19 August 2024

COOTAMUNDRA GUNDAGAI REGIONAL COUNCIL PUBLIC INQUIRY

INFORMATION PAPER ON THE CONDUCT OF THE INQUIRY

CONTACT WITH THE INQUIRY

All contact with the Inquiry should be by the following means:

- Email to Cootamundra.gundagai@olg.nsw.gov.au
- Post to Office of the Commissioner, Cootamundra Gundagai Regional Council Public Inquiry Locked Bag 3015 NOWRA NSW 2541
- Telephone at (02) 4428 4100

The Minister for Local Government pursuant to powers available to him under section 438U of the *Local Government Act 1993* (the Act) has appointed four Commissioners to undertake a public inquiry into Cootamundra Gundagai Regional Council.

No contact is to be made with any of the Commissioners directly. All media requests should be directed cootamundra.gundagai@olg.nsw.gov.au

COMMISSIONERS

On 17 June 2024 the Minister for Local Government, the Hon. Ron Hoenig MP appointed Commissioners to undertake the Inquiry.

On the same date, the Minister also referred a proposal under section 215 of the Local Government Act 1993 to de-amalgamate Cootamundra Gundagai Regional Council to the Local Government Boundaries Commission.

The Commissioners for the purpose of this Public Inquiry are not sitting as the NSW Local Government Boundaries Commission. The Public Inquiry is a separate referral dealing with the specific terms of reference set out below.

The consideration of the section 215 proposal by the Boundaries Commission will be dealt with subsequent to this Public Inquiry, and any report from this Public Inquiry will be used to inform the examination of the Boundaries Commission.

Further information about the Boundaries Commission process can be found at www.olg.nsw.gov.au/lgbc.

TERMS OF REFERENCE

The terms of reference for the Public Inquiry are:

To inquire and report to the Minister for Local Government with respect to the Cootamundra-Gundagai Regional Council (Council) proposed Implementation Plan (comprising a Detailed Transition Plan, Task Schedule and Financial Sustainability Plan) as lodged by Council as a formal proposal on 21 March 2024 to create two new Councils from the existing Council including advising whether:

1. *if the governing bodies of the new Councils were to implement the proposed Implementation Plan, would this create the potential for:*
    - *a sustainable financial path for the ongoing operation of the two councils*
    - *strong and effective leadership in a manner consistent with the guiding principles set out in sections 8A, 8B and 8C of the Act*
    - *effective management of responsibilities relating to long term financial planning, public land management and provision of services*
2. *the area of Cootamundra-Gundagai Regional Council should be dissolved pursuant to s212 of the Act to enable a proposal to create two new councils to be implemented*
3. *any other matter that warrants mention, particularly those that may impact on the effective administration of the future Councils' functions and responsibilities or the community's confidence in the Council being able to do so.*

The Commissioners may make recommendations as the Commissioners see fit having regard to the outcomes of the Inquiry, including whether all civic offices at Cootamundra-Gundagai Regional Council should be declared vacant.

The council's implementation plan can be accessed at:
https://www.olg.nsw.gov.au/public-inquiries/Cootamundra-Gundagai

TIMEFRAME FOR PUBLIC INQUIRY AND REPORT

The Act does not specify timeframes for the completion of any aspect of the inquiry or the delivery of a final report to the Minister.

GATHERING OF INFORMATION FOR PUBLIC INQUIRY
WRITTEN SUBMISSIONS

The Commissioners wish to encourage persons who would like to make submissions on matters within the terms of reference of the Inquiry to do so in writing.

Submissions should be sent to Cootamundra.gundagai@olg.nsw.gov.au or Office of the Commissioner, Cootamundra Gundagai Regional Council Public Inquiry, Locked Bag 3015, Nowra NSW 2541.

Date for receipt

The Public Inquiry will, by public notices published on the Office of Local Government website and Council's website call for written submissions to the Inquiry to be forwarded to the Office of the Commissioner by **30 September 2024**.

The Chair of the Public Inquiry may accept late submissions and/or call for further written submissions.

No written acknowledgement of submissions will be provided.

Anonymous submissions

It is implicit in the Notice of Public Inquiry, and the call for submissions, that persons making written submissions should identify themselves. However, if this has not been done, there would appear to be no reason why, merely because of this, the Commissioner could not take any material in such a submission into account for the purposes of the Inquiry. It cannot, however, be tested by further inquiry and may carry less weight than other submissions.

Requests for anonymity

If, in making written submissions to the Inquiry, the person making the submission requests that their name be suppressed or otherwise protected from publication or disclosure, the Chair of the Public Inquiry may, in appropriate circumstances, agree to the request.

