Interest and investment revenue	0.2	0.2	0.2	0.2	0.2
Other revenues	1.5	1.5	1.5	1.5	1.5
Revenue before grants	25.8	27.8	28.8	29.8	30.6
Grants and contributions - financial assistance	5.6	5.6	5.7	5.7	5.8
Grants and contributions - operating purposes	4.1	4.1	4.2	4.2	4.2
Grants and contributions - capital purposes	17.8	0.6	0.6	0.6	0.6
Total Revenue	53.3	38.1	39.2	40.3	41.2
Expenses					
Employee benefits and on-costs	(12.9)	(12.7)	(12.8)	(13.0)	(13.1)
Materials and services (MAT)	(15.5)	(13.4)	(13.7)	(14.0)	(14.4)
Other expenses	(1.2)	(3.2)	(3.3)	(3.3)	(3.4)
Borrowing costs	(0.2)	(0.2)	(0.1)	(0.1)	(0.1)
Depreciation and amortisation	(10.4)	(10.4)	(10.4)	(10.4)	(10.4)
Total Expenses	(40.3)	(39.9)	(40.4)	(40.9)	(41.4)
Operating surplus	13.0	(1.8)	(1.2)	(0.6)	(0.2)
Operating surplus (ex. CG)	*(4.8)*	*(2.4)*	*(1.8)*	*(1.1)*	*(0.8)*

Reported KPI's (%)	Target	FY22 Base	FY23 FCast	FY24 FCast	FY25 FCast	FY26 FCast
Operating performance ratio	>0.0%	-13%	-6%	-5%	-3%	-2%
Own source revenue ratio	>60.0%	48%	73%	73%	74%	74%
Operating deficit per ratepayer ($)		(737.9)	(365.0)	(273.1)	(177.0)	(131.0)

As the Majority Report notes, the continuing CGRC scenario forecasts indicate a cumulative operating deficit of $6.1 million (excluding capital grants) over the four years to 2025-26, but there is a significant improvement on a year-to-year basis. The progressive implementation from 2021-22 of the cumulative (and ongoing) 53.5% SRV and CGRC's achievement of the $2.4 million cost savings target in 2021-22,[46] will certainly contribute to the prospects for financial stability.

I accept 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 CGRC community generally. As the pandemic has revealed, we have not yet found the limits of working remotely and the efficiencies that lie within this emerging opportunity.

As noted in the Key Findings: '*The Continuing CGRC scenario indicates that in FY26, CGRC is forecast to incur an operating deficit before capital grants of $0.8m which equates to approximately $131 per*

[46] Deloitte had identified the non-achievement of this savings target as a major risk to the financial sustainability of both the existing and demerged councils. However achievement of the target was confirmed by CGRC to the Commission in June 2022.

rateable assessment.' I agree with the Majority Report that careful management by CGRC, Prof Drew's called for austerity, will ensure that such a deficit could be largely overcome with minimal recourse to service level changes.

This outcome is based upon the 53.5% SRV having been implemented from 1 July 2021 and CGRC's achievement of $2.4m of targeted cost savings in FY22.'[47] As the Majority Report notes, the receipt of $41.5 million in capital grants assisted Council in delivering new infrastructure and asset renewal projects. I also accept that CGRC will continue to be dependent on grant funding. 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 2018-2028 Community Strategic Plan (CSP).[48]

Finally, I note that in terms of the plan needed to be implemented by the Council, having to deal with the submission of applications about a demerger or about a de-amalgamation are disruptive. In light of the consideration of the business case by the Commission, in January 2022, the Council put on hold the implementation of a planned restructure process. It was intended to engage external consultants to complete a full review of its organisational structure which also includes a cultural review. This is another instance of the impact from multiple actions calculated to bring undone the 2016 decision.

Ultimately, I note that Deloitte concludes that '*to reach financial sustainability within the expected parameters of the Continuing CGRC forecast, CGRC needs to further reduce its cost base by $800k or pursue equivalent additional funding in FY26. This is equivalent to a 3% reduction of FY26 controllable cost base in the General Fund. This level of savings may be achievable without significant impact on community service levels.*'[49]

6.1.2.4 The Approach to Demerger Scenarios

I adopt the analysis of the Majority Report under heading 6.1.2.4. Approach to Demerger Scenarios.

6.1.2.5 Demerger Costs

I adopt the analysis of the Majority Report under heading 6.1.2.5 Demerger Costs with the following additional comment.

Deloitte has estimated that one-off demerger costs could be in the range of $1.8 million to $4.2 million (for the two new councils in total). This cost could be higher or lower depending on the level of cooperation between the new councils and their ability to achieve commercial agreement on key separation matters.[50]

The Key Findings report also notes the criticality of the allocation of cash reserves. As Deloitte notes, this is important as it '*underpins the short-term liquidity position for the new councils*.' Having regard to s218CC(6) of the Act, movements in the assumed positions may impact the amount of costs

[47] Key Finding, p7.
[48] See Council's website Community-Strategic-Plan-v1.4.pdf (nsw.gov.au). Council is currently finalising its 2022-2032 CSP.
[49] Key Findings, p9.
[50] Key Findings, p5.

associated with the de-amalgamation. As noted in the Key Findings: '*CGRC's FY21 balance sheet information indicates consolidated cash and investments of $18.3m at 30 June 2021 and unrestricted cash of negative $8.0m. Deloitte's analysis allocated cash reserves in proportion to the 2016 pre-merger cash position (Cootamundra 62.7%; Gundagai 37.3%) after removing $6.5m relating to cash held from grant funding for Gundagai Sewerage Treatment Plant works. The way available cash is allocated between the two demerged councils may present possible major risks to one council*.'[51]

Incremental costs:

Deloitte assumed minor additional incremental costs associated with the need to duplicate councillor structures, estimated to be $0.1 million per annum for both Cootamundra and Gundagai. Based on discussions with CGRC management, Deloitte's analysis assumes that the executive leadership teams for both councils can be filled by existing roles (with GM, Deputy GM and 10 Managers). As such, no additional headcount or costs have been assumed.

These costs are shown in the following table:

Demerger cost estimates and ratepayer impacts

Indicative Demerger Cost Forecasts						
		FY23 F'cast	FY24 F'cast	FY25 F'cast	FY26 F'cast	**FY23–FY26 Total F'cast**
	Incremental costs ($m) p.a. per LGA	0.1	0.1	0.1	0.1	0.4
Cootamundra	*Rateable Assessments (#)*	*4,053*	*4,053*	*4,053*	*4,053*	*4,053*
	$ / Rateable Assessment ($)	**(25)**	**(25)**	**(25)**	**(25)**	**(99)**
Gundagai	*Rateable Assessments (#)*	*2,425*	*2,425*	*2,425*	*2,425*	*2,425*
	$ / Rateable Assessment ($)	**(41)**	**(41)**	**(41)**	**(41)**	**(165)**

Note: Rateable assessment numbers are per CGRC 2021-2022 Revenue Policy dated 29 June 2021 and allocations to Cootamundra and Gundagai are as advised by CGRC management. As forecast population growth is minimal according to Deloitte Access Economics, Deloitte used the fixed number of rateable assessments in FY22 to determine ongoing impact to ratepayers.

- The demerger cost range as presented above should be considered a high-level estimate and indicative only. The actual costs could be somewhat higher or lower depending on a range of factors including the ability of the councils to reach consensus on legal, financial and commercial separation matters, including the allocation of its cash reserves, and the financial capacity of the new councils and/or its community to fund such costs.

It is important to understand that the projections shown in the demerger scenarios below are on the basis of existing council policies and practices. They do not make any allowance for any changes that a demerged council might make in revenue and rating, use of volunteerism, service levels, etc.

[51] Key Findings, p10.

6.1.2.6 Demerger Scenario – Gundagai

I adopt the analysis of the Majority Report under heading 6.1.2.6 Demerger Scenario – Gundagai with the following additional analysis.

The following table shows Deloitte's projected operating results for a demerged Gundagai Council -

Profit and Loss $'m	FY22	FY23	FY24	FY25	FY26
	Base	*FCast*	*FCast*	*FCast*	*FCast*
Revenue					
Rates and annual charges	5.6	6.2	6.5	6.7	6.8
User charges and fees	1.7	1.7	1.8	1.9	2.0
Interest and investment revenue	0.1	0.1	0.1	0.1	0.1
Other revenues	0.5	0.5	0.5	0.5	0.5
Revenue before grants	7.9	8.5	8.8	9.2	9.4
Grants and contributions - financial assistance	1.9	1.9	1.9	1.9	1.9
Grants and contributions - operating purposes	2.1	2.1	2.1	2.1	2.2
Grants and contributions - capital purposes	8.2	0.3	0.3	0.3	0.3
Total Revenue	20.0	12.8	13.2	13.5	13.8
Expenses					
Employee benefits and on-costs	(4.5)	(4.5)	(4.6)	(4.6)	(4.7)
Materials and services	(5.1)	(5.3)	(5.4)	(5.5)	(5.7)
Other expenses	(0.4)	(0.4)	(0.4)	(0.4)	(0.4)
Borrowing costs	(0.1)	(0.1)	(0.1)	(0.0)	(0.0)
Depreciation and amortisation	(4.7)	(4.7)	(4.7)	(4.7)	(4.7)
Incremental demerger costs	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)
Total Expenses	(14.9)	(15.1)	(15.2)	(15.4)	(15.6)
Operating surplus	5.1	(2.3)	(2.1)	(1.9)	(1.8)
Operating surplus (ex. CG)	*(3.1)*	*(2.6)*	*(2.4)*	*(2.2)*	*(2.1)*
One off demerger costs	-	*(1.5)*	-	-	-

Reported KPI's (%)	Target	FY15	FY16	FY22	FY23	FY24	FY25	FY26
		Actual	*Actual*	*Base*	*FCast*	*FCast*	*FCast*	*FCast*
Operating performance ratio	<0%	(1%)	16%	(26%)	(20%)	(18%)	(16%)	(16%)
Own source revenue ratio	>60%	62%	50%	39%	67%	67%	68%	68%
Establishment FTE		54	53	53	53	53	53	56
Operating performance per ratepayer ($)		(50)	657	(1,280)	(1,053)	(976)	(895)	(864)

As the Majority Report notes, the projections show that a demerged Gundagai Council would face financial difficulties in a demerger scenario, with operating deficits (both including and excluding capital grants) forecast in all years. Given forecast operating deficits, new Gundagai will need to consider implementing a rates and annual charges uplift absent external funding, additional grants or cost savings initiatives being identified.

