
**PROPOSED MERGER OF
DUBBO CITY AND WELLINGTON 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 Dubbo City and Wellington 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' in a cursive style.

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 Dubbo City Council and Wellington 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 factor required by subsection 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 merger proposal

On 6 January 2016, the Minister for Local Government referred a proposal to merge the local government areas of Dubbo City Council and Wellington 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
Dubbo City Council	41,950	46,500
Wellington Council	8,750	8,100
Merged Entity	50,700	54,600

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 Dubbo City Council and Wellington Council merger proposal proceed."

The Delegate also recommended that:

- *"the provisions of 218CA of the Act be applied to the Wellington rural centre, given its near compliance with the 5,000 population threshold and so that existing local employee positions could be preserved as much as possible.*
- *there remain a substantial, continuing staff presence in the Wellington administration office as well as continuity of local outdoor staff employment as occurs at present in the Wellington LGA."*

The Delegate also stated in the chapter related to “Other Issues”:

- *“Should this merger proceed, it would be recommended that careful consideration be given to altering the merger boundary and transferring the southern villages of Stuart Town and Euchareena to Cabonne Council.”*

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

The Delegate held two public inquiries on 4 February 2016 at the Wellington Soldiers Club and Club Dubbo.

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 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 stated that:

“... if one accepts the KPMG financial assumptions as outlined in the merger proposal document, and recognising that a 9.5 per cent nominal discount rate, or “safety factor”, was applied to financial projections, the estimated merger savings are expected to be \$17 million over 20 years, with the analysis showing the proposed merger was expected to generate an average of around \$1.5 million in savings annually from 2020. This is considered a sufficient reason for the merger to proceed, being of significant benefit to the communities.”

The Delegate then considered the infrastructure backlog of the two Councils, noting the IPART assessment that each Council satisfied the criteria of infrastructure and service management, as well as other financial criteria for sustainability and efficiency. The Report concludes from this that the merger should not give rise to any negative factors in this respect.

With regard to rates, the Delegate noted that “a merged council would have the ability to establish differential rates to militate against excessive rate increases or decreases in the various rating catchments. Emphasis of rating could then be amended over time in light of service delivery and facilities audit outcomes.”

The Delegate considered that a merged council would have the necessary capacity to provide an acceptable level of service with regards to road construction and maintenance. The Delegate concluded:

“In financial terms, the merging of the councils provides a better long term solution for the communities than to maintain the status quo. The financial advantages of the proposal outweigh perceived disadvantages as has been suggested in the foregoing discussion and which became evidence in the examination process. ... A new merged, larger council is considered a better and more optimal solution. While there may be some short term challenges, a new council will have financial strength and capacity to benefit the broad communities it would represent.”

The Commission’s view is that the Delegate adequately considered the issues under this factor, while noting the limited analysis of issues raised by submissions.

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 stated that the community of interest and geographic cohesion of the LGAs is underscored by the reliance of Wellington Council residents on Dubbo, which is a major service centre. The Delegate noted that public inquiry presenters and some submissions acknowledged significant sporting, social and cultural linkages in addition to the economic connectivity of each area.

With regard to the geographic cohesion of the region, the Delegate considered that:

“The geographical size of the Wellington LGA and the location of some villages mean that outlying villages and some farmland areas have varying communities of interest. For example, the village of Geurie is 29 kilometres from Dubbo whereas Euchareena village is 103 kilometres from Dubbo, but only 43 kilometres from Orange”.

The Report stated that the geographic cohesion between the two LGAs has been interwoven by history and time into a present day general acceptance that the region of Orana is inclusive of Wellington Council and Dubbo Council. One submission considered in the Report argued that a benefit of a merger would be the consolidation of utilities already used jointly by the councils through mutual understandings, agreements and joint operational alliances.

The Delegate concluded that *“Due to the relatively close proximity of the two LGAs, the ease of access and extensive existing areas of connectivity, the positive community of interest and geographic cohesion is conducive to ensuring the merger proposal, if implemented, would be successful.”*

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 stated that a small number of presenters and submissions addressed this factor, and then provides a brief history of the two council areas, noting that:

“The WC submission acknowledged that Wellington and Dubbo had a shared history through agriculture while recognising that farms in Wellington LGA, particularly to the east and south, also utilised Orange city as a supply base.”

The Delegate also noted Dubbo City Council’s submission.

The Delegate concluded that each local government area had strong past agricultural linkages, and linkages to the Aboriginal Wiradjuri nation. Given this shared history as expressed by the Delegate, the Report stated *“similarities in history and tradition are self-evident”*.

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 dominant attitude of those engaging in the examination process was that each council should continue to stand alone. This view was evidenced by claims that Dubbo City was in a sound financial position and Wellington was only assessed as not fit for the future on the basis of not fulfilling the scale and capacity criterion. As stated in the Report, “Dubbo based submissions revealed a perception and conveyed a prevalent attitude that its ratepayers should not be required to ‘prop up’ or subsidise the Wellington LGA”.

The Report noted that Dubbo undertook a survey to gauge public opinion on the proposal, which attracted 1,526 responses and gave results of 79 per cent against the proposal and 21 per cent in favour. However, the Delegate stated that the survey was a self-selected survey rather than a random sample and could have been completed by persons not residing in the LGA.

The Delegate concluded:

“There were views both for and against the proposal with a variety of attitudes being primarily emotive, and expressing concerns about perceived possible negative outcomes if the merger proposal was implemented. The alternative and also reasonably well supported view was that it was time for the two councils to merge to enhance the likelihood of a stronger council and region better able to provide a reasonable level of services and facilities, and to meet future rural and regional challenges.”

The Commission’s view is that the Delegate adequately considered the issues under this factor, while noting the limited analysis of issues raised by submissions.

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”.