Any person making a submission that wishes the Commissioners to consider a request that his or her name be suppressed or otherwise be protected from publication or disclosure must set out (either in correspondence accompanying the submission, or in body the submission itself) that such a request is made and briefly identify the basis for it.

Public availability and inspection of written submissions
It is not intended to make submissions publicly available at this time.

Subject to the restrictions noted later, parties making written submissions to the Inquiry should assume that they may become available for inspection for the purpose of inviting public comment by those parties who may be affected by them.

Commissioner's rights in respect of documents produced
The Chair of the Public Inquiry or his delegate and assistants may inspect (and copy or take extracts from) any documents produced to the Inquiry and keep them for such reasonable period as the Commissioner thinks fit.

Submissions from Council staff
Council staff have no additional privileges or protections over and above other persons generally in respect of any submissions they may choose to make.

Submissions from Councillors
The position is the same as for Council staff.

Appointment of assistants
The Public Inquiry may engage persons to assist in carrying out any inquiry or investigation that may need to be made as part of the Inquiry. For example, the Chair of the Public Inquiry may, in writing, authorise any person engaged by him to assist in the conduct of the Inquiry to inspect and report to him upon any documents or other things, such as submissions, relevant to the subject matter of the Inquiry.

THE HEARING

Public hearings
In addition to the receipt of written submissions to the Inquiry, the Inquiry will include a public hearing. Details of the venue and times of public hearing(s) will be announced in due course, and will be advertised by public notice in the same manner as the call for written submissions.

However, it should be noted that public hearings will be conducted with expedition and the Public Inquiry is not obliged to automatically give a right of

appearance to all those wishing to appear before the Commissioners at the public hearing.

For the purpose of informing the inquiry about the implementation plan it is proposed to formally open the inquiry on 30 August 2024 and to hear from the author of the implementation plan. To suit the convenience of the author that opening will occur in Sydney at Sydney Masonic Centre 66 Goulburn Street Sydney in accordance with the public notice which the inquiry has published with this information paper. The proceedings will be webcast.

After that the inquiry will adjourn to consider the author's evidence with a view to holding further hearings in the Cootamundra-Gundagai Regional Council LGA on dates to be set to which members of the public will be invited to attend.

For more information see below "Persons wanting to make oral submissions".

Form of public hearing

The Chair of the Public Inquiry may regulate or determine the procedures to apply to the conduct of the Inquiry, subject only to any contrary provisions in section 438U of the *Local Government Act 1993* and the applicable parts of the *Royal Commissions Act 1923*. The Chair of the Public inquiry therefore proposes to avoid undue formality in the public hearing(s). There is no requirement or expectation that persons giving evidence will be legally represented. See, however, under the heading "Legal representation", below. The Commissioners intend to give all who appear before them at the Public Inquiry a fair hearing. This more reflects the nature of an Inquiry as compared to adversarial proceedings.

The Public Inquiry will publish a Practice Direction that applies to the conduct of the Inquiry.

Persons making written submissions

As noted above, it is desirable that interested parties lodge written submissions with the Office of the Commissioner, even if the submissions are intended to be supported by an oral submission or evidence at the public hearings. The Notice of Public Inquiry invites persons making written submissions to be lodged with the Office of the Commissioner by 30 September 2024, to also indicate at the same time whether they wish to appear in person to make oral submissions. This is for the purpose of assisting the Public Inquiry to identify the likely number of persons who wish to give oral evidence at the hearing, and to thereby assist the orderly functioning of the public hearing phase of the Inquiry by having sufficient hearing days and other arrangements and facilities in place in time for the commencement

of the hearings. A failure to give notice alone will not, however, mean that such a person would on that account alone be denied the opportunity to appear at the public hearings.

Persons wishing to make oral submissions

As noted above, the Chair of the Public Inquiry wishes to encourage those persons who wish to make a submission to the Inquiry to do so in writing. It is, on the other hand, not necessary for persons who wish to appear at the public hearings to make advance written submissions to gain a right of appearance and hearing, but, those persons contemplating making oral submissions only should be aware that the Chair of the Public Inquiry is not obliged to automatically give a right of appearance to all those wishing to appear before him at the public hearing. The Chair of the Public Inquiry will hear submissions from those wishing to give oral evidence only, provided that they can show to the satisfaction of the Chair of the Public Inquiry that they are substantially and directly interested in the subject matter of the Inquiry, or that their conduct in relation to any such matter has been challenged to their detriment.

Such persons are also asked to provide a written request to the Chair of the Public Inquiry by the closing date of written submissions of their desire to give oral evidence at a public hearing and the matters that they would seek to address. A failure to give such notice alone will not, however, mean that such a person would on that account alone be denied the opportunity to appear at a public hearing.