As is noted in the Key Findings, Gundagai's financial sustainability 'gap' of $2.1m in FY26 is equivalent to 22% of its FY26 General Fund cost base. As shown in the table below, a combination of cost savings and uplift in revenue via external funding would therefore be required to achieve a breakeven result.[52] The estimated $1.5 million operating deficit for Gundagai in 2025-26 equates to $864 per rateable

[52] Key Findings, p9.

property. To achieve a break-even result in 2025-26 (to enable comparison with the CGRC base case scenario), Deloitte has calculated 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:

Example: How can sustainability be achieved?

Additional external funding

Additional cost savings	$m	-	0.5	1.0	1.5	2.0
	-	-2.1	-1.6	-1.1	-0.6	-0.1
	0.5	-1.6	-1.1	-0.6	-0.1	0.4
	1.0	-1.1	-0.6	-0.1	0.4	0.9
	1.5	-0.6	-0.1	0.4	0.9	1.4
	2.0	-0.1	0.4	0.9	1.4	1.9

As the Majority notes, new Gundagai could achieve a broadly balanced financial outcome (excluding capital grants) in 2025-26 by securing additional external funding by any of the combinations shown in the boxed areas. The Majority cites as an example, additional external revenue of $1 million plus cost savings of $1 million to achieve an operating deficit of only $100,000. But therein lies the difficulty. As the Audit Office noted in its Report on Local Government 2019: '*Rural councils continue to face challenges in generating own source revenue*.'[53]

This is an important consideration in relation to new Gundagai. As Prof Drew noted in relation to CGRC's situation: '*Council can expect that its operating environment will grow ever more challenging over an extended period of time which will further hamper its efforts to become financially sustainable*.'[54] As the Key Findings report notes, new Gundagai will start from an even more difficult place than a continuing CGRC. While I accept that various submissions and presentations made to the Commission have indicated a number of newly-emerging revenue sources for Council that would flow specifically to a de-amalgamated Gundagai, these opportunities are yet to materialise with the income being secured. As the Key Finding report notes: '*Gundagai's capacity as a standalone council to achieve incremental income or cost savings over this period has not been tested*.'[55]

6.1.2.7 Demerger Scenario – Cootamundra

I adopt the analysis of the Majority Report under heading 6.1.2.7 Demerger Scenario – Cootamundra with the following additional analysis.

The following table shows Deloitte's projected operating results for a demerged Cootamundra Council:

[53] Audit Office, Report on Local Government 2019 (5 March 2020), p22: 'Rural councils continue to face challenges in generating own source revenue: *In 2018–19, 68 per cent of rural councils did not meet the own source operating revenue benchmark (2017–18: 62 per cent). The ability to generate own source revenue remains a challenge for rural councils, who are more reliant on external funding from grants. Rural councils have high-value infrastructure assets covering large areas, less ratepayers, lower land values and less capacity to raise revenue from alternate sources compared with metropolitan councils. For example, they have less capacity to generate revenue from sources such as parking fees, property development and rental income*.' Accessible at: https://www.audit.nsw.gov.au/our-work/reports/report-on-local-government-2019

[54] Drew #4, 33.

[55] Key Findings, p9.

Profit and Loss $'m	FY22	FY23	FY24	FY25	FY26
	Base	*F'cast*	*F'cast*	*F'cast*	*F'cast*
Revenue					
Rates and annual charges	11.2	12.3	12.7	13.2	13.4
User charges and fees	5.7	5.9	6.2	6.4	6.7
Interest and investment revenue	0.1	0.1	0.1	0.1	0.1
Other revenues	1.0	1.0	1.0	1.0	1.0
Revenue before grants	**18.0**	**19.2**	**19.9**	**20.6**	**21.2**
Grants and contributions - financial assistance	3.7	3.7	3.8	3.8	3.8
Grants and contributions - operating purposes	2.0	2.0	2.0	2.1	2.1
Grants and contributions - capital purposes	9.6	0.3	0.3	0.3	0.3
Total Revenue	**33.3**	**25.3**	**26.0**	**26.8**	**27.4**
Expenses					
Employee benefits and on-costs	(8.4)	(8.4)	(8.5)	(8.6)	(8.7)
Materials and services (MAT)	(10.0)	(10.2)	(10.5)	(10.7)	(11.0)
Other expenses	(0.9)	(0.9)	(0.9)	(0.9)	(0.9)
Borrowing costs	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)
Depreciation and amortisation	(6.0)	(6.0)	(6.0)	(6.0)	(6.0)
Incremental demerger costs	(0.1)	(0.1)	(0.1)	(0.1)	(0.1)
Total Expenses	**(25.4)**	**(25.8)**	**(26.1)**	**(26.5)**	**(26.8)**
Operating surplus	**7.8**	**(0.5)**	**(0.1)**	**0.3**	**0.6**
Operating surplus (ex. CG)	*(1.8)*	*(0.8)*	*(0.4)*	*0.0*	*0.3*
One-off demerger costs	*-*	*(1.5)*	*-*	*-*	*-*

Reported KPIs (%)		FY15	FY16	FY22	FY23	FY24	FY25	FY26
	Target	*Actual*	*Actual*	*Base*	*F'cast*	*F'cast*	*F'cast*	*F'cast*
Operating performance ratio	<0%	-4%	6%	-7.5%	-3.1%	-1.4%	0.2%	1.0%
Own source revenue ratio	>60%	73%	67%	54.0%	76.1%	76.6%	77.0%	77.3%
Establishment FTE		88	91	105	105	105	105	105
Operating performance per ratepayer ($)		(177)	245	(440)	(190)	(91)	12	65

The projections show that a demerged Cootamundra Council would achieve positive operating results (both including and excluding capital grants) in the later years. The improvement over time in the operating results is largely due to the progressive effect of the SRV.

For completeness, I accept that this indicates that a demerged Cootamundra Council could achieve operating surpluses with minimal or zero cost savings.

6.1.2.8 CGRC Proposal and Submission; 6.1.2.9 Economies and diseconomies of scale

- ***The CGRC Proposal***

I adopt the analysis of the Majority Report under heading 6.1.2.8 CGRC Proposal and Submission and 6.1.2.9 Economies and Diseconomies of Scale with the following additional comment.

As is noted in the Majority report, the business case submitted by CGRC to the Minister in July 2021 consisted of a covering letter and a paper prepared by Prof Drew. However, apart from a heading to indicate that it was the business case required by section 218CC, the business case appears to be in all respects the same as the paper (Drew #3) commissioned by CGRC in support of the then demerger proposal by Gundagai Council-in-Exile Inc ("GCIE") referred to the Commission by the Minister in April 2020 and which was considered by the Boundaries Commission in 2020/21. I concur that it is reasonably clear from this report 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 report (and in the subsequent report Drew #4).

It is to be noted that the formulation of the proposal and business case is a matter for the proponent Council. In the context of the weight to be put on the submitted business case, there is nothing in the Act which requires the Minister, or the Commission, to fill any procedural or other deficits in material submitted to the Minister. In that context, I acknowledge that the Act does not define what a busines case is. In the NSW Treasury Guidelines, the definition adopted by the NSW Government is:

> *A business case is a documented proposal to meet the Government's objectives that is used to inform an investment and/or policy decision. It contains analyses of the costs, benefits, risks and assumptions associated with various investment and policy options linked to policy or program outcomes and informs future implementation, monitoring and evaluation.*[56]

The characteristics of a good business case include that it has '*arguments, that are optimally supported by hard data, including accurate costing of alternatives and expected benefits*.'[57] The case that Prof Drew makes in the submitted business case is that a de-amalgamation will stop diseconomies caused by the 2016 merger.[58] Having stopped those diseconomies, and by returning 'control' of the council back to its local community, a path to financial sustainability emerges. Neither the submitted business case nor the Deloitte Key Findings analysis suggests that there are immediate, definite, bankable, savings to be achieved in a de-amalgamation.

Deloitte suggests that for new Gundagai, the path to financial sustainability requires 'significant additional revenue (either from higher rates and charges or other external sources) or further cost savings,' to maintain operating liquidity.[59] As noted above, this is because its financial sustainability 'gap' of $2.1m in FY26 is equivalent to 22% of its FY26 General Fund cost base. This is confirmed by Prof Drew who observes in the submitted business case that in a post de-amalgamation situation: '*There will still be a need for increases to rates and charges to mitigate the financial problems that the community now faces*.'[60]

The intangible challenge financially, in the absence of firm indicators which suggest a clear path forward to financial stability and security, especially for a new Gundagai, is predicting certainty. As Prof Drew 'strongly' stresses, success relies on 'strict discipline' to manage the de-amalgamation.[61] Based on the submitted business case, it is not possible to know, with certainty, what the starting position with cash reserves will be. As is noted above, this is a critical consideration. The high-level assessment

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[56] TPP18-06 NSW Government Business Case Guidelines accessed at:
https://www.treasury.nsw.gov.au/sites/default/files/2021-05/TPP18-06%20%20NSW%20Government%20Business%20Case%20Guidelines.pdf
[57] TPP10-06, p5.
[58] Drew #3, p21. Professor Drew posits that the merger in 2016 '*created a council that was too large – that is, the amalgamation generated diseconomies of scale*.'
[59] Key Findings, p8.
[60] Drew #3, 1.
[61] Drew #3, p31.

by Deloitte suggests that by FY26 there is likely to be a deficit per rateable assessment in the order of $864 per assessment. Further, as is noted in the Key Findings, a key assumption in support of the de-amalgamation is that '*operating grant funding will remain in line with average historical levels and continue to be indexed in line with the Consumer Price Index*.'[62]

This analysis is concerning as in a de-amalgamation it is accepted that new Gundagai will retain responsibility for approximately 61.7% of the existing area but it will have to service that LGA with an income drawn from a relatively smaller population and ratepayer base. In contrast to community expectations, new Gundagai will be starting from a higher cost base. As the Key Findings note, that means the impact of any one-off items or other normal trading fluctuations are more pronounced when considering the impact on a per ratepayer basis.[63] In saying that, even Prof Drew acknowledges that '…"*legacy costs" of the amalgamation will, unfortunately, continue to weigh on the emerging councils for many years*.'[64]

It is clear from the Deloitte Key Findings report that the staff protections in the merger did have an impact on the ability of CGRC to realise the efficiencies expected from the amalgamation process.[65] One upside for the community at Gundagai is that, at the moment, in terms of the level of service from the council, the residents of 'former' Gundagai are insulated from losing staff employed at Gundagai as under s218CA Gundagai is a protected 'rural centre.' But in a de-amalgamation scenario that will not be the case. New Gundagai will be saddled immediately with new financial burdens as a new round of staff protections under Ch 11 Part 6 of the Act will likely be in force. At the very time CGRC is 'freed' from past decisions, proposals, and protections, allowing it to move forward, a new period of difficulty begins again for each of the new councils. The irony is that Prof Drew cites in his financial report the immediate need, post de-amalgamation, to undertake a restructuring exercise as an essential first step towards yielding the predicted efficiencies.[66] This would be the sort of restructure which CGRC had planned to initiate but which was put on hold in January 2022 pending the outcome of the Commission's deliberations on this Proposal. It is the sort of restructure that would not be possible for some time under a new set of statutory protections.

