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**PROPOSED MERGER OF  
BLAYNEY SHIRE, CABONNE AND ORANGE 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**

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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 Blayney Shire, Cabonne and Orange 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  
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 Blayney Shire, Cabonne and Orange City Councils 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 Blayney Shire, Cabonne and Orange City Councils 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 three councils.

Council	2016	2031
Blayney Shire	7,400	7,800
Cabonne	14,050	16,450
Orange City	41,250	46,250
New Council	62,700	70,500

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 are required to examine and report upon each merger proposal rigorously and fairly. The examination process includes Delegates calling for submissions and holding a public inquiry on each proposed council merger. Delegates are to prepare 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:

*“The merger proposal will significantly enhance scale and capacity beyond that which the three councils acting individually could ever achieve, with potentially very significant benefits to the region and its residents and ratepayers. Consequently, **it is recommended** that the merger proposal proceed.”*

The Delegate also made the following other recommendations:

1. *“That the new council carefully consider the existing cash holdings brought to the new council by the constituent councils and seek equity in expenditure of those holdings.*
2. *That the new council ensure some geographic equity in the expenditure of the Stronger Communities funding of \$15m to be provided by the NSW Government, possibly proportionate to the relative population share of the constituent councils.*
3. *That the new council sets up a strong network of town and village committees under Section 355 of the Local Government Act to drive strategic planning and key service delivery in its towns and villages and that the role be formally recognised in the council’s Integrated Planning and Reporting Framework.*
4. *That there be 12 councillors on the new council.*
5. *That if an interim council is established to oversee transition to a new council, it be comprised of 8 members, comprising 2 from Blayney, 2 from Cabonne and 4 from Orange.*
6. *That the new council commit to holding council and council committee meetings throughout the new council area, not just in the civic centre.*
7. *That the merger proclamation specify that two councillors from the new council be appointed to the governing body of Central Tablelands Water to enable its continued operation.*
8. *That the new council area not be divided into wards.*
9. *That the merger proclamation specify the name for the council to be “Orange Regional Council”.*
10. *That the new council assess the reasonableness of requests for boundary adjustments relating to Yeoval, Eugowra and Canowindra in consultation with the relevant communities and neighbouring affected councils.”*

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

The Delegate held three public inquiries at the Blayney Bowling Club and Orange Ex-Services club on Thursday, 4 February 2016 and at Molong RSL Club on Friday, 5 February 2016.

***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 believes that the Report shows that 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 stated that in his view it is clear that the financial impacts of the merger proposal are very important and there would be no point implementing a merger proposal if it moved residents and ratepayers backwards from a financial point of view.

In addition to the KPMG analysis included in the merger proposal, the Delegate also considered additional information sourced from other publicly available sources.

The Report noted that the 2013 assessments of councils' financial sustainability undertaken by the NSW Treasury Corporation (T-Corp) found that all three councils were assessed as having either a Moderate or a Sound Financial Sustainability Rating (FSR). However all three councils also recorded a worsening outlook (calculated on short term projected FSRs), with Blayney Shire Council recording a Weak Outlook and Cabonne and Orange City recording a Moderate Outlook.

Also in 2013, the Division of Local Government undertook an infrastructure audit of all councils in NSW. Blayney, Cabonne and Orange were assessed as Weak, Moderate and Moderate respectively. The Delegate noted there is significant expenditure required to bring basic infrastructure in the three Councils up to a satisfactory standard. The Minister's merger proposal assesses this infrastructure backlog at \$27 million.

The Delegate noted that in 2015 IPART assessed councils under the Fit for the Future criteria and found that all three councils satisfied the financial criteria overall (relating to financial sustainability, infrastructure and service management and efficiency), however they did not satisfy the scale and capacity criteria. IPART also indicated that it had assessed the benefits of a merger of Orange and

Cabonne at \$25 million over 20 years (including Government grant) and that the inclusion of Blayney would result in even higher benefits.

