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**PROPOSED MERGER OF  
TUMBARUMBA SHIRE AND TUMUT 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 Tumbarumba Shire and Tumut 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 'RJ Sendt'.

RJ Sendt  
Chairperson  
29 April 2016

## 1. Summary of Local Government Boundaries Commission comments

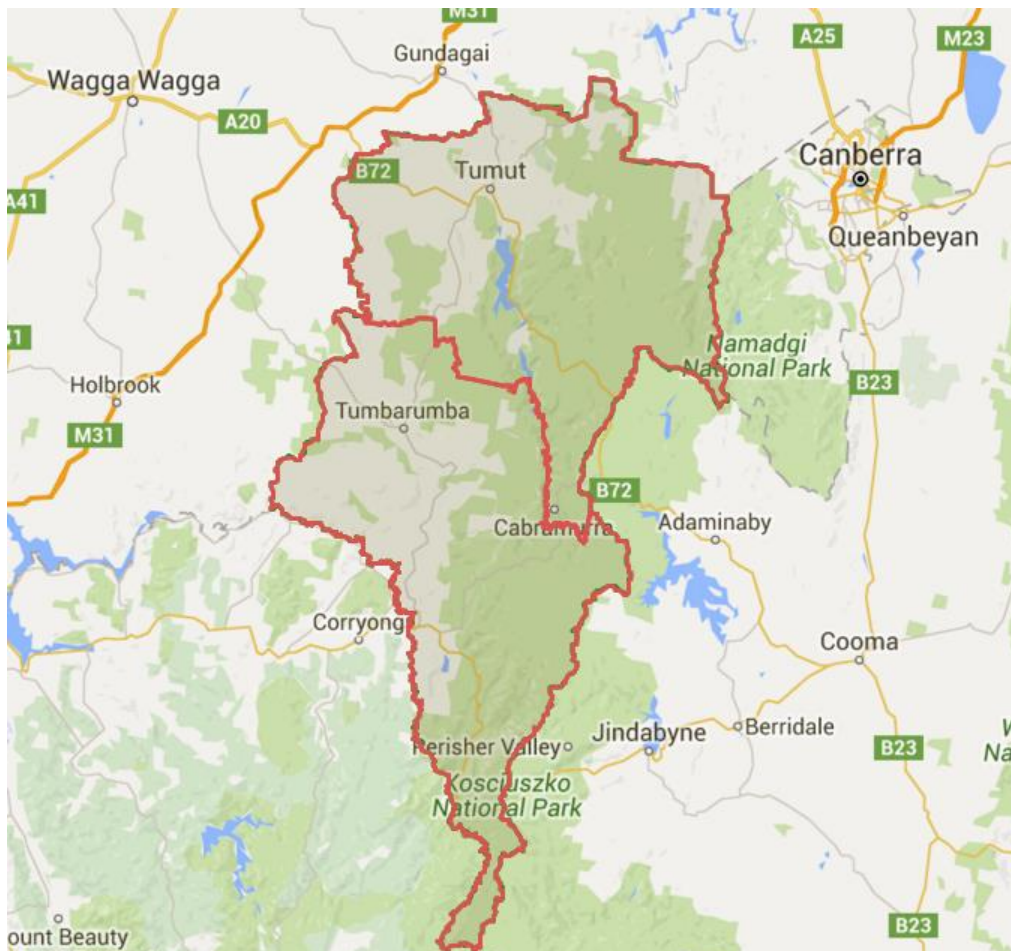
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of merge Tumbarumba Shire Council and Tumut Shire Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government 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, 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 Tumbarumba Shire Council and Tumut 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 part of the two Councils.

Council	2016	2031
Tumbarumba Shire Council	3,450	3,300
Tumut Shire	11,250	10,650
New Council	14,700	13,950

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 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 proposed merger of Tumut Shire and Tumbarumba Shire not proceed unless the strong opposing attitudes of residents, ratepayers and council staff in Tumbarumba Shire are addressed through a combination of advocacy campaigns and protections of service levels within a new council".*

The Delegate also provided a number of matters for the consideration of the Minister, the Boundaries Commission and the new council, depending on whether or not the merger proceeds.