Voluntary attendance at the public hearings

Persons having information relevant to the terms of the Inquiry are encouraged to come forward voluntarily.

Compulsory attendance at the public hearings and compulsory production of relevant documents to the Inquiry

In case of need, the Chair of the Public Inquiry may summons any person to attend the Inquiry at a time and place named in the summons, to give evidence and to produce any documents or other things in the person's custody or control.

Legal representation

While the Public Inquiry wishes to avoid undue formality in the proceedings (see under the heading "Form of public hearings", above), the Chair of the Public Inquiry recognises that some parties may be directly affected by the Inquiry. Therefore, any request by persons appearing or proposing to appear at the public hearings that they be legally represented (i.e., that their legal representatives be allowed to be present at and make submissions to the Commissioner at the

hearing) will be considered in that light. This may be allowed for example, where persons are substantially and/or directly interested in the subject matter of the Inquiry, or where a person's conduct in relation to any such matter has been challenged to the person's detriment.

The Chair of the Public Inquiry has no power to make orders providing financial assistance to persons appearing or wishing to appear at the hearing to meet the cost and expense of legal representation.

Any person requesting permission to be represented by a legal practitioner at the public hearings is asked to make that request in their written submission. A further opportunity to request permission to be represented by a legal practitioner at the public hearings will be given at the time that the dates of those public hearings are announced. A failure to make such a request prior to the public hearings alone will not, however, mean that a person would not be permitted to be represented by a legal practitioner at the public hearings.

Further information about legal representation is available in the Practice Direction published on the inquiry website.

Witness expenses

Likewise, the Chair of the Public Inquiry has no power to make orders providing financial assistance or for the payment of allowances to any witness summoned to appear or voluntarily appearing at the public hearings. This applies also, for example, to travelling and accommodation expenses.

Private hearings

The Commissioners have been appointed to conduct a public inquiry in this matter. On the other hand, in appropriate and/or exceptional circumstances, the Chair of the Public Inquiry may exercise his discretion to hear oral submissions from a person wishing to make such submissions in private hearing. An alternative to appearing at a public hearing is to make a written submission. If any private hearing is conducted, members of the public, including the media, will not be permitted to attend.

Restriction on public availability and inspection of written submissions

The Chair of the Public Inquiry may exercise discretion, in appropriate circumstances, to publicise and make publicly available written submissions that are made to the Inquiry for the purpose of inviting public comment by interested parties to assist the Commissioners. This may involve weighing the likely public benefit gained from this against any likely damage to the reputation of individual persons that might flow from such publication. The overriding concern of the

Public Inquiry is to encourage persons who have information relevant to the terms of reference of the Inquiry to come forward and give that information to the Inquiry in the knowledge that they will not suffer recriminations or other liability from or at the hands of third parties as a result.

It is not intended to make submissions publicly available at this time.

Sworn evidence

Persons making oral submissions to the Inquiry at the public hearings will be required to give sworn evidence. Witnesses will be required to take an oath or affirmation, which will carry with it the same consequences as an oath. No exceptions from the swearing of an oath or the making of an affirmation can or will be given.

Continued attendance

Every witness who has been summoned to attend the Inquiry must appear on the day required, and thereafter until the Chair of the Public Inquiry excuses the witness from further attendance.

Cross examination of witnesses

Persons who have been given a right of appearance by the Chair of the Public Inquiry, and any barrister or solicitor which the Commissioner authorises to represent them, may, with the leave of the Commissioner, cross examine any witness on any matter which the Chair of the Public Inquiry deems relevant to the Inquiry.

REPORT OF COMMISSIONERS' FINDINGS

At the conclusion of the Inquiry, the Commissioners will make a written report to the Minister for Local Government and may make recommendations to the Minister, including whether the area should be dissolved pursuant to s212 of the Act and/or on any other matter as the Commissioners sees fit, including whether all civic offices in relation to the Council should be declared vacant.

The Minister will lay the report before both Houses of the NSW Parliament. If neither House is sitting, the report is presented to the Clerks of both Houses.

The Chair of the Public Inquiry may also, in appropriate circumstances, pass on information or evidence or material given to the Inquiry to any law enforcement agency, such as the Director of Public Prosecutions, the Commissioner of Police, or the Independent Commission Against Corruption if the information or material relates or may relate to a breach of the law.

FURTHER ASSISTANCE

Persons requiring further assistance in relation to the Inquiry may contact the Officer Assisting the Inquiry on 4428 4100.

Further information can also be found on the Office of Local Government's website at: https://www.olg.nsw.gov.au/public-inquiries/Cootamundra-Gundagai