The Minister's merger proposal indicates the potential for a \$49 million benefit from the merger proposal over 20 years based on net financial savings of \$29 million (based on KPMG modelling), in addition to a Government funding package of \$20 million comprising \$5 million to manage the merger transition and \$15 million to invest in community infrastructure projects.

The Delegate noted that Cabonne Council had prepared a rebuttal of the assumptions on which the KPMG savings were calculated, and used different assumptions to argue that the merger could at best result in savings of \$8.2 million over 20 years or a potential additional cost of \$21.3 million if projected efficiencies are not realised. The Delegate noted that this approach was consistently disallowed by IPART in its Fit for the Future assessments (including its assessment of the Morrison Low modelling for the Orange-Cabonne merger proposal) on the basis that any increase in staff numbers and costs is linked to an increase in services, which represents an offsetting benefit to the community

The Delegate also noted that fears of extravagant rate rises are unlikely to eventuate given that Councils must prepare and consult publicly on their Operational Plans, which would include comment on any rate increases and that the IPART already plays a role in in setting rate pegging limits and scrutinising applications for special variations beyond the set limit.

The Delegate concluded that the financial impacts of the proposal are likely to be significantly beneficial, in all probability to a similar extent to those identified in the merger proposal, and that there are adequate mechanisms in place at both the local and State level to ensure that any rate increases (beyond the four year moratorium period) are not exorbitant.

However he noted that In order to ensure that the financial benefits of the merger proposal are realised with benefits to the maximum number of residents and ratepayers of any new council and in an equitable way, it is recommended that any new council:

- carefully consider the existing cash holdings brought to the new council by the constituent councils and seek equity in expenditure of those holdings.
- ensure some geographic equity in the expenditure of the Stronger Communities funding of \$15 million to be provided by the NSW Government should the merger proceed, possibly proportionate to the relative population share of the constituent councils.

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

*The Commission notes that the recommendations made by the Delegate regarding cash holdings and the Stronger Communities Fund are directed to the new council rather than to the Minister, and are therefore outside the scope of the Delegate's legislated responsibilities.*

### 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 defined community of interest as “... a geographically connected population which shares common social and economic interests”. He noted the Minister’s merger proposal considered that the three communities the subject of the merger proposal are bound by their sense of place in the Central West region of the state and are connected through both cultural and sporting ties.

However, the impact of the merger proposal on existing communities of interest was raised in 40% of written submissions and was a dominant theme at the public inquiry meetings. Key points raised opposing the merger included that Blayney and Cabonne are rural communities made up of small towns, villages and farming precincts and as such their interests are divergent from those of a city environment such as Orange; and that the high rates of volunteerism evident in Cabonne (in particular) in running facilities such as pools, showgrounds and community halls is evidence of a unique community of interest which risks being lost in any larger merged council.

Views raised supporting the merger included that there are many shared interests across the region, particularly economic, and that people in Blayney and Cabonne are heavily reliant on facilities and services in Orange. The Council submissions noted strong levels of economic and commercial ties in relation to employment opportunities and business activities.

The Delegate considered the strong economic ties and connections between the three councils, as evidenced by workforce participation statistics in particular, and that that socio-economic indicators suggested significant similarities in the populations of all three Council areas. He noted that if there needs to be sufficient similarity between the people that make up the three councils areas for it to come together as a cohesive unit, then that does appear to exist. He further noted that it is clear that residents of Blayney and Cabonne are strongly reliant on Orange for higher order health, education, retail and entertainment facilities.

The Delegate concluded that the joining of the regional service centre (Orange) with the rural areas of Blayney and Cabonne will give the region its best opportunity to compete with centres such as Bathurst and Dubbo, and on this basis the merger proposal is strongly recommended.

The Delegate said that there appeared to be a natural “fit” in relation to geographic cohesion and regional connectedness of the three councils. They currently function, with administrative boundaries in place, as a strongly coherent geographic unit from economic and social standpoints.