I note also that in the business case the situation facing new Cootamundra is assessed as a by-product of the de-amalgamation. Any proposed solution for the benefit of new Gundagai that has the potential to increase operating expenditure and decrease operating revenue for the new Cootamundra should have been considered. Instead, the business case critiques the 2016 decision process as the basis for asserting that there is no benefit in CGRC continuing because of an 'alarming' deterioration in the efficiency of CGRC.[67]

I note that it appears to be central to the submitted business case that a de-amalgamated Gundagai would achieve savings of $451,000 per annum. However, I note these annual savings are predicted to be '*from the tenth year onwards*'.[68] One component of projected savings in the submitted business case is the projected 'travel savings.' It appears to be the perpetuation of an increasing 'travel saving'

[62] Key Findings, p9.
[63] Key Findings, p8.
[64] Drew #3, p30.
[65] Key Findings, p4.
[66] Drew #3, p30.
[67] Drew #3, p21.
[68] Drew #3, p1, p24.

based on the assumption that there is currently some form of fixed cost which is not incurred in a de-amalgamated scenario.[69] However, the Council has confirmed to the Commission that: '*No staff employed to work in Gundagai, living in Cootamundra, are permitted to 'clock on' in Cootamundra and then travel to Gundagai. Travel, in this instance, is done during the employees own time*.'

Table 3 also notes, appropriately, that in the de-amalgamation there will be additional employee costs for key positions and additional assurance costs. Prof Drew appears to offset those costs by 'employee savings' which build from $112,000 pa to $785,000 pa in year 10. These savings appear to be based on consultations, reference to historical records and remuneration tribunal rulings.[70] But for these savings to be 'real' there would have to be evidence that in a continuation of CGRC the employment of existing staff that are the subject of the predicted savings would remain static. The submitted business case has no such evidence.

If the assumptions made in the business case don't hold, then the purported benefits may fail to materialize. As the Majority report notes, staffing decisions are matters for the Council to decide. What will be the position if CGRC continues will be a matter for the Council to determine. Equally, what would be the position for each of new Gundagai and new Cootamundra cannot be decided in advance.

Economies and diseconomies of Scale

I note that Deloitte has not identified savings arising from the implementation of the Proposal. As such, in relation to the proposed de-amalgamation, only diseconomies and disbenefits have been identified. I concur with the analysis of the Majority in section 6.1.2.9 Economies and Diseconomies of Scale, which discusses the Drew material and the supplemental CGRC Business Case submission based on Councillor Graham's calculations and assumptions.

What is measurable about this de-amalgamation proposal are the likely disbenefits. To some extent they can be extrapolated and quantified as has been done in the Deloitte Key Findings document. But there are other disbenefits that arise from the loss of the opportunity to book the savings that could be achieved from the merger opportunity. As raised above, I accept that such 'prognostications,' are liable to inaccuracy, making predictions difficult. However, the DAA analysis does support the analysis in the 2021 Majority Report,[71] which suggests that, in general terms, there are economy of scale advantages in retaining CGRC.

In the context of diseconomies, it is worth repeating here the discussion in the Majority Report and its conclusion that the DAA results are the most comprehensive available indicator of the relationship between per capita expenditures and LGA size (however measured) for rural councils. As the Majority noted:

> '*The Drew material compared expenditures on three bases –*
>
> - *over time for Cootamundra, Gundagai and CGRC*

[69] Drew #3, Table 3, p25.
[70] Drew #3, p24.
[71] Boundaries Commission Majority Report February 2021, p39.

- *across merged councils and*
- *across all councils.*

The first comparison did not differentiate between growth in expenditures arising from the claimed diseconomies of large scale and growth in expenditures arising from other factors (including expenditures funded from the Government's merger grants, short-term costs associated with the merger implementation and Council decisions unrelated to the merger).

The second comparison apparently covers all merged councils including those in major regional centres and in the Sydney metropolitan area. The substantially larger population sizes, smaller footprints and different characteristics of these LGAs cannot be considered to lead to any meaningful results for a rural LGA such as Cootamundra-Gundagai Regional.

The third comparison covers all NSW councils and suffers from the same issues as the second comparison – the inclusion of LGAs with such wildly different characteristics must limit its usefulness.

The DAA analysis undertaken on behalf of the Boundaries Commission suffers from none of these shortcomings. It looks only at rural councils in OLG categories 9, 10 and 11 – a much more comparable population of LGAs.

For these reasons, the Commission believes the DAA results to be the better, and most comprehensive available indicator of the relationship between per capita expenditures and LGA size (however measured) for rural councils.

What the DAA analysis does show is that (i) economies of scale (not diseconomies of large scale) apply for rural LGAs with populations up to 20,000 but (ii) LGAs do incur additional costs in providing services over larger areas.

In terms of the current demerger Proposal, the strong correlation between per capita expenditures and population densities suggests that councils of LGAs with a population density below 2 persons per km^2 would be expected to experience much higher costs in providing a reasonably standard range of services to their constituents. Population densities (based on 2016 Census data) are estimated as approximately 2.8 for Cootamundra-Gundagai, 5.1 for a demerged Cootamundra and 1.5 for a demerged Gundagai. A degree of caution must be exercised in considering these results as, despite the strong correlation shown, other factors can influence the cost structures for individual councils.'

It is not uncommon for a council to be responsible for the administration of a number of towns and villages within its LGA, particularly in a rural/regional context. The fact that there are two significant population nodes within the LGA is not a reason to de-amalgamate. There are other councils functioning effectively where there exists two such nodes (eg Shoalhaven).

The diseconomies Prof Drew identifies could as well be ascribed to decisions made by the Council in its various iterations. As Deloitte notes: '*Overall, CGRC's financial performance has been impacted by the rate freeze since merger, holding operational revenue at a stable level whilst the cost base increased, resulting in a negative operating performance ratio from FY18 to FY21. This has impacted* *the General Fund which has experienced operating deficits (excluding capital grants) since 2017*.'[72] As Prof Drew notes, prior to harmonising rates, fees and charges and implementing the SRV: '*council [was] 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*.'[73]

In 2016 each merged council was fixed with the choice as to how to realise the benefits of the opportunity – Northern Beaches Council and Dubbo Regional Council took one approach. CGRC took another, yielding diametrically opposing outcomes. The merged Northern Beaches Council has shown that real savings can be achieved arising from an amalgamation. As Mayor Regan said in 2020, when council published a near doubling of estimated savings, '*these are real, long-term benefits for Northern Beaches community which will continue as we realise and reinvest those savings over the 10 years*.'[74] In Dubbo Regional Council it reported achieving $10.1 million in savings made since September 2017.[75]

The corollary is that were CGRC to put itself in a position to realise savings, as Northern Beaches and Dubbo did, then the loss of the opportunity to realise these savings is a disbenefit associated with the de-amalgamations. Neither the submitted business case nor the CGRC supplemental submission assess this aspect.

It is generally accepted that CGRC's cost base has increased relative to pre-merger.[76] Examples of why this is the case include decisions to a) harmonise service levels, b) to increase staff levels and wages, c) to commit to unfunded projects and d) higher maintenance costs for grant funded capital projects. It remains the case that CGRC created its organisational structure, increasing head count, duplication of roles, increased external consultant spend, increasing salaries. CGRC also decided upon a capital expenditure allocation principle (50:50).

In 2016 CGRC was below average for both operating performance and own source revenue metrics relative to peer Large Rural Councils and this persisted into FY19 – 21. The IPART SRV looks to rectify that, but it could only be implemented in FY21 and beyond. While CGRC has taken steps to address challenges with the financial position of the Water and Sewer Funds, the General Fund is constrained with low cash balances. The difficulty for new Gundagai is that it will need to achieve (perhaps all over again?) its proportionate share of forecast savings,[77] acquit its share of the on-going de-amalgamation costs not funded by Government, and absorb increases in depreciation due to any readjustment. As Deloitte notes, this level of savings would be challenging to achieve given Water and Sewer Fund expenses likely to be carried forward. All of that depends on there being 'money in the bank' at the beginning. I note that CGRC management couldn't tell Deloitte what that number may be. So, we don't know how much is needed.

If success is predicated on significant and on-going financial support from the Government after it funds the de-amalgamation costs, then this is not a description of a path to financial sustainability. It is a path to mendicancy. As Comrie has noted, '*more money in itself will not solve financial problems.'*

[72] Key Findings, p3.
[73] Drew #4, p21.
[74] Wall, Amalgamation Savings 'doubled': Council, Pittwater Life, 4 Sept. 2020.
[75] Dubbo Regional Council 28 Aug 2018 Media release accessible at: https://www.dubbo.nsw.gov.au/news-and-media/news-and-resources/media-releases/2018/council-s-fiscal-responsibility-results-in-10-1-million-saving
[76] Key Findings, p3.
[77] Key Findings, p8.

In Comrie's view, '*the key to financial sustainability is being committed to achieving and maintaining financial sustainability*.'[78] The council the community elected in 2021 now seems to have that intent.

