
**PROPOSED MERGER OF
PALERANG (PART) AND QUEANBEYAN CITY
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



Local Government Boundaries Commission
GPO Box 5341
Sydney NSW 2001

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

Dear Minister

Proposed merger of Palerang (part) and Queanbeyan City 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 'RJ Sendt'.

RJ Sendt
Chairperson
26 April 2016

1. Summary of Local Government Boundaries Commission comments

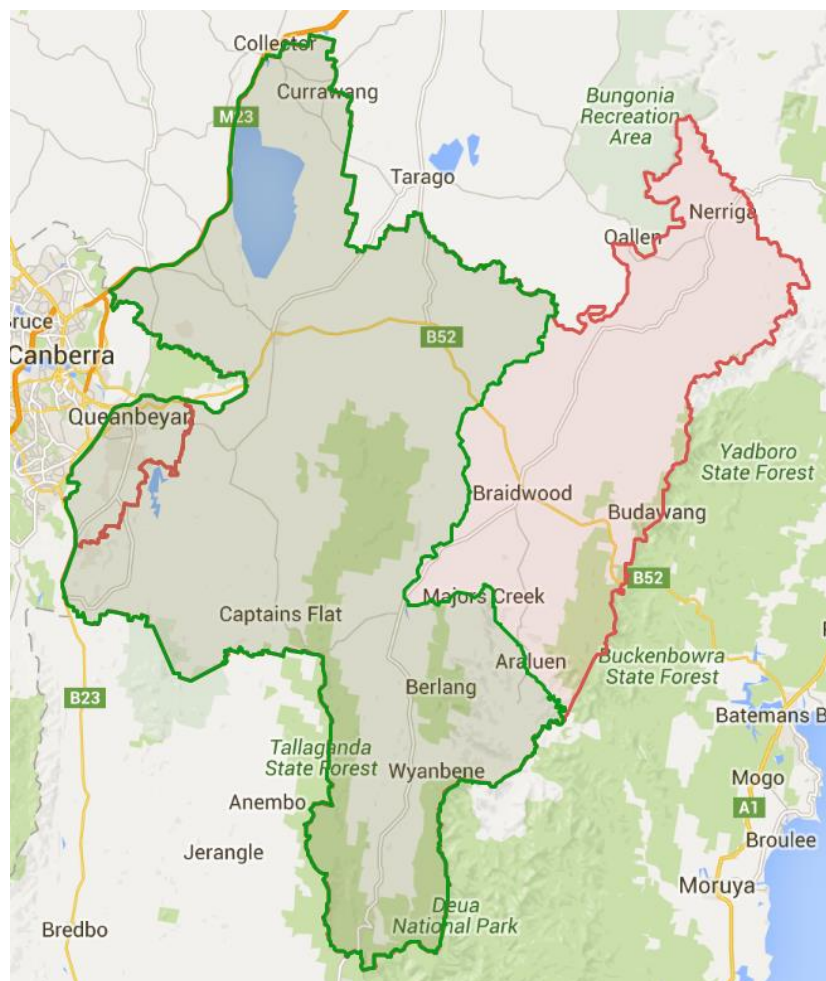
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Palerang Council and Queanbeyan City Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government Act 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, and
- 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 Palerang Council (part) and Queanbeyan City 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	2014	2031
Palerang Council	13,494	n.a.
Queanbeyan City	40,858	n.a.
Merged Entity	54,352	74,000

Source: NSW Government, January 2016, *Merger Proposal: Palerang Council (part) and Queanbeyan City Council*, pp 7 and 13.

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 provided 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 merger proposal should not proceed.

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 139 written and verbal submissions from the public, community and other organisations and councils.

The Delegate held two public inquiries on 11 February 2016 at the Braidwood Services Club and the Comfort Inn Airport in Queanbeyan.

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 the Delegate adequately considered all the factors.

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 noted that the proposed merger is expected to generate \$35 million in financial benefits over 20 years, with a net financial saving of \$20 million to the new council over the same period, in addition to the \$15 million incentive payment from the NSW Government. However, the Report noted that both Councils have questioned the assumptions used in the modelling. The Delegate stated that both councils:

"...have also raised concerns that the individual circumstances which apply to Palerang and Queanbeyan Councils in terms of staffing costs, infrastructure backlogs, and diversity of constituents values and lifestyles will inevitably impact on actual financial outcomes...They argue that any distribution of staff and assets should not be based on geography alone but should look critically at the capacity and needs of the organisation."