## 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 623 written and 64 verbal submissions from the public, community and other organisations and councils.

The Delegate held two public inquiries on 11 February 2016 at the Tumut Golf Club and the Tumbarumba Bowling 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 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 while IPART assessed each Council as financially fit, Tumut Shire was 'Not Fit' for the future when assessed against the criterion of scale and capacity and Tumbarumba Shire could meet the scale and capacity criterion should it operate as a 'rural council'.

The Delegate made references to economies of scale and noted the proposal will increase the rating base of the area by increasing the number of residences and businesses subject to rates. The Delegate noted that Tumbarumba Shire's residential and business rates are significantly lower than Tumut Shire's, whereas Tumut Shire's average farmland rate is significantly higher than Tumbarumba Shire's.

The Delegate noted that Tumbarumba Shire Council had implemented different financial arrangements when compared to Tumut Shire, including different fee structures and different rating regimes. The Delegate noted that a new Council would find challenges in ensuring that elements inherent to Tumbarumba Shire such as volunteerism, lower rates and lower fees for services are not unreasonably altered to the detriment of residents in Tumbarumba Shire. In his examination, the Delegate also considered employee costs, councillor expenditure, material and contracts and the quantum of savings.

In conclusion, the Delegate considered that the conservative estimates of savings as modelled by KPMG are significant enough to provide benefits to the Tumbarumba Shire and Tumut Shire communities. The Report considered that providing a new council is in a position to represent the view of Tumbarumba Shire residents in a similar manner to Tumbarumba Shire Council, the saving incentives presented in the merger proposal to be of benefit to residents and ratepayers across the region.

***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 Delegate stated that each Council was serving populations with similar demographics and with similar infrastructure needs. However, submissions received by the Delegate indicated that the two communities have traditionally believed themselves to be separate, with submissions from Tumbarumba Shire residents suggesting that the township feels a closer connection to areas across the Victorian border. The Report considered that the Tumbarumba Shire community feels relatively isolated, with Council facing unique challenges related to a dispersed population in a rural setting.

The Report acknowledged the difficulty in travelling between the two areas and the seasonal impacts on road safety. The Delegate noted that a new council would have the opportunity to improve transport links.

The Delegate reported that there are two communities of interest in the proposed entity. However the Report stated that a new council should not be expected to disrupt or prevent the functioning of these communities if representation and service delivery levels are maintained. On this basis, the Delegate considered that the similar demographics show evidence of a population across the region with similar needs for infrastructure and service delivery. The Delegate did not consider social differences within the two communities to be a barrier for a merger.

***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 noted that many submissions received from residents of Tumbarumba Shire detailed family history in the region dating to the nineteenth century. The Report stated it is clear that residents feel a deep historical connection to the area, and considered whether a merger of Tumbarumba Shire Council would impact upon these historical connections and values held.

The Delegate stated it was clear that the Tumbarumba Shire community holds historical and traditional values that place a large reliance on Council. As outlined in the Report, this reliance has been borne by the perception and reality of Tumbarumba Shire as an isolated community requiring community leadership. The views put forward regarding the history of the area were acknowledged by the Delegate, who stated that a newly merged entity is likely to be respectful and protective of the rich history across the region.

In considering the historical and traditional values of the areas affected, the Delegate recommended that a new council is structured in a way that maintains leadership within the community. However, the Report also noted that the strong attitudes in Tumbarumba Shire opposed to the merger proposal will likely have an impact on any implementation of a new council.

***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 noted that the feedback from the public consultation process indicated that the attitude of residents and ratepayers was one of strong opposition to the merger, with many submissions providing detailed information regarding the current level of service and representation provided by Tumbarumba Shire. The Delegate stated that it is clear that the Tumbarumba Shire community and Council are strongly opposed to the merger proposal and that this would create a significant barrier towards effective implementation.

The Delegate noted that representatives from both Councils expressed reservations about the ability of each Council to implement a merger and work with one another. The Delegate recommended this should be an important consideration for the Minister when considering whether to proceed with the merger proposal.