CGRC Submission

I agree with the Majority Report that in respect to both the Drew analysis and the CGRC supplemental submission, the unstated corollary to the new Gundagai de-amalgamation proposal is that in 'fixing' the situation of new Gundagai, a de-amalgamated new Cootamundra Council will be formed from 'what is left.' Quite apart from the inherent 'cost shifting' implications that may prejudice the financial sustainability of new Cootamundra, this is not what a de-amalgamation entails. The mechanism for the division of non-fixed assets (including cash), debt and other liabilities would need to be either resolved in the Proclamation, by statutory means (amending legislation as suggested by Prof Drew),[79] or a negotiation process that is fair and equitable to all in the community.

I adopt the analysis of the Majority report on the supplemental CGRC submission but would make the following observations:

- While it may be the case that many State (and some Commonwealth) grants are made on a per LGA basis, whether the 2016 merger has halved the dollar value of these grants coming to the Cootamundra/Gundagai communities is only part of the consideration. Grant funding opportunities are not static, and any notional shortfall could be offset by other savings and grant funding opportunities.

- The amount that a new Gundagai Council would receive as Financial Assistance Grants ("FAGs") is dependent on the outcome of the FAG allocation methodology.

    - There are two components, the General Purpose Component (GPC) and the Local Roads Component (LRC). The GPC is the most significant component.

    - FAG calculations for an individual council are based on a comparison of relative differences between councils. They are not calculated simply on the data for a single council. Should the Proposal be recommended then the Grants Commission will establish a profile for the new councils based on available data and this profile will be assessed and a recommendation will be derived based on the relative position of each new council as compared to all other councils.

    - The new Gundagai council will receive a separate grant based on its data set as established at the time of any proclamation. Population (and the lack of it) is a major driver in the calculations. What can be said is that in a de-amalgamation scenario the new Gundagai grant may diminish overall due to the starting position based on the influence of population in the calculations. Whilst relative to CGRC the LRC component may 'increase' due to the distance of local roads and bridges, and related expense and income factors, that factor also has a population component in the formula.

[78] Comrie, *Roadmap to Financial Sustainability for Local Governments in NSW* (2013) p4.

[79] Drew #3, p34.

- I agree that staffing decisions would be a matter for the new de-amalgamated councils to make, subject to any overriding statutory protections that may apply. However:
    - o As the Majority Report notes, the suggested approach reflects a view (common in a number of submissions) that the demerger is about establishing a new Gundagai shire as its supporters wish it to be. That is, with the level of employment, services and cash that is somehow tied to what it was pre-merger, and
    - o This overlooks the fact that the allocation of existing staff between the two councils would, in respect of some positions, be a matter of negotiation between the councils, and
    - o Any savings a newly de-amalgamated Gundagai Council could make (in staffing or otherwise) would be part of the measures needed to reduce or eliminate the operating deficit identified by Deloitte (and discussed in Section 6.1.2.6).
- I also agree that while the CGRC submission anticipates that new Gundagai rates would 'revert' to the original (ie pre-harmonised) structure, this is unlikely to be the case. Any increase above the rate peg would involve an amount that exceeds the notional general income of the council for the previous year. In light of the prohibition in section 509(1) of the Act, I agree that this would likely require a submission to IPART.
- While Prof Drew accepts that the new councils should '*end up with nett current assets and nett non-current assets respectively in proportion*' with liabilities travelling with the assets/staff,[80] new Gundagai will only have 2425 rate assessments and an estimated population of about 3715 from which to derive its income.

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		
Submitted to Commission	**Submissions addressing this factor**	**As a percentage of total submissions**
169	113	67%

[80] Drew #3, p30.

6.2.2 Discussion

I adopt the analysis of the Majority Report on this factor except to the extent varied below.

Community of interest is a compound phrase which means '*a closeness of interests that does not necessarily require a perfect correspondence of interest.*'[81] As such, though recent, there have been efforts undertaken by CGRC to build on and reinforce pre-existing communities of interest. A further issue to be addressed is whether people in the proposed new area will share common interests (and geographic cohesion), when compared with the existing area.

As was the case in 2016, and again in 2021, 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.

As was observed in the Majority Report in 2021, it is a common feature of inland NSW that local government areas exhibit low population density generally, with towns and villages interspersed throughout. 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, as noted by the Delegate in 2016, and elaborated upon in the 2021 Majority Report.[82]

That said, at a more granular, or local, level it is understandable that the distances between many of the towns and villages lead residents to develop a strong sense of community and to identify most strongly with their own locations. Nonetheless, I remain of the view that having two or more distinct communities of interest in the one council area is not, in itself, a barrier to the council operating efficiently and effectively, and in the best interests of all its residents.

The submissions on community of interest speak strongly to the undemocratic narrative. If the focus is kept tightly to the 'local' level, then no merger or amalgamation will ever be possible without local consent. This is relevant as according to the Geographical Names Board there are 356 'places' that are designated or recorded as 'Towns' in NSW.[83] In 1910 there were 324 councils. 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. At a local level, it is arguable that each of those towns have an individual community of interest which is different to the community of interest in neighbouring towns.

Because it not uncommon for a council to be responsible for the administration of a number of towns and villages within its LGA, this lived experience suggests that in CGRC the merger arrangements are capable of being implemented so that all communities within the LGA can receive an appropriate level of service typical of a rural/regional council. As the Delegate found in 2016, and as was confirmed in the Majority Report in 2021, at a certain level of abstraction there are 'legitimate objects' to pursue if the interest to be served is the wider communities. The differences can be harnessed, and the synergies built upon. It just needs the will. The existing LGA remains in the stage of formation but,

[81] *Papaconstuntinos v Holmes a Court* (2012) 249 CLR 534 at [8].
[82] 2021 Majority Report, p42-3.
[83] See Geographical Names Register of NSW: https://proposals.gnb.nsw.gov.au/public/geonames/search

having regard to the 2021 election results, the community of CGRC appears to have the capacity to move forward.

Since municipalisation was forced on communities in 1906 there have been moves to reduce the total number of councils. Larcombe charts the history of these episodes in his seminal work.[84] As Larcombe notes, "*the Government's apparent enthusiasm for larger units stirred up considerable opposition in areas desirous of retaining independence*"[85]. 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,[86] "*were the desire to keep local government 'local', and to facilitate the maintenance of public interest and participation*"[87]. These are still the arguments put forward to this Commission.

I concur with the Majority Report that the individual communities of interest have not altered with the merger. If the Proposal were to be implemented, I accept that the communities would continue to exist, and each de-amalgamated Council would need to consider them in its planning for the future.

The phrase geographic cohesion has not been the subject of judicial consideration. It is clear that in terms of geography there are local differences. It is also clear that the area proclaimed in 2016 can be, and is being, administered as a council area. As the pandemic has demonstrated, virtual connectivity is removing many barriers. The area is serviced by adequate roads. The response to the argument that there is only 'one road' connecting the two 'places' (to use a neutral term) is that this is not unique to this area. Shoalhaven City Council, formed by a forced merger of seven areas in 1948,[88] has two significant urban nodes, Nowra and Ulladulla, which are connected by the Princes Highway. The distance between Nowra and Ulladulla is 66 kms. It takes nearly an hour to take the journey, or two hours return. I acknowledge that the highway is a superior means of access, though journeying on that road is not without its dangers too.[89] Shoalhaven Council has resolved issues of geographic difference and isolation. But it does take time.

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".*

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[84] 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 Chapter 11 The Local Government System 1919-1977.

[85] Larcombe pp411-2.

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

[87] Larcombe p418.

[88] The proposal was made by Nowra Municipality but was opposed by the six other councils – see Bayley WA, *History of the Shire of Shoalhaven*, Shoalhaven Shire Council (1975), p208.

[89] For those interested see: https://www.abc.net.au/cm/lb/4494224/data/princes-highway-all-crashes-nowra---batemans-bay-data.pdf

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		
Submitted to Commission	**Submissions addressing this factor**	**As a percentage of total submissions**
169	4	2%

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.

6.3.2 Discussion

I adopt the analysis of the Majority Report on this factor except to the extent varied below.

Invoking history is a reference to the story of change. The various communities within CGRC share historical origins both in terms of indigenous culture and in terms of early colonial development.

As the incorporation of a council occurs in the 'modern' context, and as the submissions propound for a return to an historical municipal configuration, that is I believe the historical context for consideration against this factor. To understand the 'local' history you still need to see what was happening in the context of both colonial and modern municipal development. In the colonial period municipalisation was voluntary. In the modern period (post 1906) municipalisation was involuntary. The historical trend has been towards the establishment of larger councils – a change usually forced on a community.

The history of the various villages within CGRC is also relevant. The higher the level of view, the more commonality is apparent. The LGA includes the towns of Adjungbilly, Brawlin, Coolac, Muttama, Nangus, Stockinbingal, Tumblong and Wallendbeen. History suggests that there have been various municipal iterations within the current CGRC footprint: Cootamundra Municipality (1861), Gundagai Municipality (1889), Wallendbeen Municipality (1892), Adjungbilly Shire (1906), Gundagai Shire (1924), Cootamundra Shire (1975).

Therefore, both the 'original' Cootamundra and Gundagai councils, and the current immediate 'former' Shire councils, can be viewed within a change context. So too the towns and villages that comprise CGRC. They also have experienced change regularly. History has seen these towns grow and senesce. Amalgamations do not occur only when there is senescence, amalgamation occurs as the experience of history.

I concur with the Majority Report that while local government boundaries may change, the reality is that the stories of both the former Gundagai and Cootamundra Shires will continue to be told through the history of their various towns and villages. The towns of Cootamundra and Gundagai both existed before initial municipalisation in the nineteenth century. Each of the towns and villages within the current Shire will have their own historical and traditional values, each likely to be distinct and different to each other.

I also agree that the rich histories of towns such as Gundagai are not changed by the alteration of council (or State or Federal electorate) boundaries. As the Majority Report notes: 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.

I endorse the view that the proposed changes in LGA boundaries have little impact - positive or negative - on historical and traditional values of the communities.

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		
Submitted to Commission	**Submissions addressing this factor**	**As a percentage of total submissions**
169	166	98%

For the purpose of the Discussion below I repeat the following passage in the Majority Report:

Despite submission fatigue, the public hearings were well attended at both the Cootamundra and Gundagai venues. The Commission received 169 written submissions which was fewer than the 176 received as part of the previous demerger proposal, but none the less indicated a high level of community engagement with the process.