The Delegate noted that Palerang Council undertook modelling suggesting that the proposed merger will result in a \$1.6 million annual deficit, partly due to legacy staffing issues resulting from the formation of the current LGA 12 years ago.

The Delegate stated that the alternative financial analyses put forward by Palerang and Queanbeyan City Councils, while interesting, use different data to develop projections and estimate costs and savings and are in any case based on 2014-15 results.

The Delegate considered impacts on rates and infrastructure, and concluded that given the KPMG analysis and the broad scope of the modelling required to apply consistency to 152 very diverse local governments, it is likely that local factors would have a significant impact on the actual results of this particular merger proposal. The Delegate highlighted that this proposal is particularly complicated due to the partitioning of Palerang Shire and differences between the two analyses of the distribution of assets and liabilities of Palerang Council between the two new councils.

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

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 Report noted that the proximity to Canberra means a high proportion of residents in both areas commute to the capital on a daily basis and this is reflected in the demographics which show higher than average education and household income levels and lower unemployment. However, the Delegate stated:

“But while both Councils’ residents share key demographic similarities, they differ widely in choice of lifestyle. This broad overview of the general area provided in the KPMG analysis fails to recognise the polarising nature of the existing council boundaries. The area covered by Queanbeyan City Council is almost exclusively a metropolitan/suburban centre while Palerang Council is primarily rural and rural residential.”

The Delegate noted differences in the rating base, with Palerang having a much higher farming rate base than Queanbeyan. The Report noted that the focus of each council is on supporting quite different lifestyles and facilities.

The Report also noted the impact of the proposal on small communities. Majors Creek and Araluen would be split by the boundary lines, with many submissions asking to remain intact. Submissions received from the areas of Burra, Royally and Tinderry were supportive due to their close proximity to Queanbeyan, whereas submissions from Farrington, Bombay and Taylors Creek were concerned about being isolated from Braidwood.

The Delegate concluded that there are significant questions regarding the suitability of the merger proposal with regard to communities of interest. As stated in the Report, while it could be argued that the rural residential areas close to Canberra and Queanbeyan with high populations of professional commuters may have some community of interest with Queanbeyan City Council, the same may not be said for the traditional farming communities.

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 Delegate outlined the history of the two council areas, noting Palerang Council was proclaimed in 2004. The Report concluded that there is a strong and cohesive history of colonial settlement, farming and gold rush towns across the region. As stated by the Delegate, “since the establishment of Canberra and the growth of Queanbeyan as a city, a separation has occurred between the traditional farming communities, the new lifestyle hobby farmers and rural residential commuters and the urban residents of Queanbeyan”.

The Delegate also considered the potential of recognising the needs and demands of all groups in the area through comprehensive strategic planning in Local Environment Plans (LEPs) and enhancing Integrated Planning and Reporting.

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 Delegate considered 105 written submissions received, as well as surveys undertaken by council, and stated that “the one clear message which dominated the submissions, especially those against the proposal, was that the location of the proposed boundary is seriously flawed.”

The Delegate noted that almost half the submissions referred to the proposed splitting of the townships of Araluen and Majors Creek, or the loss of connection with traditional local centres such as Braidwood. The Delegate concluded that there is diversity of views on the issue of merging the two councils, but stronger community opposition to the proposal to split the current Palerang LGA.

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

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 that Palerang Council has a relatively low councillor to resident ratio of 1:1,723. Under the Government's partition/merger proposal this will increase significantly to one councillor per 5,435 residents. The Delegate considered it understandable that a significant number of submissions raised questions as to the adequacy of electoral representation this would provide especially for those in the minority.

As outlined in the Report, the current Palerang Council has nine councillors including the council-elected Mayor. Queanbeyan Council has ten councillors and popularly elected Mayor. The Delegate noted "the fears of disenfranchisement of Palerang's village and rural residents", and concluded that if the merger goes ahead:

"...careful thought should be given to the representational and governance structures of the new council to ensure equity of participation in decision making is available to both urban and rural constituents. Furthermore, given the unequal distribution of the electorate between urban and rural constituents it is recommended that the Mayor be elected by the council from among its own members."

