
**PROPOSED MERGER OF
ARMIDALE DUMARESQ AND GUYRA 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



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 Armidale Dumaresq and Guyra 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
26 April 2016

1. Summary of Local Government Boundaries Commission comments

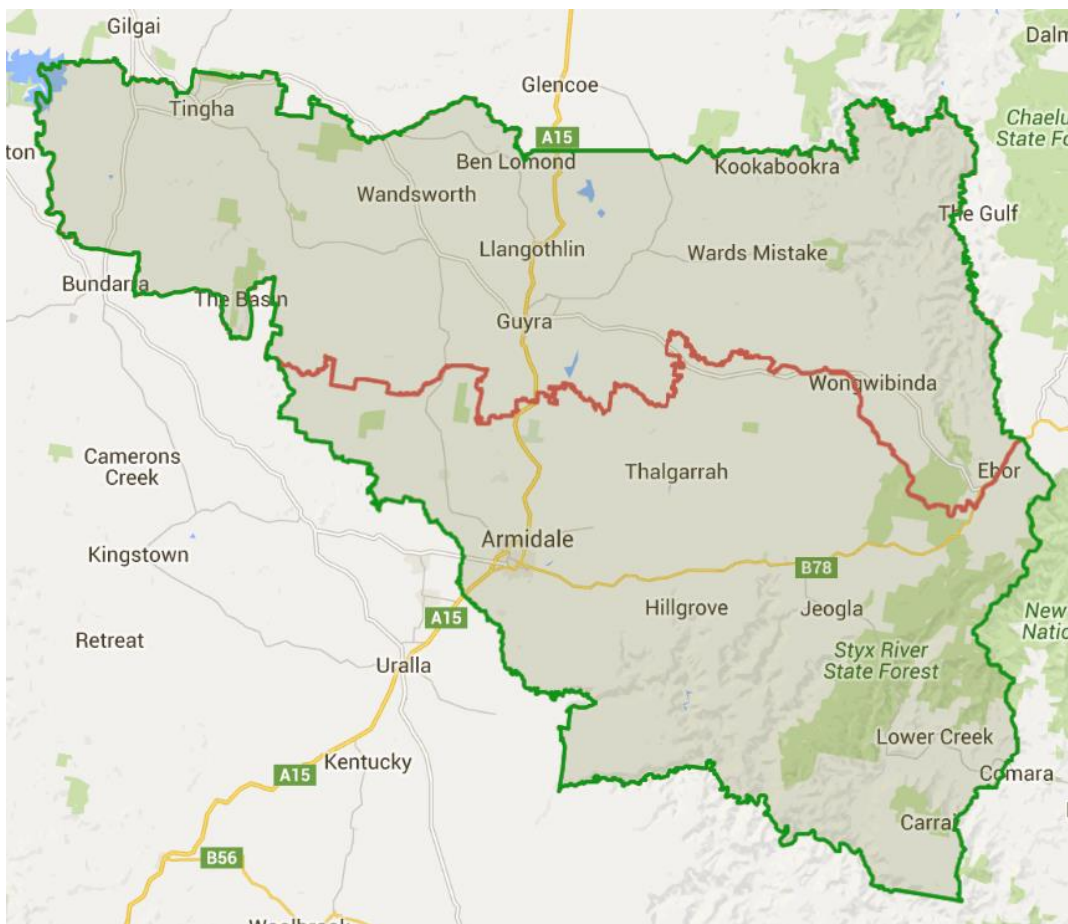
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Armidale Dumaresq Council and Guyra Shire Council to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government 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 Armidale Dumaresq Council and Guyra 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
Armidale Dumaresq Council	26,800	31,650
Guyra Shire Council	4,600	4,850
New Council	31,400	36,500

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 existing areas of Armidale Dumaresq and Guyra Shire should be merged".

Other recommendations by the Delegate are:

- *"The existing areas of Armidale Dumaresq and Guyra Shire should be ... named the "New England Regional Council,*
- *Any proposal to vary the boundaries, as proposed by the Glen Innes Severn and Inverell Shire Councils should be the subject of negotiation between those Councils and the new Council and a separate boundary variation proposal, if appropriate*
- *The new Council area should be undivided for electoral purposes,*
- *The new Council should implement a system of local committees utilising Section 355 of the Local Government Act,*

- *The Mayor of the new Council should be elected by the Councillors,*
- *An Administration Panel should be appointed to oversee the implementation and establishment of the new Council [with] one experienced Councillor from each Council, together with an independent Chair should form an Administration Panel for a period of two years to establish the processes and structures of the new Council. Fresh elections should be held after this time."*

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

The Delegate held three public inquiries on 11 February 2016, one at the Guyra Bowling and Recreation Club, and two at the Armidale City 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 the submissions addressing this factor (45%) and the principal matters raised most commonly in submissions.