The Delegate concluded that the merger proposal will enable existing communities of interest to continue and potentially strengthen and there was no reason for the merger proposal to not proceed under consideration of this factor. He further expressed a view that the geographic cohesion of the area will be strengthened by a merged council.



***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 the impact of the merger proposal on historical and traditional values was only raised in about 8% of submissions. Themes raised varied but included the shared history of towns and villages in Cabonne and the historical value of some of the smaller communities in the LGA. All three areas have backgrounds in mining and farming and all three have shared cultural values and concerns. Also mentioned were volunteer groups who regularly hold local cultural events that have become mainstays of the community. Conversely, those for the merger suggested there are similar and shared historical and traditional values between the three LGAs.

The Delegate stated that, in his opinion any concerns that a merger will result in the erosion of heritage protections were not well founded. While acknowledging that a merged entity will eventually need to move to a single local environmental plan, this would provide an opportunity for a community consulted process where existing heritage protections (and potentially expansion of heritage protections) could be carefully considered.

Overall, the Delegate concluded, there is considered to be no impediment to the merger proposal proceeding on the basis of historical and traditional values.

***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 reported that the views of the Councils affected by the merger proposal, as expressed in their written and verbal submissions, is overall acceptance of the merger by Blayney and Orange councils, despite their continued stated preference to stand alone if that were possible, and strong opposition to the proposal by Cabonne Council. This pattern was also reflected in the overall submissions received.

The Delegate noted that the total number of people who participated in the public inquiry (413 attending public meetings and 289 making written submissions – even allowing for some duplication in these numbers) represented only 1.12% of the total population of the three council areas.

The Delegate reported on the findings of Councils' surveys, which were included in their submissions, noting that the surveys confirmed the experience at the public meetings – that there was significantly more interest in the merger proposal in Cabonne LGA than Orange LGA and

predominantly opposition from those who participated. The Delegate noted that 70% of households in the Cabonne survey did not return surveys – indicating perhaps that they do not hold strong views one way or the other on the matter.

The Delegate expressed the view that the attitude of residents and ratepayers is a key consideration in the examination of this merger proposal – but it should be made clear that it is not the only consideration. He noted the concerns behind the attitudes - potential loss of services, employment and electoral representation, and the fear of increased rates - could be addressed by an enlightened merged council acting in the interests of its constituent communities.

***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 that the merger proposal, were it to proceed, would significantly alter the pattern of elected representation in the area, with a lower ratio of councillors to residents and ratepayers across the area. Blayney and Cabonne currently enjoy a representation ratio of about 1:1000 which would increase to 1:5200 in the newly merged entity.

The Delegate noted this as an issue raised by Cabonne Council with the Cabonne area likely having 2-3 councillors on a 12 councillor chamber and Blayney 1-2 councillors, with Orange having up to 8 councillors. Those submissions that addressed this issue felt they will have less input into council decision making and that this will manifest itself as a reduction in services in their area.

The Delegate conceded that there is a risk that this will occur. However, he noted that one way of dealing with the reduction in electoral representation is to strengthen the role of town and village committees. The Independent Local Government Review Panel (2013) considered that this kind of place management approach was one of the more effective ways of dealing with the electoral dilution of representation which occurs with council merger proposals.

The Delegate stated that councillors representing larger numbers of voters will inevitably have an increased scale and capacity to advocate on behalf of their constituents with partners outside local government, including state and federal governments.

The Delegate further recommended that the number of councillors in the new council be set at 12, and the issue of whether to have a popularly elected mayor be decided by the new council. He further recommended that if an interim council is established, the numbers of councillors be set at two from Blayney, two from Cabonne and four from Orange. While this is not proportionate to the

likely final composition of the council, he argued that it would give the city and rural areas equal representation in the establishment phase which is considered important, and that any new merged council commit to holding council and council committee meetings throughout the new council area.

***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 that public submissions to this inquiry often expressed a concern that service provision would decline under a merged entity. He quoted figures supplied by the Office of Local Government that showed expenditure per capita was relatively similar across all three LGAs.

