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**PROPOSED MERGER OF  
DUNGOG SHIRE AND GLOUCESTER SHIRE  
COUNCILS**

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



**APRIL 2016**

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Local Government Boundaries Commission  
GPO Box 5341  
Sydney NSW 2001

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

Dear Minister

**Proposed merger of Dungog Shire and Gloucester Shire councils**

The Local Government Boundaries Commission provides its comments on the Delegate's Report into the above merger proposal under section 218F(6) of the *Local Government Act 1993*.

Yours sincerely

A handwritten signature in black ink that reads 'Bob Sendt'.

RJ Sendt  
Chairperson  
22 April 2016

## 1. Summary of Local Government Boundaries Commission comments

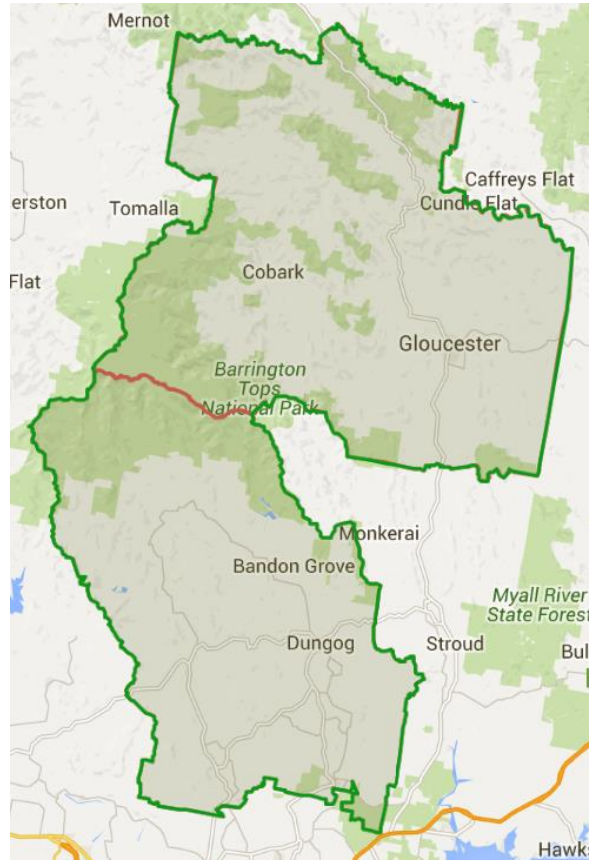
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Dungog Shire Council and Gloucester Shire Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government Act 1993* (the Act).

The Commission has assessed that:

- the Delegate's Report shows that the Delegate has undertaken all the processes required by section 263 of the Act,
- the Delegate's Report shows that the Delegate has adequately considered all the factors required by section 263(3) of the Act, with the exception of the factors listed under subsections 263(3)(e1) (service delivery and facilities), 263(3)(e3) (rural impacts), and 263(3)(e5) (diverse communities),
- the Delegate's recommendation in relation to the proposed merger is supported by the Delegate's assessment of the factors.

## 2. Summary of the merger proposal

On 6 January 2016, the Minister for Local Government referred a proposal to merge the local government areas of Dungog Shire Council and Gloucester Shire Council to the Acting Chief Executive of the Office of Local Government for examination and report under the Act. The following map shows the proposed new council area (shaded in green).



The proposal would have the following impacts on population across the two councils.

Council	2016	2031
Dungog Shire Council	8,650	8,800
Gloucester Shire Council	5,000	4,850
New Council	13,650	13,650

Source: NSW Department of Planning & Environment, 2014 NSW Projections (Population, Household and Dwellings).

The Acting Chief Executive delegated the function of examining and reporting on each of the proposals to a number of people, known as ‘Delegates’. Delegates were required to examine and report upon each merger proposal rigorously and fairly. The examination process included Delegates calling for submissions and holding a public inquiry on each proposed council merger. Delegates prepared a report on the proposal and provide that report to the Local Government Boundaries Commission.

### 3. Role of the Local Government Boundaries Commission

The Local Government Boundaries Commission is an independent statutory authority constituted under section 260 of the Act. The Boundaries Commission examines and reports on any matter referred to it by the Minister in relation to the boundaries of local government areas and the areas of operation of county councils.

The Boundaries Commission has several functions under the Act. In the current context (where the Minister has elected to refer the proposal to the Office of Local Government, rather than the Boundaries Commission, for examination), the most relevant Commission functions are set out in section 218F(6) of the Act. This section requires:

- the Chief Executive to furnish the report on the examination of the merger proposal to the Boundaries Commission for review and comment, and
- the Boundaries Commission to review the report and send its comments to the Minister.

The Commission’s role does not involve re-examining the advantages and disadvantages of the proposed mergers, accepting submissions or holding public inquiries.