The Report addressed the KPMG estimate of net financial savings of \$6 million over 20 years. It noted that the 9.5% discount factor might mean the savings estimate is conservative, but the Delegate also acknowledged the criticisms of the KPMG assumptions and the Council's argument that they already operate on a shared services basis covering 80% of back office activities, thus reducing the scope for any savings from this area.

The Delegate noted the various reviews (IPART, TCorp, Independent Local Government Review Panel) of each Council's financial position. He considered that neither Council is in a favourable long term financial position and both would require significant rating increases to support their long term viability. He also noted that their individual General Fund operations have been in deficit over recent years, and their combined infrastructure backlogs would require more than \$40 million to bring assets up to standard.

The Report further noted the significant differences in average rates between the two Council areas and stated that harmonising rates and the use of differential rating would be necessary in any merged entity.

Benefits that the Delegate noted as informing his recommendation included the \$5 million assistance package and the \$10 million in infrastructure funding. He noted that the infrastructure backlog – regardless of how it is calculated from one year to the next – is significant across the two Councils and the communities of both Council areas must suffer from the less than ideal state of infrastructure. He stated that the injection of \$10 million would significantly reduce the level of infrastructure backlog works by some 25%.

The Delegate stated that while the existing shared services arrangements and the limitations of the KPMG modelling combine to call into doubt the projected savings and efficiencies from a merger, it would be likely to generate some efficiencies in Councillor-related expenses and other areas.

The Delegate concluded there are financial advantages for the residents and ratepayers of the area from a merger between Armidale Dumaresq and Guyra Shire Council and that this is a factor in favour of the merger proposal.

The Commission's view is that the Delegate adequately considered the issues under this factor, while noting the limited analysis in the Report of economies and diseconomies of scale.

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 noted the submissions addressing this factor (48%) and the principal matters raised most commonly in submissions.

The Report noted that the city of Armidale performs the function of a regional centre for much of the northern New England region of New South Wales. The Report also noted it has the educational, medical, retail, governmental, service and transport facilities and capacity to serve the wider catchment of the New England region and it is clear that many of the residents outside the Armidale Dumaresq Council area use services and facilities in Armidale. The Delegate highlighted that both Councils submitted that they have small communities within their boundaries that identify with centres in adjoining local government areas.

The Delegate noted that the most significant difference between the two Councils commented upon in the submissions, was the issue of agriculture and rural activity. Agriculture is the largest employer industry in Guyra Shire, while education and training is the largest in Armidale Dumaresq. However, the Delegate further noted that the rural component of the Armidale Dumaresq area (i.e. the former Dumaresq Shire) was as large as the present Guyra Shire.

The Delegate stated that there are significant communities of interest between Guyra Shire and Armidale Dumaresq. However, he noted those communities of interest are not complete or consistent - within a 70 kilometre radius from the Armidale CBD, one could expect a reasonable community of interest in terms of distance travelled in a rural or regional setting. Finally he noted that a similar and equally compelling argument could be made for those areas outside of the current proposal in adjoining LGAs, in their relationship to Armidale, but these were outside the scope of delegation.

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 the submissions addressing this factor (8%). In examining the historical and traditional values in the existing area, he found this factor had not generated a great deal of material in the submissions from residents and ratepayers. The Delegate highlighted concerns related to the loss of identity and rural character were the most frequently raised matters from the few comments received.

The Report noted that Armidale is the regional centre of the district and will continue to undertake that function for the surrounding rural districts. However, many residents of Guyra Shire, the Delegate noted, are wary of losing the traditional access they have enjoyed to their Council and councillors and there could be a diminution of volunteerism if that access and support is not sustained.

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 the submissions addressing this factor (80%) and the principal matters raised most commonly in submissions. He noted that the attitude of residents and ratepayers of the areas who actively participated in the public consultation process was largely against the merger proposal. The Delegate highlighted polling undertaken by Guyra Shire Council, with a resounding ‘no’ (94.4%) in relation to a merger with Armidale. The Delegate also noted that the proportion of residents and ratepayers of Guyra Shire who participated in the consultation process (via submissions or attending the public inquiry meetings) was much higher than for Armidale Dumaresq, and that the Guyra residents were much more strongly opposed to the merger.

The Report noted that a small number of submissions did support a merger and a further small number of submissions expressed views that the current proposal was not the optimal option, favouring a four-way merger between Armidale Dumaresq, Guyra Shire, Uralla Shire and Walcha Councils (including the Armidale Dumaresq Council itself).

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 Delegate noted the submissions addressing this factor (44%) and the principal matters raised most commonly in submissions. The Delegate noted the proposal, if implemented, would change the representation ratios, compared with those currently applicable at each of the existing councils. The Delegate noted the higher representation ratios for the residents of the current Guyra Shire, and because of the much smaller population of the existing Guyra Shire, the Delegate noted that in a merged Council, the residents of the current Guyra Council area may only be ‘represented’ by one or possibly two councillors.