It was noted in the Report that Dubbo Council has 11 elected councillors and population per councillor of 3,725, which is less than its council group average of 4,097. WC has nine councillors

with 995 electors per councillor, marginally more than its council group average of 840. The merger proposal suggests a merged council comprising 11 councillors which would equate to a ratio of 4,602 residents per councillor.

The Delegate further stated that concern was expressed in submissions about the number of representatives from Wellington on a merged council and that these councillors would "... therefore have very little input into future decisions impacting Wellington and its district". The Delegate further noted that projected population declines in the Wellington area and projected population increases in the Dubbo area could further impact upon future elected representation.

The Delegate concluded that a substantial majority of elected representatives should come from the Dubbo area given that in excess of 80 per cent of electors of a merged council would be former Dubbo City electors. The Report stated that:

"The proportional representation system of voting which provides for a quota system and enables election of minority populations and groups should however provide some representation for the Wellington area presuming that voters supported local candidates ... It is considered that an undivided area with a council comprising nine elected representatives would provide optimal representation for a merged council."

The Commission's view is that the Delegate adequately considered the issues under this factor, while noting the limited analysis of issues raised by submissions.

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 "there was general acceptance amongst the written and verbal submissions that each LGA was providing adequate, equitable and appropriate services. There was also a view among some Wellington people that WC, because of its perceived financial situation, was providing a less than adequate service, particularly from rural ratepayers' perspectives, in terms of rural roads maintenance."

The Report noted that Wellington Council submitted that it has embarked on a process to identify improvement opportunities to fund required assets renewal and maintenance as part of its IPART Fit for the Future submission. The Delegate noted:

"... council would reduce service levels with strategies including reducing services in horticulture, ranger services, major community events, community donations and library and heritage advisory services. The total cost of these reductions according to the F4F submission, is \$272,000 over three financial years."

The Report noted that Dubbo City Council "indicated that there would be a potential extra financial burden in this respect (providing services and facilities) given that WC was not fit". The Delegate concluded that:

“It is considered that there would not be significant impacts on a merged entity providing adequate, equitable and appropriate services and facilities. Acknowledging the financial strength of DCC, and that WC was taking steps to improve its financial sustainability, a potential merger benefit is that the proposed specific WC service level reductions, amounting to only \$272,000 over three fiscal years, could be avoided.”

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 noted that Dubbo City Council has a full time equivalent staff of 330 while Wellington Council has 111 employees. The Delegate stated some submissions expressed concern about the potential for job losses, especially in the Wellington area, some also arguing that a direct loss of employee positions would have an economic multiplier effect that would damage the broader Wellington economy.

The Delegate considered the legislative protections against job losses, noting that the provisions of section 218CA of the Act do not apply to Wellington Council because the Wellington rural centre has marginally in excess of 5,000.

The Delegate made two recommendations with respect to this factor:

“It is recommended that the provisions of 218CA be applied to the Wellington rural centre, given its near fit with the 5,000 population threshold and so that employees’ positions can be preserved as much as possible. It is further recommended that in the event of a merger, there be a continuing substantial staff presence in the Wellington administration office as well as continuity of local Wellington LGA outdoor staff employment.”

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 Report’s chapter on rural impacts focused on the Wellington area, noting that Wellington Council argued that the merger is likely to create negative impacts on its rural communities. Council submitted that projected growth in Dubbo City could occur at the expense of the rural lifestyle and environment in Wellington. Reduction in employment was viewed by Wellington Council as a potential impact on the rural communities, with job losses resulting in a corresponding loss of further employment in the current Wellington LGA.

The Report noted that Dubbo City Council raised the matter of farmland rating inequality and the ability of communities to afford council rates. The Delegate noted that *“given that differential rating does not exist for farmland and one farmland rate is applied to a whole merged council, equalising of farmland rates would provide a challenge to a merged entity”*.

The Delegate concluded:

“These and other potential merger impacts on rural communities can be effectively addressed with well-considered and inclusive strategies, and communication mechanisms. It is not considered that these acknowledged potential impacts would amount to major issues or impediments for a merged council.”

The Commission’s view is that the Delegate adequately considered the issues under this factor, while noting the limited analysis of issues raised by submissions.

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 both council areas are undivided and considered the councils’ submissions as follows:

“WC expressed the view that without the establishment of wards, there was a risk that WC residents would not have representation given the major differences in population of each LGA. DCC contended that provision of wards, however, would attract parochialism with potential candidates standing for election only on the basis of special interests in ward matters with no interest in wider council activities.”

The Delegate concluded that an undivided area for electoral representation is preferred to a ward system.

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 focused on the impacts of the Aboriginal population, with Wellington Council stating that its “LGA was the seventh most disadvantaged in NSW with a very high aboriginal population and dispersed rural community”.

The Report noted that some submissions raised concerns a perceived lack of aboriginal community consultation during the merger examination process, and that the recommended NSW standards for Aboriginal consultation had not been followed. These submissions argued that there were significant differences between the Wiradjuri people of the two areas, with each having different customs and practices.

The Delegate concluded that:

“The communities in each existing LGA could be effectively represented and provided adequate services and facilities in a merged council. Development and implementation of sound community engagement activities, with a particular focus on Aboriginal communities, given their substantial resident populations in each LGA, would be an important component to successful representation of those communities.”

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 Report focused discussed a number of boundary adjustments suggested in submissions. The Delegate considered one suggested adjustment to be reasonable and stated that:

“A number of submissions sought a boundary adjustment between the merged council and Cabonne Council to transfer the villages of Stuart Town and Euchareena to Cabonne Council, Given that residents in those localities obtain services from Orange in preference to Dubbo due to their much closer proximity to Orange City. Should this merger proposal proceed, there would be merit, in the future, of this boundary adjustment being considered.”

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

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