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. Only one submission and one speaker at the Inquiry opposed the Proposal.

The Commission found several common themes that ran across both the written submissions and oral presentations. The quotes selected below largely represent those views under each theme.

- ***Ongoing resentment at the 2016 merger and frustration with the lack of progress on a demerger***

  Then the next shock announcement, "Cootamundra to merge with Gundagai", a name never considered, totally opposite in every way. We were shattered, blindsided, stunned, and all the work, time and effort and money – we had picked our partner: same town, similar in all aspects. The announcement was met with disbelief, and no wonder our people are angry.[90]

  The issue of the amalgamation and demerging will not go away. The community will continue to fight for a demerge and the dissention, distrust and discord will continue to erode Council resources and its ability to deliver services to residents and ratepayers.[91]

  The plain fact is that this merger ***HAS NOT WORKED*** *as many people said it wouldn't. Please let common sense prevail and de-merge this Council.*[92]

  The residents of Gundagai will continue to fight this battle for as long as it takes. Demerge this council now.[93]

  The residents of Gundagai will never accept the merger and will continue to make it extremely difficult to manage a merged area. They have stated time and again this case. As concerned residents, please demerge this Council.[94]

  Meetings, submissions, meetings, submissions - when is this ever going to end! This has been going on ever since the ridiculous amalgamation between Cootamundra and Gundagai Councils six years ago. Despite this disaster and the upheaval to our lives the Gundagai people are never going to go away or give up, which is what this government wants.[95]

- ***Loss of localism in Gundagai***

  Our volunteer numbers in the community have almost disappeared. They have lost interest in working together with council, because the previous council was a community council which worked with the community and the community worked with it.[96]

  Please listen to both communities. Help save our identity, repair our mental health and let us live with pride and determination in our own councils.[97]

  This disastrous amalgamation has removed the "local" from local government. A council that worked together with its community to achieve projects, provide services that were wanted by the community has disappeared to the point where the community involvement has hit rock bottom.[98]

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90 Presentation by Dennis Palmer to the Inquiry.
91 CGRC submission to the Commission.
92 Submission #007 to the Commission.
93 Presentation by Ava McMurray to the Inquiry.
94 Submission #076 to the Commission.
95 Submission #020 to the Commission.
96 Presentation by Mason Crane to the Inquiry.
97 Submission #051 to the Commission.
98 Presentation by Glen Moore to the Inquiry.

- ***Growing and hardening hostility between the two former local government areas***

  The issue is no longer financial. At the beginning I supported maintaining the amalgamation. However, the animosity between the two communities is unlike anything that I have ever seen.[99]

  The jealousy and hatred that is developing between the two communities has grown enormously since the last enquiry some 18 months ago.[100]

  This merger is tearing Gundagai and Cootamundra apart.[101]

- ***Declining mental health in the community***

  As Community Chaplain, I am aware of the harm and distress this is causing many in our community, especially amongst the elderly.[102]

  The mental health decline and stress in our community is palpable and has been recognised by the medical and clergy professions in both communities.[103]

  The animosity from Gundagai has not waned an inch despite the passage of time, and it is exhausting for the people of Cootamundra.[104]

- ***Impact of community attitudes on staff and Councillors***

  They are enduring the community indignation and lack of acceptance of this merger. They have to interact with our residents daily and their confidence in delivering services is being undermined. We cannot ignore the community sentiment. This merger of the former Cootamundra and Gundagai councils has not been embraced by the people.[105]

  In a very short time following amalgamation, I had many Cootamundra Council Staff as new clients experiencing trauma from the harassment and bullying by customers of council staff when Cootamundra Staff were required to work in Gundagai. These clients were experiencing significant distress and continued to do so for quite some time.[106]

  There is a general distrust of Council amongst the communities of both areas.[107]

  Let me tell you how it really is. There is division, fracturing and resentment between the Councillors. ... But the battles are continual, exhausting, and relentless. This is not by choice. I can confidently say that not one single Councillor signed up for that disunity.[108]

  However, after the events of the past few months, the resignation of the general manager, these relationships have deteriorated. There is now a definite feeling of "us" and "them" and a palpable

99 Submission #028 to the Commission.
100 Submission #029 to the Commission.
101 Submission #078 to the Commission.
102 Presentation by Steve Maynard to the Inquiry.
103 Submission #053 to the Commission.
104 Presentation by Nina Piotrowicz to the Inquiry.
105 Presentation by Mayor Charlie Sheahan to the Inquiry.
106 Submission #006 to the Commission.
107 Submission #115 to the Commission.
108 Presentation by Councillor Penny Nicholson to the Inquiry.

feeling of hostility towards the Cootamundra-based mayor and me. It has become very, very hard and it is distressing and sad.[109]

Of the 169 written submissions received by the Commission, only one opposed the Proposal -

> *I could see the amalgamation was the way to get economy of scale and a decent size rate base. Up until now the amalgamation has not been given 100% effort to make it work with the past powers, I believe to be trying to bring it down. I can't see how a demerged Gundagai council could be viable without more massive rate rises! And to what benefit to the rate payer?*[110]

At the Commission's Inquiry sessions, only one person spoke against the Proposal -

> *The last six years, all the hard work staff have done will be for nought if this merger is deemed to go back to the former councils … I think that my opinion, in the big picture, is that a demerge will only benefit a select few, and we need strong leadership to take us forward, and I believe we have that leadership now.*[111]

6.4.2 Discussion

I adopt the analysis of the Majority Report on this factor except to the extent varied below.

I agree that the sentiment is for de-amalgamation – a deeply emotional position. There is an abundance of evidence that the amalgamation has not been embraced. The representative sample above discloses the various expressions of attitude towards the merger. However, if 'attitude' is framed around the undemocratic narrative,[112] as many of the submissions are, then this is not a solid foundation for consideration of this factor.

Our role is not to 'right past injustice,' as many submission including Prof Drew, suggest. In that context, the undemocratic narrative does not assist me to assess the proposal under this factor. The 2016 decision of Government was a lawful, legitimate decision of Government. The Court upheld the delegate's report.[113]

I concur with the Majority Report that in the oral presentations and 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 de-amalgamation.

What has assisted me is the survey results. As the Majority Report notes, overall 82% agreed or strongly agreed with the Proposal, with 11% disagreeing or disagreeing strongly. As expected, the level of support was higher in the former Gundagai shire area with 87% - compared to 79% in Cootamundra –

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109 Presentation by Deputy Mayor Leigh Bowden to the Inquiry.
110 Submission #032 to the Commission.
111 Presentation by Marianne McInerney to the Inquiry.
112 See discussion in Section 2.
113 see *McAlister and Graham v Minister for Local Government* [2016] NSWLEC 131 accessed at: https://www.caselaw.nsw.gov.au/decision/57f3004ae4b0e71e17f547cf at [324].

agreeing or strongly agreeing with the Proposal. Across the whole CGRC area, 11% were neutral or not sure.

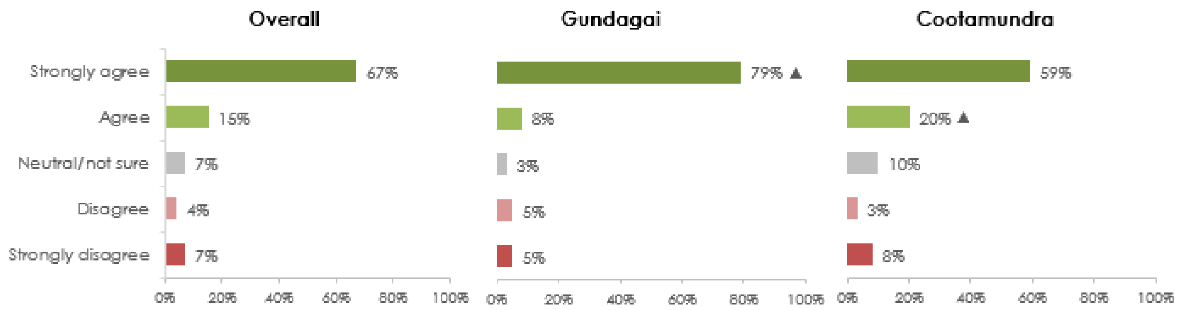
The spectrum of views is condensed in the following results:

Agreement with the Proposal to Demerge

Q5. (If yes on Q4) How strongly do you agree or disagree with this second proposal made by Cootamundra Gundagai Regional Council to de-amalgamate?

	Overall 2022	Overall 2020	Current residence – old LGA			
			Gundagai (2022)	Gundagai (2020)	Cootamundra (2022)	Cootamundra (2020)
Top 2 Box %	82%	75%	87%	82%	79%	70%
Base	367	367	154	149	213	217

	Gender		Age		Housing type		Time lived in the area		
	Male	Female	Under 50	50 and over	Town	Property	Up to 10 years	11 – 20 years	More than 20 years
Top 2 Box %	78%	86%	79%	84%	88% ▲	74%	75%	78%	84%
Base	172	195	141	226	214	90	42	65	260