In considering the attitudes of residents and ratepayers of the areas affected, the Delegate stated that it would not be unreasonable to proceed with the proposal. However the Delegate concluded that the Tumbarumba Shire community is so disproportionately opposed to any merger, and this opposition will be a real barrier to the success of any merger. The Delegate considered that these

attitudes must be addressed through a campaign of advocacy and the implementation of service protections before a merger has any chance of succeeding.

***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”.*

Upon reviewing the submissions, the Delegate noted the concerns of Tumbarumba Shire residents and ratepayers regarding a potential loss of representation under a newly merged council. The Delegate considered that these concerns could be mitigated by the introduction of wards.

The Delegate also noted the importance of the role the community would have in providing input to a new council's integrated planning and reporting obligations and that this would provide a means for generating representation.

If the Minister proceeds with the merger proposal, the Delegate recommended that the new council retain section 355 committees and community groups currently utilised by Tumbarumba Shire as a means of ensuring that the Tumbarumba Shire community is represented and retains its input into the council process.

The Delegate concluded that the level of representation does not present a compelling argument against the merger proposal.

***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 Delegate outlined the two different models for service delivery and the provision of facilities in Tumut Shire and Tumbarumba Shire, with Tumbarumba providing a larger range and extent of services directly to the community.

The Report considered that absolute harmonisation of service delivery was not as important as in Metropolitan areas and that a new merged council would need to take a more flexible approach to the different markets. So as not to disadvantage residents of Tumbarumba LGA, the Delegate suggested there would need to be service level agreements and consultative community bodies such



as section 355 committees in Tumbarumba to provide feedback and input into the types of services provided and the adequacy of service provision.

***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 considered Councils' submissions and submissions from residents and ratepayers in relation to this factor.

The Delegate considered the provisions in the Act protecting the number of employees based in rural centres and concluded that any impact on employees in Tumbarumba LGA to be negligible. While concerns about the use of technology by Tumbarumba Shire Council were noted by the Delegate, the Report outlined that implementation of ICT networks and the NBN would allow a new council to introduce digital connections between the two centres, minimising the need for staff to travel.

In considering the employment impacts on staff, the Delegate determined there was no reason that concerns about employment should present a barrier to the success of a merger.

***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 Delegate noted that both Tumbarumba and Tumut Shire Councils serve the needs of rural communities throughout their Local Government Areas.

The Delegate examined economic impacts and impacts on small towns in his consideration of this factor. The Delegate concluded that a new council will be in a position, through its integrated planning and reporting, as well as broader policies, to implement procedures that could indeed increase economic activity in Tumbarumba Shire. The Report outlined that alternating council meetings between the two centres, the occasional travel of staff from Tumut to Tumbarumba, and the opportunity to make improvements to transport connections linking the two towns would all increase activity in Tumbarumba Shire.

***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”.*

The Report noted that neither Council utilises a ward structure. Tumbarumba Shire currently operates with 8 elected councillors and Tumut Shire with 7 elected councillors. As outlined in the Report, Tumbarumba Shire residents were concerned that their representation levels would reduce to two councillors under the proposal.

It was noted in the Report, that both Councils made submissions opposing the implementation of wards but that Tumut Shire recognised that the introduction of wards during implementation could appease concerns about a loss of representation in Tumbarumba Shire. The Delegate considered this view to have merit as a means of addressing representational concerns with the structure being a matter for the new council in consultation with the community

***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 reported that very few submissions referenced diverse communities with the exception of arguments related to communities of interest between the two shires.. The Delegate noted the similarities in communities between the two shires, as represented by ethnic and religious backgrounds of residents.

The Report stated that no evidence has been provided that a new council would fail to represent the views of diverse communities across the region adequately, and the IP&R process will allow a new council to elicit and consider community opinions as part of a new council’s long term planning.

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

### 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 Delegate stated that should the merger not proceed due to the challenges he identified in his Report the Councils should be encouraged to integrate closely with the Riverina Joint Organisation (JO) with the JO providing a means of improving transport and infrastructure linkages into Tumbarumba Shire.

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