The Report noted the concerns that in a merged council there could be an imbalance between rural residents/electors and town based residents/electors, leaving the rural communities largely unrepresented. The Delegate highlighted the potential of section 218C(2)(b) of the Act to provide for *“...the continuation in office, as councillors of any area constituted by the proclamation, of any or all of the councils or any area dissolved by the proclamation”.*

The Delegate expressed his belief that there should be nine councillors in the merged council (giving a representation ratio of 1 councillor for every 3,327 residents). He argued that an odd number of councillors reduced reliance on Mayoral casting votes and nine is a manageable number. The Delegate recommended that the Mayor be elected by the councillors (as currently the case in both Councils) and that a new Council should implement a system of local committees under section 355 of the Act.

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 noted the submissions addressing this factor (50%) and the principal matters raised most commonly in submissions. The Delegate noted that the existing councils provide a differing range and standard of services and have different costing structures in providing those services.

The Report noted that the submission by the Guyra Shire Council identified a number of services that it provides to its community that Armidale Dumaresq Council does not currently provide, particularly in the areas of children’s services and aged care (through the Kolara facility). However, the Report also noted community services provided by Armidale Dumaresq Council that are not currently provided by Guyra Shire Council, for example, dedicated co-ordination positions in the youth and indigenous areas.

The Delegate noted Guyra Shire Council’s concerns about the future of the library in Guyra and centralised decision making in the event of a merger. The Delegate considered the matter of centralised decision making will be an issue in most areas of service provision and will be dealt with by the longer term decision making of any new Council. The Delegate considered a comparative cost of services per capita for the two Councils.

The Delegate concluded that the range, standard and pricing of services cannot be ‘frozen’ for extended periods of time (noting the Minister’s freezing of rates for four years), and that any new merged Council should deal sensitively with the issue of harmonisation, centralisation or abandonment of services through effective community consultation.

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 the submissions addressing this factor (30%) and the principal matters raised most commonly in submissions. He noted the submissions relating to concerns about employment impacts and stated his view that if the proposal is implemented the existing protections in the Act mitigate against substantial negative impact on employment of staff by the council.

The Delegate made particular reference to the provision in the Act requiring merged councils to ensure that the number of regular staff positions in rural centres with a population of 5,000 or less is maintained as far as is reasonably practicable, and the impact on Guyra Shire. He also noted that wage harmonisation will be necessary in a post-merger council. The Delegate considered that section 218CA of the Act should protect Guyra from major job losses, mitigate concerns regarding work health and safety issues, as well as minimise concerns about responsiveness and travel time for working crews.

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 the submissions addressing this factor (31%) and the principal matters raised most commonly in submissions. He noted submissions that many rural Guyra Shire residents feel that they will be disadvantaged by a merger with Armidale Dumaresq due to that Council’s lack of understanding of or empathy with rural issues. Despite some examples being provided of deterioration in standards in the former Dumaresq Shire area, the Delegate stated his belief that there would be examples where those residents now enjoy access to a broader range and higher standard of services as a result of that merger.

The Delegate concluded that:

“In the event of a merger it will be incumbent on the residents of the Guyra Shire – as it is for the residents of the former Dumaresq Shire – to be actively engaged in the processes of elections, community consultations and participation in order to secure their outcomes and to influence any new Council, regardless of the background of the councillors”.

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 Delegate noted the submissions addressing this factor (8%) and the principal theme that electoral wards are not supported. He noted that neither Guyra Shire Council nor Armidale Dumaresq Council supports the implementation of a ward-based electoral system for any merged

entity, nor do they currently utilise a ward system, although he understood that Guyra Shire had a three ward system prior to the 2012 election. The Delegate also noted that the issue is not one that has generated any real commentary in the broader base of submissions, although the Guyra branch of the NSW Farmers' Federation did express its reservations on the division of an area into wards.

The Delegate stated that, given the relatively sparse population patterns in rural areas, it is unlikely a ward-based system would offer the types of representational outcomes that many residents seek.

The Delegate recommended that in the event of a merger, the new Council not have wards.

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 few submissions addressed this factor other than in relation to the rural/urban divide issue (12%). The Delegate considered the Aboriginal and Torres Strait Islander and Language Other Than English proportions of the population, as well as the 'rural/urban divide' raised in submissions. He concluded it would be important for the new council to manage a diversity of communities within its boundaries. The Delegate noted that mechanisms such as section 355 committees under the Act may provide a means of managing that diversity and securing some influence in small communities.

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 noted the submissions addressing this factor (17%) and the principal matters raised most commonly in submissions. He noted that Armidale Dumaresq Council submitted its own proposal to the Minister for Local Government in March 2016, seeking the merging of its own Council with the three rural shires of Guyra, Uralla and Walcha.

The Delegate also noted two submissions from adjoining Councils calling for boundary variations, but concluded that these are best dealt with at some later time.

The Delegate noted the issue of strategic capacity and advocacy, as well as commending Guyra Shire Council for seeking efficiencies while maintaining its close relationships with its community through its councillors.

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

The Commission notes that the name of a new council and the suggested boundary adjustments are matters for the Minister.