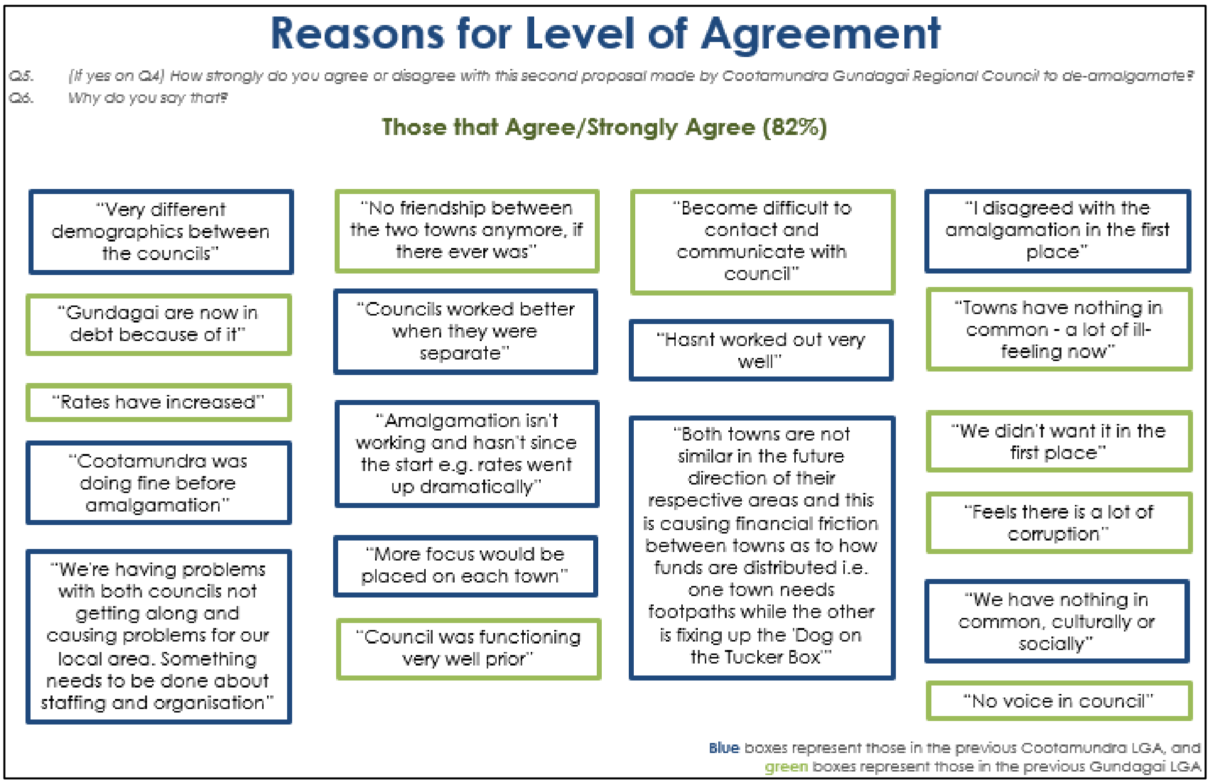


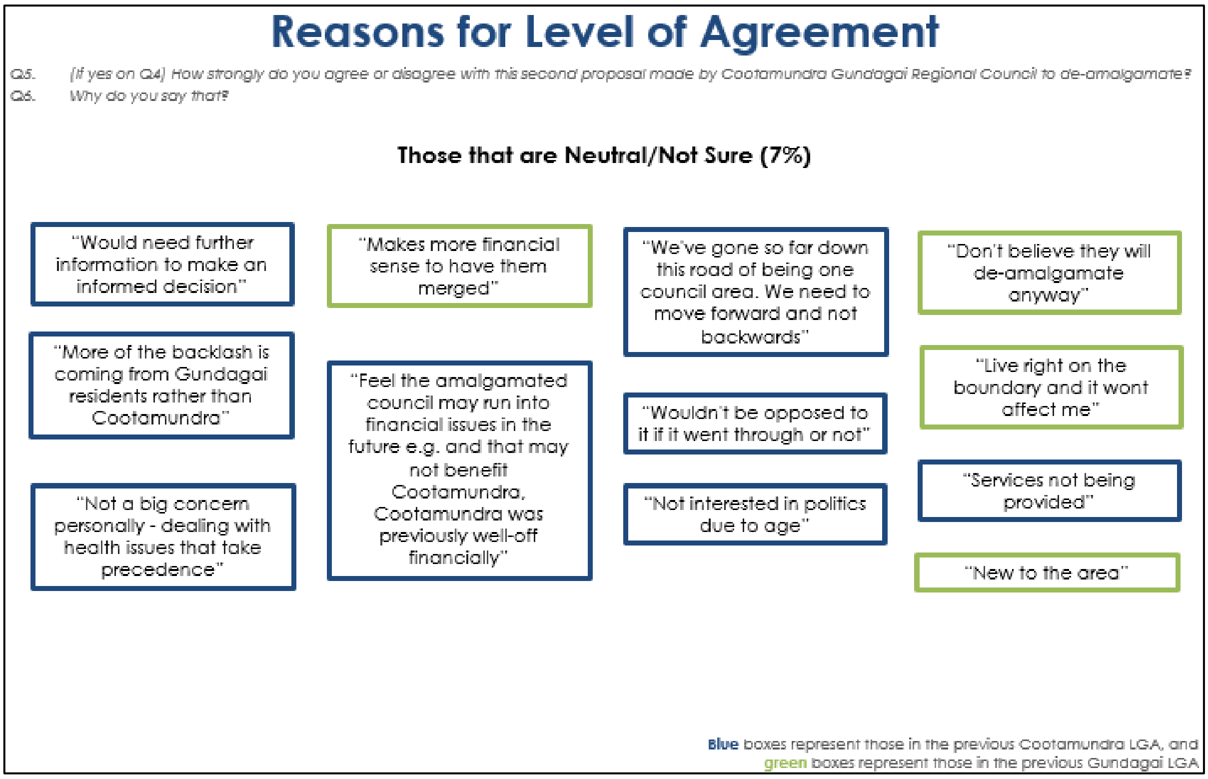
Base: N = 367

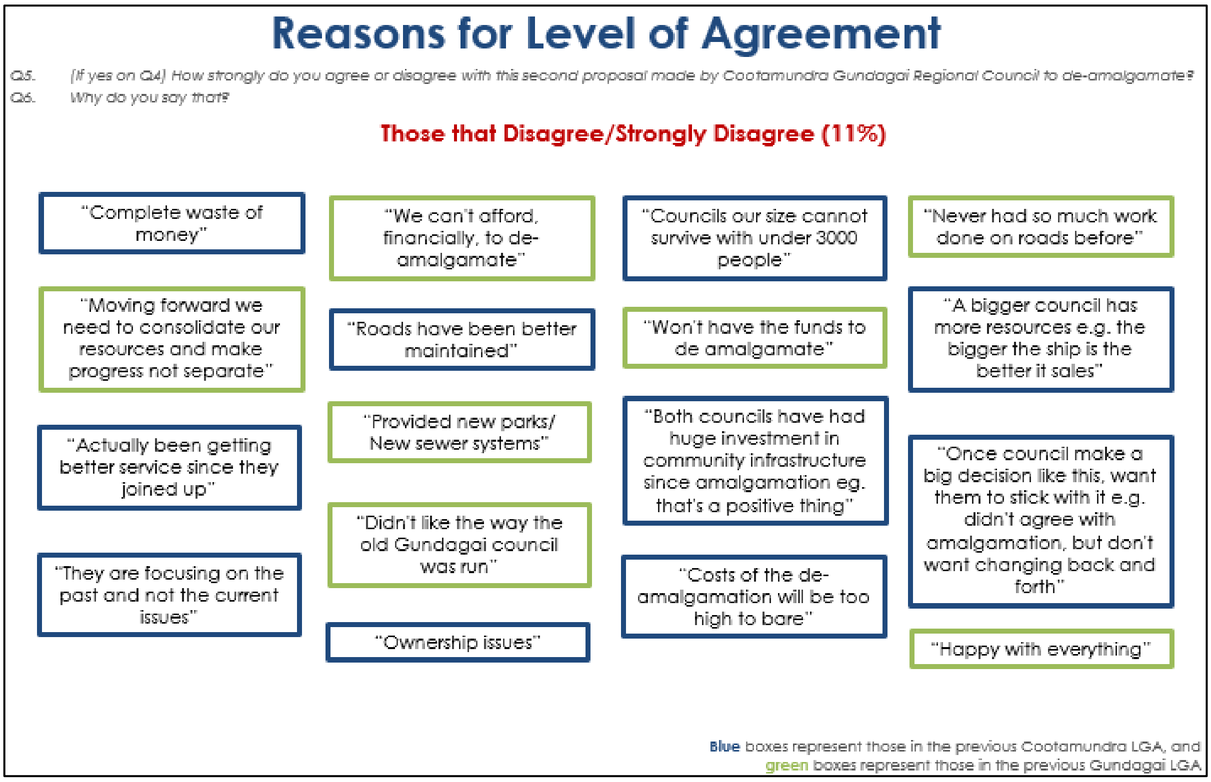
▲▼ = A significantly higher/lower percentage (by old LGA)

Compared to the previous survey, the overall level of support for the Proposal increased from 75% to 82%, with that increase evident in residents from both former shires.

Those agreeing/neutral/disagreeing with the Proposal were asked the reasons for their position, with the responses 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.

As the Majority Report notes, 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 small number of respondents) that saw positives from the merged Council.

As the Majority Report notes, and I accept, CGRC will be constrained into the future if it cannot achieve an alignment between councillors, management and the community. I also concur that the persistence of that attitude has not meant that the Council has been unable to function.

The local government election result in December 2021 suggests that 'the people,' collectively, have elected a council to get on with things. The new council is showing a willingness to do so. That is a new attitude to the merger. Perhaps with the on-going attention on 'demerger' behind them, the community attitude, especially to staff, will improve?

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".*

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		
Submitted to Commission	**Submissions addressing this factor**	**As a percentage of total submissions**
169	79	47%

It was very clear from the submissions and oral presentations made to the Commission that two of the issues felt most strongly by Gundagai residents were (i) that "their councillors" were "outvoted" by the "Cootamundra block" and (ii) the reduction in their connection with local councillors -

> *Gundagai is now significantly outnumbered with only 3 councilors out of 9.*[114]
>
> *While walking down our main street, I would meet and chat to most of our elected council members. This created a sense of connection with our former local government. That feeling has now been taken away by the merger with a larger nearby town. I do not feel represented by the Cootamundra-Gundagai Regional Council.*[115]
>
> *There is very strong feeling in both communities of "them and us" when it comes to elected representation, not a way to create one community.*[116]
>
> *By weight of population the voting pattern is heavily in favour of Cootamundra and this is causing some real angst among the Gundagai and Cootamundra communities – jealousy, envy and indeed hatred is creeping into Council and the community at all levels which makes it impossible for governance at any level.*[117]

6.5.2 Discussion

I adopt the analysis of the Majority Report on this factor except to the extent varied below.

Having an equality of vote but a smaller voice in a larger council is not undemocratic. It is a necessary corollary to an expansion of the voting pool that the expansion will dilute the influence of what was once a part now within the whole of the pool. As the Majority Report notes, it was an inevitable consequence of the 2016 merger that electors residing in the former Gundagai Shire would no longer have their "own" council representatives.