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

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 Report noted that the services provided by Palerang and Queanbeyan are quite distinct, reflecting their disparate geography and constituent base. The Delegate included a table from Palerang Council's submission to illustrate the differences, particularly in relation to roads.

The Delegate concluded that there is the potential for competing demands from diverse constituents of the new council entity to impact on the overall types and standards of services provided by the new council, perhaps diminishing some services. If the merger goes ahead, the Delegate suggests incorporating the existing areas of specialisation and best practice from each council to the new entity as a priority. The Delegate also suggested moving the new council's head office to Bungendore, which would be centrally located.

The Commission's view is that the Delegate adequately considered 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".

The Delegate noted that Palerang has 84 FTE staff, whereas Queanbeyan has 250. The Report stated:

“Each council has very different skills and capabilities, reflecting the diverse demands of their constituents. While Palerang Council represents a largely rural and rural residential area, Queanbeyan City council manages a highly urban, medium density community, with the typical demands of any town on the outskirts of a major metropolitan centre.”

This difference is demonstrated with reference to road contracts and expertise that Palerang Council has in managing rural roads. The Delegate noted protections under the Act, including the protection for rural centres. However, he also stated that Queanbeyan Council believes the township of Bungendore would need to be reclassified from rural to outer metropolitan for the new council to be financially viable.

The Delegate concluded that the Act provides strong protections, but should Bungendore be reclassified (as proposed by Queanbeyan Council), there will likely be significant job losses among staff, and associated concerns about employment continuity for Palerang employees dependent on RMS road maintenance contracts.

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”.

As noted by the Delegate, the merger proposal seeks to combine a predominately rural area with a heavily urbanised metropolitan centre. The Delegate considered a submission raising concerns rural issues may be neglected, and stated:

“The Palerang population is expected to comprise only around 25% of the total population of the new council and will likely have only 2-3 elected representatives on a council of 10 or 11 as proposed. Furthermore, there is a major difference in the focus on services and priorities exhibited by the two existing council operations.”

The Delegate then outlined concerns raised in submissions about employment within rural centres and a potential change in the classification of Bungendore. He concluded by stating that there is the possibility that the rural constituents of the new entity may become disenfranchised through a lack of electoral representation, with rural services given a lower priority.

The Delegate stated that the issue of reduced rural services could be mitigated by placing the head offices of a merged entity in Bungendore, which is closer to the geographic centre of the new LGA and would reduce travelling time for employees.

The Commission’s view is that the Delegate adequately considered 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”.

It is noted by the Delegate that neither council supports the introduction of wards. The Report stated that a ward system has the “potential to enshrine inequality and limit the capacity of councillors to represent a broad range of interest and concerns.”

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 considered the demographics of the area and that it reflects a predominately Anglo/European-centric population with relatively small communities of local indigenous residents. It is noted that there is greater diversity in Queanbeyan LGA, with a significantly higher population of those who speak a language other than English.

The Delegate noted that no submissions were received that made reference to diverse groups or raised any issues that could affect them.

The Delegate concluded that the proposed merger is “highly unlikely to have any impact on the small proportion of residents who identify as culturally or linguistically diverse.”

The Commission’s view is that the Delegate adequately considered 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”.

With respect to this factor, the Report focused on the split of Palerang, and that the proposal would split two villages and 72 properties. The Delegate noted that the properties would potentially be subjected to two sets of rates, as well as the areas being subject to separate LEPs and planning regulations.

The Delegate stated that the issues associated with the proposed boundaries warrant a complete review. As outlined in the Report, the Delegate concluded that the splitting of Araluen and Majors

Creek has serious implications for community cohesion and service delivery standards. He also stated that the dislocation of farming communities in the north from Braidwood and Goulburn should be avoided.

The Delegate recommended that, should the merger be implemented, the proposed boundary should “follow the old Tallaganda Shire boundary so as to restore the historic communities of interest which existed prior to the establishment of Palerang Council 12 years ago.”

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

The Commission notes that the suggested boundary adjustment is matter for the Minister.