
**PROPOSED MERGER OF
CONARGO SHIRE AND DENILQUIN 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 Conargo Shire and Deniliquin councils

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

Yours sincerely

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

RJ Sendt
Chairperson
22 April 2016

1. Summary of Local Government Boundaries Commission comments

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

The Commission has assessed that:

- the Delegate's Report shows that the Delegate has undertaken all the processes required by section 263 of the Act,
- the Delegate's Report shows that the Delegate has adequately considered all the factors required by section 263(3) of the Act, with the exception of the factors listed under subsections 263(3)(e4) (wards) and 263(3)(e5) (diverse communities), 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 Conargo Shire Council and Deniliquin 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
Conargo Shire Council	1,650	1,700
Deniliquin Council	6,900	5,700
New Council	8,550	7,400

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:

"Having considered the merger proposal, the submissions presented to me by the affected councils, the submissions from members of the public and community groups and other material, and having regard to factors set out in section 263(3) of the Act, I consider the proposal should proceed to implementation."

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

The Delegate held two public inquiries on Tuesday, 2 February 2016 at the Deniliquin Golf 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, with the exception of wards and diverse communities.

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

The Commission makes the following comments relating to each factor:

5.2.1 Financial factors

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

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

The Delegate estimated a range of financial indicators for the proposed new council based on 2014-15 financial data, and compared these indicators against category 10 averages (based on data from the Office of Local Government).

The Report compared average rates between the Councils and estimated average rates for the merged council, noting that the merged council will have averages somewhere between the two current councils' averages. The Report also noted the NSW Government's policy of freezing rate paths for merged councils and recommends that the new council, if formed, should adjust rate levels over time.

The Delegate noted the savings estimated in the merger proposal including \$27 million over 20 years for the merged council and \$500,000 per year from 2020 onwards. The Delegate stated that these savings may be conservative as there may be greater savings through overheads reduction and staff attrition.

The Delegate also noted that the proposal document stated costs associated with the proposed merger will be surpassed by accumulated net savings after 7.5 years.

The Delegate acknowledged submissions from Conargo Shire Council area residents showing concern regarding cross-subsidisation from current Conargo Shire Council rates income to Deniliquin Council areas. The Delegate noted that cross-subsidisation is a feature of all government activity and that much of Conargo Shire Council's income is in the form of grants, which originate from outside the Council's area.

The Delegate also noted the Deniliquin Mayor's submission that both councils are in strong financial positions and a merged entity would have greater capacity to address infrastructure backlogs.

The Delegate concluded that the proposed merged entity would achieve every financial performance benchmark and half the infrastructure performance benchmarks. The Delegate suggested that infrastructure performance should be a focus of the new entity, if formed.

The Delegate summarised the financial advantages of the merger, including strong financial performance, good levels of cash and investments, less reliance on Federal Government funding, potential savings and access to merger implementation funding, capacity to improve asset and infrastructure management and avoiding duplication of back office services, to the benefit of front-line services.

The Delegate also summarised financial disadvantages of the proposed merger, including that some ratepayers may face increased rates (although this will be lessened in the short term by virtue of current Government policy in the short term and provisions in the Act).

The Commission's view is that the Delegate adequately considered the issues under this factor, while noting no specific discussion 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 Report noted that the two Council areas share similar attributes including agriculture based economies, low population densities, shrinking employment opportunities, above state-average unemployment rates, an ageing population, and mental health and drug issues in the community.

The Report also noted that Deniliquin is an important regional centre for both communities, and that the Conargo Shire Council offices and depot are in Deniliquin

The Delegate noted submissions stating that:

- there are other centres that are equally important to the Conargo area such as Hay, Swan Hill, Jerilderie and Finley
- Conargo Shire is an agricultural community with different needs and attitudes to the town-based community of Deniliquin, and

- the prosperity of both areas was dependent on each other, and a merger would give the region a stronger voice to higher levels of government given that the key issues facing the two councils are common agricultural issues.

The Delegate concluded that Deniliquin is an important regional centre with strong connections to the surrounding Conargo Shire, and that the consideration of communities of interest and geographic cohesion does not impede the proposed 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 Report described the history of the two Council areas. The Delegate highlighted submissions from Conargo Shire ratepayers that some residents have had their lands passed down through generations, and in some cases that families have served as councillors for generations. The Delegate also highlighted Deniliquin Council's submission that the areas work together and that the history of the area has never been confined to local government boundaries, but rather is recognised as being one and the same.

The Delegate concluded that the Conargo and Deniliquin communities share common and historical and traditional values, the development and interpretation of which could be enhanced by a proposed new council following a merger.