The Delegate stated that there is no reason why existing service levels should not be at least maintained and more likely improved by a merged council, as a larger council would be in a better financial position to improve service delivery and resolve infrastructure backlogs than each council operating on its own. However he stressed that the provision of services to the more remote towns and villages in the new council area must, at least in the short term, continue to use and build on the considerable social capital that been established in both Cabonne and Blayney in the provision of community services and facilities.

The Delegate also noted the need to address the potential for subsidisation of services to rural areas by Orange residents, and to ensure the continuing operation of Central Tablelands Water (CTW) which currently provides water and sewerage services to Blayney and Cabonne.

The Delegate concluded that service delivery will benefit from the injection of the financial savings detailed in the merger proposal into infrastructure and core services – but should continue to draw on the existing community service network in the more remote parts of the new council area for both economic and social reasons.

***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 reported that the dominant theme in submissions received was that the loss of any council jobs, particularly in smaller centres, would have very significant impacts on those small towns and villages where council jobs are the lifeblood of the communities.

He further noted that while these concerns are legitimately expressed and strongly felt, the Delegate noted it should be clearly recognised that there are very significant protections in the Act which are designed to limit these impacts, and that there are potential opportunities for staff in a newly merged council for professional development and to operate within a bigger and more strategic setting. On this basis, the Delegate did not accept that the staffing impacts of the merger proposal, either in the three year start up period, or for smaller centres in the longer term, will be such that the merger proposal should not proceed.

***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 39% of written submissions raised concerns regarding the impacts of the merger proposal on rural communities including that rural concerns would not be fully understood in a ‘city-centric’ council and that the loss of employment would have a detrimental effect on small towns and visitors.

However, the Delegate considered the impact of the proposal on rural communities in the area to be manageable and potentially positive as a result of significant opportunities for investment in additional infrastructure and services for rural communities as a result of the financial benefits of the proposal, and the potential for any new council to build on the social capital that has been developed and the strong volunteering ethic that exists in rural towns and villages toward the provision of services.

In conclusion the Delegate stated the merger proposal is acceptable in terms of its impacts on rural communities in the area.

***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 indicated that the provision of wards was not raised as a significant issue except as a suggested method of overcoming any perceived imbalance in electoral representation. None of the three councils recommended the introduction of a wards system, with the predominant view being that they encourage parochial decision making and would do little if anything to address the representation issue which is of concern in the rural hinterlands.

The Delegate recommended that in the event that the merger proposal proceeds, the new council area not be divided into 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 reported that this was not a significant issue raised in submissions, with only about 4% of written submissions referring to diverse communities in the context of the unique history and make-up of individual villages.

The Delegate concluded there is nothing in the merger proposal that is inimical to representation of diverse communities and that in fact the opportunity to create a regional scale council has considerable potential to be of benefit.

***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”.*

The Delegate noted three additional matters for consideration in determining the impact of the merger proposal.

- **Strategic capacity**

The Delegate stated that one of the key motives for the reform of local government and perhaps the key motive for the program of council mergers, is to ensure that councils are relevant and able to participate as equal partners with state and federal governments in the big decisions regarding regional infrastructure projects, funding programs and regional leadership. As the new council would represent a regionally significant population of 62,616 people, with an asset base of \$1.2 billion, it is only logical that state and federal governments would be more receptive to the role a merged council could play in determining regional priorities.

The Delegate stated that in his view, it is therefore unquestionably the case that a merger will be of immense benefit to the residents of Blayney, Cabonne and Orange from a strategic capacity viewpoint.

- **Name of the New Council**

The Delegate considered views on both sides but recommended that the new entity be called Orange Regional Council as this provided the best option for regional recognition and identity building.

- **Boundary Adjustments**

A number of boundary adjustments were suggested during the submission process which the Delegate recommended for review by any new council in consultation with the relevant communities and neighbouring councils at the appropriate time.

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

*The Commission notes that the name for a new council is a matter for the Minister.*

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