### 4. Delegate’s recommendations

The Delegate’s key recommendation is

*“That the Dungog Shire Council and Gloucester Shire Council merger proposal not proceed as it is considered on the available evidence to not be an optimal solution ...”*

### 5. The Commission’s detailed comments

#### 5.1 Review of the process followed by the Delegate

Under the Act, the Delegate is required to undertake certain processes in examining a merger proposal. These processes include holding an inquiry, allowing members of the public to attend

meetings as part of the inquiry and calling for submissions. As part of its review of the Delegate's Report, the Commission has looked at whether these processes were followed.

In total the Delegate considered 188 written and verbal submissions from the public, community and other organisations and councils.

The Delegate held two public inquiries on 9 February 2016 at the Dungog Memorial Bowling Club and the Gloucester Soldiers Club.

***The Commission's view is that the Delegate has met the relevant requirements.***

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

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

***Overall, the Commission's view is that the Report shows that the Delegate adequately considered all the factors, with the exception of 'service delivery and facilities', 'rural impacts', and 'diverse communities'.***

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

The Commission makes the following comments relating to each factor:

### **5.2.1 Financial factors**

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

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

The Delegate outlined that the merger proposal document indicated for both Dungog and Gloucester, the average ordinary residential rate is currently well in excess of the council group average. After considering improvement proposals submitted by each council under F4F, the Delegate noted that IPART gave a rating for each council as 'Not-Fit' even though both councils contemplated special rate variations (SRVs) – for Dungog a cumulative 92.2% over six years from 2016-17 and for Gloucester, a cumulative 36.6% over three years from 2018-19. The Delegate noted that a rates freeze subsequent to a merger would delay commencement of the projected SRVs and reduce likely merger financial benefits in the short term. Furthermore, in each Local Government Area (LGA) there is a significant aged and retiree population (Dungog 26% and Gloucester 36%), with potentially reduced financial resources to meet increasing rates obligations.

The Delegate concluded that while the potential merger partners face major ongoing financial issues, merging the entities in the context of a probable four year rate freeze, and given the relatively small amount of \$4 million in projected savings over 20 years, the proposal does not represent an acceptable or optimal solution. He stated that by any financial measure or benchmark, there can be at best only minimal benefit in merging these two financially challenged entities.

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

### **5.2.2 Communities of interest**

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

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

The Delegate stated there was virtual unanimity of views during the public inquiries and through submissions that there was very limited community of interest or geographic cohesion between the two LGAs. Dungog Council argued that the majority of connections of its residents were to the south, predominantly within the lower Hunter and Newcastle regions. The proximity to lower Hunter labour markets, retail centres, health, education and other facilities was highlighted.

The Report noted that Gloucester is part of the Mid Regional Organisation of Councils (MidROC) group of councils while Dungog is part of Hunter Councils and the pilot Hunter Councils Joint Organisation, of which Gloucester is only an associate member.

The Delegate stated that a 70 minute drive separates the towns of Dungog and Gloucester, which requires traversing a significant length of road in the Great Lakes Council LGA, and longer distances from outlying areas. The common boundary between the two LGAs is the Barrington Tops National Park with no through road access.

As stated by the Delegate, the natural land topography underscores a lack of community of interest between the LGAs. The Delegate also stated that the lack of community interest and geographic cohesion is evident through different topography; dairy and beef sales, transport, and marketing arrangements; and different media outlets.

The Delegate concluded that there was at best very minor, if any, community of interest or geographic cohesion between the two LGAs. Furthermore, a merger of the LGAs would provide little, if any, capacity to improve the existing situation.

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

### **5.2.3 Historical and traditional values**

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

*“the existing historical and traditional values in the existing areas and the impact of change on them”.*

The Report stated that there is an historical affinity between the LGAs particularly in the dairy and timber industries.

The Delegate concluded that the traditional rural industry base has diminished in recent decades and the populations of each LGA gravitate in different directions primarily because of distance, a low standard road between the two LGAs, and the relative proximity of, and pursuit of, various services by each LGAs' residents in other neighbouring LGAs. The Delegate noted this factor received minimal attention in written and verbal submissions and did not significantly support or detract from the merger proposal.

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

#### **5.2.4 Attitudes of residents and ratepayers**

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

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

The Report outlined that at both sessions of the public inquiry, and woven through practically all submissions, was the strongly held view that the proposal would not work and could not, in any way, positively address the financial sustainability issues of each council. The Councils expressed concern that they had very little opportunity to inform their communities and to seek their opinions in relation to this previously unconsidered proposal. The community in turn expressed anger and hostility at the lack of consultation.

The Delegate concluded that the overwhelming attitude of residents and ratepayers was that the merger proposal was unwanted, inappropriate and would be unable to remedy the systemic financial issues confronting the councils.