I also concur that the nine CGRC councillors have a responsibility 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.[118] While many Gundagai residents largely feel that their needs are not being properly represented

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[114] Submission #050 to the Commission.
[115] Submission #002 to the Commission.
[116] Submission #010 to the Commission.
[117] Submission #039 to the Commission.
[118] See, in particular, section 232(1)(d) of the Act.

or served by the current arrangements, and I accept that it is also clear from many of the submissions and statements at the Inquiry sessions that this feeling has not lessened since 2016 – and will not as long as they feel they have lost representation, this does not persuade me to support a recommendation that the Proposal be implemented. Taken to its logical extension, this is again an argument that there could be no change that the local community did not 'vote' for.

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		
Submitted to Commission	**Submissions addressing this factor**	**As a percentage of total submissions**
169	15	9%

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 implemented, then the ability of the new councils to function will be impaired, but to varying degrees. The Deloitte report suggests that this will be a more significant adverse impact for the new Gundagai council and its community.

Most of the submissions received on this factor 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 –

> *Since the merger occurred our local services have degraded. In the local roads, repairs which used to be done with bitumen are now done with a spray of tar and some gravel. Storm damage takes longer to be remediated … We have less visibility of local council workers on our streets. You know, we look around and you only see a handful of council vehicles and council workers in our community.*[119]

> *There are less local services – for lots of Council services we go through the Cootamundra office who don't always understand the needs of our littler community.*[120]

[119] Presentation by Tony Tunstell to the Inquiry.
[120] Submission #008 to the Commission.

However some residents challenged the view that the current Council was failing to provide adequate services in Gundagai or argued that any shortcomings were not necessarily of the Council's doing -

> *Many in Gundagai need to take a good look around their town and then also at Cootamundra and realise they are not getting the raw deal in this relationship, as some in their community have led them to believe. In some areas, Gundagai is ahead of Cootamundra, especially in tourism infrastructure. And yet, the narrative persists.*[121]
>
> *However, as in the present situation of the merging of the councils with a larger town, there is evidence of parochialism and the "small person" syndrome vis-à-vis Cootamundra. The ongoing Gundagai Council in Exile is evidence of this. The sometimes bolshy and protective attitudes of elements within Gundagai are having a detrimental impact on the administration of the merged council.*[122]

And some residents, while not arguing that services were inadequate or poorly managed, did question the cost of Council's duplication of services -

> *Efforts do seem to have been made by the Council to provide Equity, resulting in an "If one town gets something we have to duplicate it in the Other" approach, but this seems to have resulted in substantial over-investment and inappropriate servicing.*[123]

Specifically on the issue of service planning and provision, the current CGRC Mayor stated –

> *The two communities are different and their priorities are different. This creates huge problems with the planning process. The community strategic plan has to somehow cover the two different communities, their priorities and visions for the future. The former LEPs are different because each community has different needs and objectives. To come up with some unified, integrated planning process is obviously going to be some watered-down attempt to provide a unified direction for two entirely different communities. As a result, we are seeing community disengagement.*[124]

6.6.2 Discussion

I adopt the analysis of the Majority Report on this factor except to the extent varied below.

I concur that any council's ability to provide adequate, equitable and appropriate services and facilities depends to a significant extent on its financial capacity. The Deloitte projections indicate that a de-amalgamated Gundagai Shire's financial capacity would be significantly more constrained than either a de-amalgamated Cootamundra Shire or a continuing merged CGRC.

There are real signs in the Key Findings and in the supplemental submission of the Council, that CGRC has a path to financial sustainability. An embedded assumption in many submissions and representations is that 'the council' can only operate with two administrative centres duplicating every decision. This is discussed in the Key Findings.[125] Exposing the falsity of that assumption assists to see

[121] Presentation by Nina Piotrowicz to the Inquiry.
[122] Presentation by Richard White to the Inquiry.
[123] Submission # 068 to the Commission.
[124] Presentation by Mayor Charlie Sheahan to the Inquiry.
[125] See Key Findings pp3-4.

how it has perhaps blinded the council, in its various iterations, to make decisions which were clearly not economic. The savings schedule which forms part of the Council's supplemental submission demonstrates what could be achieved with good management.

To recover from its current economic predicament CGRC will need in the immediate term to look at service delivery. For the reasons discussed above, that is not necessarily a function of the merger. In contrast, the ability of new Gundagai to provide services and facilities will be hampered by the council being saddled with another round of statutory staff protections. So, if wages and other fixed expenses have to be paid, what impact will that have on services? The submitted business case points to an immediate need that services in new Gundagai be '*reduce to those that existed prior to May 2016*.[126]

On the other hand, de-amalgamation will 'hard bake' duplication of expenditure as both new councils will have to provide a similar range of services and facilities to each of their communities. But in the case of new Gundagai, the cost of that burden will impact a smaller, diminished, rating base. A de-amalgamation will hard-bake diseconomies which must lead inexorably to service delivery being impacted as funds, which could have been spent on service delivery and facilities, are diverted. It seems there will be significant challenges facing new Gundagai to cut costs without service levels declining to a point of failure. This situation will be aggravated if the key assumptions supporting the Proposal fail, as it will mean service delivery must be affected.

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		
Submitted to Commission	**Submissions addressing this factor**	**As a percentage of total submissions**
169	24	14%

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 -

> *There is no equality, council staff moral is at an all time low, long standing staff are leaving, we are on our third general manager since the merger, volunteer workers have dropped right off, not wanting to be a part of the toxic environment that now exists.*[127]
>
> *Recently six long-serving Gundagai staff members have resigned. Why? If you look further into*

[126] Drew #3, p32.

[127] Submission #080 to the Commission.

the reasons why, the answers lie within the toxic work environment created by the forced merger.[128]

We have lost far too much knowledge, experience and too many quality people, due to the exodus of council staff because of the merger, and staff morale continues to decline.[129]

An extremely concerning issue that was put to the Commission was the impact on the mental health of the staff. This was raised in a number of submissions and presentations and appears to stem both from internal conflicts within the Council (ie the polarisation of staff views relating to the merger impacting on working relationships) and allegations of inappropriate behaviour by some residents in their dealings with staff. This issue is discussed in more detail in section 6.11 of this Dissenting Report.

6.7.2 Discussion

I adopt the analysis of the Majority Report on this factor except to the extent varied below.

Were the Minister to recommend the proposal to the Governor then advice will need to be taken as to which staff protections, if any, will apply to a de-amalgamation under s.218CC. I concur with the Majority report that if the Proposal is implemented, then a fresh 3-year period of statutory protection will apply to staff transferred from CGRC to the two new councils.[130] I also agree that while this will impact both new councils, it may be more problematic for a de-amalgamated Gundagai.

Like the Majority Report position, I too am of the view, despite submissions to the contrary, that the ability of a new de-amalgamated Gundagai Council to 'return' to the pre-merger staffing arrangements and numbers has been largely lost. I also agree with the Majority Report conclusion that adopting Prof Drew's suggestion for a staff 'ceiling' for new Gundagai would operate to shift costs to new Cootamundra,[131] which should be avoided.

A new Gundagai Council will have a different cost base and it will also be subject to a new period of staff protections. A new Gundagai council will need to carefully consider how to align staffing roles with desired service levels. It will be a challenge.

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".

[128] Presentation by Pip McAlister to the Inquiry.
[129] Presentation by Cindy Smith to the Inquiry.
[130] See section354F of the Act – no forced redundancies.
[131] Drew #3 p31.

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		
Submitted to Commission	Submissions addressing this factor	As a percentage of total submissions
169	4	2%

CGRC, in its submission, pointed to the distances involved between many of the villages and outlying communities, particularly as part of the merged LGA –

> *To give village residents an opportunity to meet with Councillors, in many cases, involves over an hour travel time to and from these locations for most Councillors. Village residents are being disadvantaged due to the distance ... The idea of holding Council meetings in villages has proved impossible due to distance, technology issues and time. These meetings in the past were very beneficial for village residents to get to know their councillors, understand the council process and to put forward village issues.*[132]

6.8.2 Discussion

I adopt the analysis of the Majority Report on this factor. Whether or not the Proposal is implemented, all residents and ratepayers whether in the larger urban centres or in the rural communities will be impacted by the need for the council to tackle the fiscal challenge confronting their council.

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".*

I concur with the Majority Report that 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".*

[132] CGRC submission to the Commission.

I concur with the Majority Report that 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		
Submitted to Commission	**Submissions addressing this factor**	**As a percentage of total submissions**
169	78	46%

For the purpose of the discussion below I repeat the following comments in the Majority Report:

A very large number of submissions to the Commission and speakers at the Inquiry sessions raised the issue of mental health, far more than during the Commission's examination of the previous proposal –

> *The mental health decline and stress in our community is palpable and has been recognised by the medical and clergy professions in both communities.*[133]
>
> *The comment was made recently to the former Mayor, by a long serving Gundagai Council and GCRC employee – "Every time I know I have to go to the Cootamundra office to work, I just feel like driving into a tree". That is appalling. When I mentioned this just last week to another long serving employee from Gundagai – her comment was – "Don't we all".*[134]

A former CGRC Deputy Mayor and long time councillor on both the former Cootamundra and CGRC councils spoke at length on this issue -

> *There are now toxic work place conditions emerging between the common workforce of the merged councils shown by recent resignations, and by the general talk in the town.*[135]
>
> *Council staff is one of the most valuable assets we have, and I am very frustrated and very concerned at the morale. It's the lowest morale I have ever seen, and I'm looking for a better word, but the work environment could be tagged as being "toxic" … .*
>
> *Mental wellbeing has never been high on my agenda, but I can certainly feel and see the results of the mental un-wellbeing. Staff morale now is at the lowest ebb I have ever seen. The*

[133] Submission #061 to the Commission.
[134] Submission #129 to the Commission.
[135] Submission #013 to the Commission.

workforce has no interaction. Extra stress placed on the administration staff is evident. It is an unhappy environment. It was never like this before and we owe our staff better.