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 there was a distinct difference in support for the merger between submissions received from Deniliquin and Conargo residents and ratepayers, and highlighted that:

- Conargo Shire Council undertook self-selected surveys in 2014 and 2015 which reported, respectively, that 92% and 96% of residents opposed any merger;
- a petition of 403 signatures provided by Conargo Shire Council opposed the proposed merger;
- many submissions stated that they opposed a merger (for various reasons)
- Deniliquin Council's submission stating that consultation relating to Integrated Planning and Reporting, and previous merger proposals showed the Council's residents support the proposed merger.

The Delegate encouraged the newly formed council, if formed, to conduct a public information campaign regarding the merger. He also encouraged the new council to engage with remote communities and villages and continue supporting existing committees formed under section 355 of the Act.

The Delegate acknowledged the issue of “bigger is not always better” raised in submissions, but also discussed the benefits of the proposed merger including improved strategic planning and infrastructure delivery, more favourable purchasing agreements, better funding of section 355 committees, better access to skilled staff, and more effective communication with State and Federal Governments.

The Delegate concluded that community attitudes do not impede the proposed merger.

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 compared the representational ratios for Conargo Shire, Deniliquin, and the proposed new council. The Delegate notionally considered eight councillors for a new council, noting it would be a matter for the new council to shape how it is structured, including the appropriate number of elected councillors. The Delegate also compared representational ratios for four similar representative councils. The Delegate noted the comparison shows that the ratio for the proposed merged council is significantly higher than the current Conargo Shire Council, and similar to current ratios for Deniliquin and the four other representative councils selected.

The Report noted that the current population to councillor ratios were 1:192 in Conargo Shire and 1:1,062 in Deniliquin Shire, with a new merged council having a ratio of 1:1,122.

The Delegate noted submissions from Conargo residents expressing concern regarding the level of representation they would receive should the proposal be implemented. He noted the submission from Conargo Shire stating that a low ratio of residents to councillors is appropriate due to the vastness of the shire and the need to attend meetings and events in different centres. The Delegate also noted the submission from Deniliquin Council stating that three Conargo Councillors reside in Deniliquin and would thus be well placed to represent both town and rural residents, and indicating Deniliquin Council’s support for an expanded committee structure to represent villages within the current Conargo Shire.

The Delegate concluded that the impact of the proposed merger on representation is not sufficient to impede the proposed merger. He also concluded that negative impacts on representation could be mitigated by committees set up 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 Report compared expenditure per capita across nine different service categories for Conargo Shire, Deniliquin, the category 10 average (used by the Office of Local Government (OLG)) and estimates of the proposed merged council.

The Delegate noted the differences in per capita expenditure between Conargo Shire and Deniliquin Councils. He also noted that the proposed merged council would bring expenditure per capita closer to the OLG category 10 averages.

The Delegate discussed submissions from the two merger councils and the residents and ratepayers, and concluded that taking a whole-of-area approach to service delivery and asset management will be essential to ensure remote localities continue to receive the level of service they currently enjoy. The Delegate noted that given the potential to use improved operating performance to fund enhanced service levels, he did not see concerns regarding this factor as an impediment to the proposed merger.

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 Report described the employment protections under the Act. The Delegate considered submissions received, including from both Councils, and noted that:

- concerns raised regarding job losses are addressed by employment protections under the Act,
- the KPMG modelling assumes no net staff reductions from regional council mergers,
- as stated by Deniliquin Council, both Councils have existing vacancies that a merger may assist in filling and that the proposed merger may provide a new council with a strong effective workforce, and
- natural attrition will enable workforce flexibility.

The Delegate concluded that given the employment protections under the Act, this factor does not impede the proposed 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 described factors that impact on rural communities such as the size of the new council area, distance from the main administrative centre to outlying towns and villages, and provision of essential services that are difficult to access in remote communities.

The Delegate noted that the Conargo Shire Council offices and works depot are currently situated in the Deniliquin township and concluded there would be little change in service delivery and access to offices if the proposed merger occurs.

The Delegate suggested the proposed new council consider providing service centres in the area's more remote villages.

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 that Conargo Shire Council is currently divided into four wards and Deniliquin Council has no wards, and both Councils' submissions opposed wards in a merged council.

The Delegate concluded that, given the distribution of population over a large council area, there is little value in dividing the proposed merged council into wards.

The Commission's view is that the Delegate did not adequately consider 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 stated that the proposed merged entity would be able to identify the needs of diverse communities through its initial Community Strategic Plan implementation. He also stated that the use of committees under section 355 of the Act allows diverse communities a degree of autonomy and representation (as supported by Deniliquin Council). The Delegate noted that Conargo Shire Council's submission was sceptical of the value of community boards.

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

5.2.11 Other issues

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

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

The Delegate discussed the issue of strategic capacity, and listed ways in which a merged council could use increased capacity, listing regional priorities that are simplified by channelling delivery through the merged council.

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