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

#### **5.2.5 Elected representation**

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

*"the requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as it considers relevant in relation to the past and future patterns of elected representation for that area".*

The Report noted the ratio of residents to elected councillors in the two councils is similar. Dungog Shire has nine councillors with a resident representation ratio of 1:1,012. Gloucester Shire has seven councillors with a resident representation ratio of 1:723. A merged council with seven councillors would have a resident representation ratio of 1:2,024.

The Delegate noted that elected representation was not raised as a significant issue in submissions. He concluded that in the event of the merger proposal proceeding, an undivided area with a council comprising seven elected representatives would provide adequate representation.

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

### **5.2.6 Service delivery and facilities**

Section 263(3)(e1) of the Act requires the Delegate to have regard to:

*“the impact of any relevant proposal on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities”.*

The Delegate indicated that it was evident in the public inquiry presentations of each council, as well as their written submissions, that each LGA considered it was providing adequate, equitable and appropriate services while recognising that with greater resource ability, they could achieve more for their constituents. However this view was not shared by a number of community members.

The Delegate concluded that if the merger proceeded, it was unlikely to result in any significant reduction in service levels. The Delegate argued that the experience of council mergers in 2003-04 was that service levels were often increased. Implementation of special rate variations (SRVs) as contemplated by each council would enhance the likelihood of improved service delivery. In the event of a merger, and to address financial sustainability, he suggested that the NSW Government's proposed four year fixed rate path policy not be applied should this merger be implemented.

***The Commission's view is that the Delegate did not adequately consider the issues under this factor.***

### **5.2.7 Employment impacts on staff**

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

*“the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned”.*

It was noted by the Delegate that both Dungog and Gloucester are rural centres with populations of less than 5,000 and therefore attract the statutory employment protections.

The Delegate concluded that in the event of the merger proceeding, it would be important to retain a council presence in the principal towns for resident connection with the council given the distance between the Dungog and Gloucester centres and the low road connectivity. Maintenance of such a presence would allow retention of staff in both existing administration offices. The Delegate stated that it may also be possible for specialist merged council services to be located in each administration centre to retain staff and provide community access to the new council.

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



### 5.2.8 Rural impacts

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

*“the impact of any relevant proposal on rural communities in the areas concerned”.*

The Report noted that Dungog and Gloucester are councils with constituencies comprising rural communities and localities. The various rural communities in each LGA are within reasonable driving distance to the major population centres. The Report stated that provision of reasonable and reliable road access is a common requirement of those communities and a merger should not adversely impact that essential service requirement.

The Delegate concluded that the nature of each LGA as service centres for surrounding rural communities would suggest minimal, if any, impacts on those communities should the merger proposal proceed.

***The Commission’s view is that the Delegate did not adequately consider the issues under this factor.***

### 5.2.9 Wards

Section 263(3)(e4) of the Act requires the Delegate to have regard to:

*“in the case of a proposal for the amalgamation of two or more areas, the desirability (or otherwise) of dividing the resulting area or areas into wards”.*

The Report noted that Dungog utilises an electoral system incorporating three wards with three councillors from each, while Gloucester does not use a ward system. The Delegate noted that the Dungog Council submission stated that as it did not support the merger proposal, it would make no comment regarding a proposed structure. The Gloucester Council submission stated that because of differing values, employment and location of the Dungog towns and villages, a ward system “would appear to be more representative” but did not attempt to substantiate this perspective.

The Delegate concluded that if the proposal was to proceed, an undivided area for electoral representation would be preferable to a ward system in order to avoid parochialism and to enhance elected representatives accepting responsibility for the entire geographic area of a merged council.

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

### 5.2.10 Opinions of diverse communities

Section 263(3)(e5) of the Act requires the Delegate to have regard to:

*“in the case of a proposal for the amalgamation of two or more areas, the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented”.*

The Delegate noted that there was little discussion and few submissions in respect of this factor.

The Delegate concluded that the communities in each LGA could be effectively represented and provided adequate services and facilities in a merged council. Development and implementation of sound community engagement activities would be an important component to successful representation of the communities.

***The Commission's view is that the Delegate did not adequately consider the issues under this factor.***

#### **5.2.11 Other issues**

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

*“such other factors as it considers relevant to the provision of efficient and effective local government in the existing and proposed new areas”.*

The following matters were raised by the Delegate:

- *Water and Sewerage:* There are different providers for water and sewerage services in each LGA. The Delegate concluded that should the merger proposal be implemented, the water and sewerage services issue would need to be resolved and would require a formal agreement between the new council and the providers.
- *Boundary Changes:* The Delegated noted a number of suggested boundary changes.

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

*The Commission notes that suggested boundary adjustments are a matter for the Minister.*