Being a long-term councillor I have a good rapport with many council workers. So many of them have commented on the anxiety and stress of their position and they are extremely concerned about their long-term future with family and financial commitments. An unhappy workforce - an unhappy work environment does not produce the best outcomes.[136]

At another of the Commission's Inquiry sessions, a recently retired practising psychologist stated -

... the thing that concerns me most is the impact on the people, in particular the staff. Shortly after amalgamation … when I suddenly started getting referrals of staff members with anxiety, stress, depression, and whom I ultimately diagnosed with PTSD, I thought "This is not right." And then I'd be called to critical instances, as we call them in the game, where you are called to debrief a staff on some issue that's occurred that has caused a great deal of stress for the staff. Now, I was called to Gundagai several times and … it was very clear that there was a high level of animosity between the two groups of people, which I didn't expect.[137]

Indeed, Mayor Sheahan felt it necessary bring this issue to the community's attention –

I ask residents to treat Council staff with respect as they carry out their duties. There is no need for abuse, nor criticism directed at staff.[138]

6.11.2 Discussion

In the context of considering matters relevant to the provision of efficient and effective local government in the existing and proposed new areas, it is relevant to note that if the Proposal is recommended to the Governor then it will bring undone the 2016 merger process, necessarily creating wastage of public resources and destroying opportunities which were identified in the merger proposal. As is discussed above, there are voices that can see opportunity in the merger continuing. There are voices in the community that share the optimism for a better future for the merged entity. As the former councillor noted in a submission: '*I feel it would be pointless to demerge the 2 councils and a waste of tax payer and rate payers money and achieve nothing but more hardship and stress to staff and rate payers*.'[139]

I acknowledge that the Council supports the de-amalgamation. However, I do not read the Council's submission as it 'giving up' on role of administering the area, as if de-amalgamation is the only option.

I concur that the many submissions that included comments labelled as 'other issues', were mostly in respect of the animosity between the two communities, council staff travel costs and the impact of the merger on the mental health of staff and the broader community. These matters have been addressed in the consideration set out above under the previous headings.

136 Presentation by Dennis Palmer to the Commission.
137 Presentation by Robyn Fowkes to the Inquiry.
138 Community News, Edition 92, May 2022.
139 Submission #032.

The submissions raising the mental health issues are certainly a concern. They have not been overlooked in our examination of the proposal. The prolongation of the opposition to the decision of the Government in 2016 has taken a toll on the community. Allowing this state of affairs to drift is simply not in the interests of the community as a whole. But drift is a possible outcome of this process if legislative mechanisms will take time to develop and to implement to facilitate a de-amalgamation.

The problem is that recommending the proposal will not mean an immediate return to a prior state of affairs. Even Prof Drew acknowledges that there is no legislative scheme in place today to enable the de-amalgamation. It may be the case that specific legislation will be required adding to the delay. What will aggravate this state of affairs is the attendant need to dismiss the council elected in December 2021. That will necessitate, at the least, the appointment of perhaps two administrators to the new councils while administrative arrangements are put in place leading to the conduct of two fresh elections. This all necessarily leads to further wastage of finite public resources. But all that will take us back to May 2016 with perhaps new staff protections, rate protections, and other limitations that will preclude the provision of efficient and effective local government in the existing and proposed new areas for some time into the future.

Seeking to return to the former state of affairs also has its limitations. There are some 11,500 people in the LGA. The Commission has heard voices which suggest that it is perhaps time to move on. They are certainly not in the majority of those who have spoken in support of the de-amalgamation. But their comments reveal another way to view the situation confronting the community. As that former councillor also observed: '*I served as a councillor on the former Gundagai shire council for 13 years. During that time I could see that the shire was slowly going backwards as costs increased and the ability of the council to raise more money became harder as the rate base was not growing*.'[140]

The Delegate's observations in 2016 are still sound. The Key Findings support the Delegate's conclusion that as neither Cootamundra nor Gundagai Shires were large councils, and as their population and rate bases were relatively small (even by rural standards), any new merged council would struggle to avoid an operating deficit in the short to medium term. However, he stated that in the medium to long term, there would be significant financial benefits to all residents and ratepayers as a result of the proposed merger. He also stated that there are many potential synergies in service delivery and operations which would enhance the financial position of a new council, in addition to increasing and standardising the rate base. Instead of seizing the opportunity, as Northern Beaches and Dubbo did, the council, in its various iterations, took another path. That is where we find ourselves today.

Could it still happen? Returning to the speaker at the Cootamundra Session 2 who asked: '*… So, please, when this decision is made, it is final and it is strong and it is stuck to.*'[141] Noting that comment from the staff member who said: '*Up until very recently, we have had a GM and Mayor from Gundagai and I am certain this merger was always deemed to fail, because that's what they wanted to happen. The GM has now resigned and we have a new Mayor who is actually interested in seeing this council move forward as one and it is a wonderful change after near 6yrs of negativity*.'[142] Remembering the former councillor who gave support to this sentiment: '*Up until now the amalgamation has not been given*

[140] Submission #032.
[141] Speaker Cootamundra Session 2.
[142] Submission #016.

100% effort to make it work with the past powers I believe to be trying to bring it down.'[143] Is there a path?

The claims about the impact on the mental health of Council's staff are very concerning to the Commission. This issue was raised in a number of submissions and presentations and appears to stem both from internal conflicts within the Council (ie the polarisation of staff views relating to the merger impacting on working relationships) and allegations of inappropriate behaviour by some residents in their dealings with staff.

I concur that in terms of the impact on staff well-being, it is recognised that any substantial organisational change can be stressful to those involved. However, dealing with change is a task that many councils face. I agree that normally, provided it is well-managed, staff can generally see that the stress of change and disruption will be temporary. In the case of CGRC however, it is the case that the sense of suspense has been contributed to by the council's on-going support for a de-merger and now a de-amalgamation. If, when the decision is made, it is '*final and it is strong and it is stuck to*' then I believe the level of tension will reduce. In relation to staff, the proposed cultural review will be the first step in the direction towards changing staff attitudes. Implementing measures flowing from that exercise will take commitment.

In relation to how the community interacts with the people serving them, I agree with Mayor Sheehan. Residents should treat Council staff with respect as they carry out their duties. There is no need for abuse, nor criticism, to be directed at staff. Behaviour such as that by members of the community should be called out. I am confident that the Council has the capacity to do that. I am confident that the community knows it is wrong to take its frustrations out on the staff.

I remain of the view that the community should be given the chance to see that the merger can succeed. For the reasons discussed in this Dissenting Report, recommending the Proposal to the Governor at this time will not, in my opinion, be conducive to the provision of efficient and effective local government in the existing and proposed new areas.

[143] Submission #032.

Attachment 1

Copy of the Gundagai Cootamundra Regional Council covering letter to the Business Case

COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL

ABN: 46 211 642 339
PO Box 420, Cootamundra NSW 2590
Ph: 1300 459 689 Fax:02 6940 2127
Email: mail@cgrc.nsw.gov.au
www.cgrc.nsw.gov.au

Cootamundra Office
81 Wallendoon Street,
Cootamundra NSW 2590

Gundagai Office:
255 Sheridan Street,
Gundagai NSW 2722

REC-210706-MMC-153700

The Hon. Shelley Hancock, BA, DipEd, MP
Minister for Local Government
Member for South Coast
PO Box 2015
Sydney NSW 2001

Dear Minister,

RE: Business Case for the Demerger of Cootamundra-Gundagai Regional Council

At its Ordinary Meeting held 29th June, 2021 Council Resolved (Min. no.163/2021):

That Council writes to the Minister for Local Government to ensure that the current proposal of de-amalgamation, including Business Case as previously submitted, and now resubmitted, is considered in line with the new Section 218CC of the Local Government Act.

Should you require further information or wish to discuss the matter please do not hesitate to contact me on 0428 441 300.

Yours faithfully

Abb McAlister
Mayor

6 July 2021

Page 1 of 1

Attachment 2

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

The Hon. Shelley Hancock MP
Minister for Local Government

Ref: A781974

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

On 6 July 2021 I received the attached business case from Cootamundra-Gundagai Regional Council under section 218CC of the *Local Government Act 1993* (the Act) setting out a proposal (the Proposal) for the de-amalgamation of the Council by reconstituting its former areas of Cootamundra Shire and Gundagai Shire.

As required by section 218CC(2) of the Act, I hereby refer the Proposal to the Local Government Boundaries Commission. Further, in accordance with that section, I note that I am required by section 218CC(2) to direct that the Commission conduct an inquiry and report on the Proposal.

I note the Local Government Boundaries Commission has previously reported on the same proposal from Cootamundra-Gundagai Regional Council and the Government publically released the report and its response on 20 July 2021.

Yours sincerely

The Hon. Shelley Hancock MP
Minister for Local Government

Enc: Business Case containing de-amalgamation proposal and covering letter of 6 July 2021.

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

Attachment 3

Copy of LGBC's public notice dated 22 March 2022

Local Government Act 1993

NOTICE OF LOCAL GOVERNMENT BOUNDARIES COMMISSION EXAMINATION AND REPORT INTO A PROPOSAL TO DE-AMALGAMATE THE COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL AREA

Pursuant to section 218CC(2) of the *Local Government Act 1993*, the Minister for Local Government has referred to the Local Government Boundaries Commission (LGBC) a business case proposing the de-amalgamation of the Cootamundra-Gundagai local government area. The effect of the proposal, if implemented, would be to re-establish the former Gundagai and Cootamundra Shire Council areas.

Call for written submissions
Written submissions are invited from members of the public. Submissions should preferably address one or more of the factors listed in section 263(3) of the Act.

The Commission cannot automatically carry forward previous submissions in examining the current proposal. However anyone wanting the Commission to take into account their earlier submission should write to the Commission requesting this.

Submissions by email to eo@lgbc.nsw.gov.au or by mail to LGBC Executive Officer Locked Bag 3015, Nowra NSW 2541 must be received by COB 2 May 2022.

Public Inquiry
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	**Venue 2:** Gundagai District Services Club, 254 Sheridan Street, Gundagai
Wednesday 27 April 2022	**Thursday 28 April 2022**
Session 1: 5:30pm – 7:00pm	Session 1: 4:30pm – 7:00pm
Thursday 28 April 2022	**Friday 29 April 2022**
Session 2: 9:30am – 12:00pm	Session 2: 9:30am – 12:00pm

Registration Requirements
All members of the public wanting to attend the public inquiry should register, nominating the session they want to attend. Speakers will be allotted four (4) minutes to address the Commission. Attendees wanting to address the inquiry should indicate this when registering.

A failure to register may mean you may 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 Tuesday 22 March 2022 and can be made at www.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 www.olg.nsw.gov.au/lgbc

Attachment 4

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.