
**PROPOSED MERGER OF
GOULBURN MULWAREE AND PALERANG (PART)
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 Goulburn Mulwaree and Palerang (part) 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

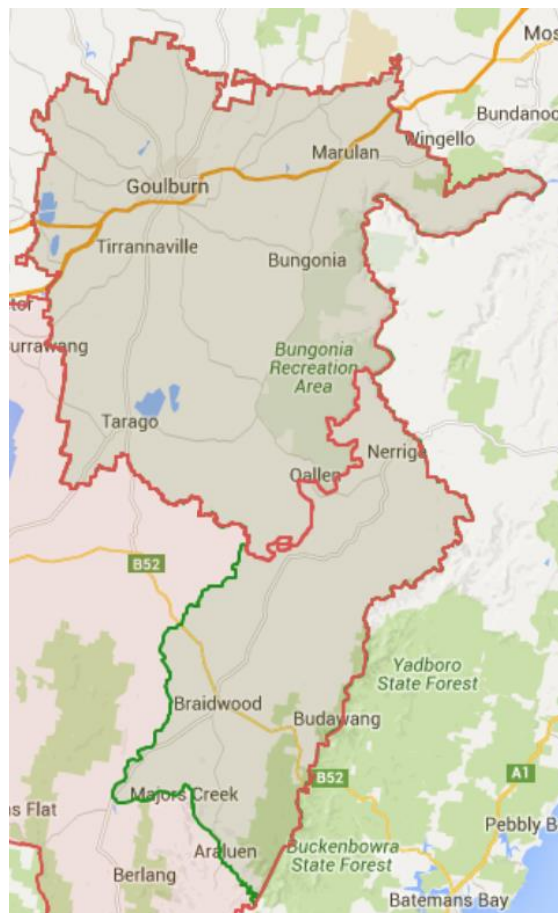
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Goulburn Mulwaree Council and Palerang Council (part) to determine whether it shows the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government 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 considered all the factors required by section 263(3) of the Act, with the exception of the factor listed under 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 the merger proposal

On 6 January 2016, the Minister for Local Government referred a proposal to merge the local government areas of Goulburn Mulwaree and Palerang 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 council areas.

Council	2014	2031
Goulburn Mulwaree	29,376	33,550*
Palerang (part)	2,016	2,450*
Merged entity	31,392	36,000*

Source: NSW Government Merger Proposal Berrigan Shire Council and Jerilderie Shire Council (part) January 2016; NSW Department of Premier and Cabinet

*As estimated in merger proposal

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:

*“Having considered the Merger Proposal, the oral presentations to the Public Inquiry, the submissions presented by the Goulburn Mulwaree Council and the Palerang Council, the submissions from members of the public and organisations and other relevant material, and having regard to the factors set out in Section 263(3) of the Local Government Act **the Delegate considered that the Minister’s Merger Proposal should not 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 137 written and verbal submissions from the public, community and other organisations and councils.

The Delegate held two public inquiries on 9 February 2016 at the Braidwood Services Club and the Goulburn 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 that the Delegate appropriately 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 considered the KPMG modelling showing that the new council would have the potential to generate net financial savings of more than \$7 million over 20 years, and that the proposed merger is expected to generate, on average, around \$800,000 in net savings every year from 2020 onwards. However the Delegate noted the criticisms of the assumptions used by KPMG in assessing potential savings and merger costs.

The Delegate also noted the submission from Goulburn Mulwaree Council that the area of Palerang proposed to be merged currently yields \$1.95 million or 23.6% of the Palerang Council's general rate

revenue. The Council also claims that in a merger the new Council would take on employee costs of \$3.52 million for that part of Palerang proposed to be merged, and that this would result in an annual operating loss of \$516,000.

Palerang Council stated “actual revenues and costs are not related in any way to either the relative size of the population or even the geographic area involved. The valuation of the land involved is relatively low, the area includes a disproportionately large length of rural road infrastructure and employee numbers are relatively high due to the provisions of Section 218CA of the Act that have applied since the creation of the Palerang LGA. As a consequence, the more accurate forecast result is a substantial operating loss, of the order of \$4m”.

The Delegate stated his belief that the potential net savings modelled by KPMG are minimal and at odds with the rigorous financial assessments by Goulburn Mulwaree Council and Palerang Council. The latter Council estimated that an annual deficit of approximately \$3.8 million would be passed to Goulburn Mulwaree Council should the merger proceed.

The Report noted that Goulburn Mulwaree Council was assessed by IPART as not meeting the financial sustainability benchmark. The Council stated that it is working towards improving its financial capacity and sustainability and merging with part of Palerang will place a financial burden on it and severely detract from the Council’s ability to achieve the benchmark.

The Delegate concluded that the merger would not improve the financial capacity of an enlarged Goulburn Mulwaree Council; the provisions of Section 218CA of the Act would constrain the new Council’s staffing arrangements and service capability; the Merger Implementation Grant of \$5 million would cover start-up costs and there are many infrastructure projects that could benefit from the \$10 million allocation from the Stronger Communities Fund.

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

5.2.2 Communities of interest

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

“the community of interest and geographic cohesion in the existing areas and in any proposed new area”.

The Delegate noted that around two-thirds of submissions received addressed communities of interest and geographical cohesion issues resulting from the proposed boundary alignment to split the Palerang Council area. Almost 48 per cent of public submissions highlight the likelihood of negative impacts resulting from splitting the village of Majors Creek and Araluen valley between two new local government areas. Any support was conditional upon a satisfactory resolution of the splitting. Practical implications of the proposed split were that access roads and residential letter boxes will not be located in different local government areas to homes.

The Delegate noted that many other submissions opposing the proposal highlighted the loss of cohesion and geographical connection of small satellite villages and communities with Braidwood, their historical community focal point.

The Delegate stated that a petition received with 538 signatories and many submissions pointed out that the proposed boundary line is flawed as it should have followed the ridge line, the former Tallaganda boundary. Submitters believe this would see Braidwood and its surrounding districts merged with Goulburn Mulwaree, and avoid division of a single functional entity on Braidwood and surrounding districts.

The Delegate noted that the Report is restricted to the Minister's Proposal. Boundary adjustment which would transfer land in the vicinity of the Araluen Valley to Eurobadalla Shire Council may constitute a new proposal under section 218F(7)(b) of the Act. If there is a desire to pursue this boundary alteration in the future it should be taken up with the appropriate Council.

The Delegate is of the view that the Proposal is contrary to maintaining communities of interest and geographic cohesion particularly in the village of Majors Creek and the Araluen Valley.

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

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 noted that Goulburn was proclaimed to be Australia's first inland city in 1863. Braidwood is a heritage listed town with a large number of significant buildings of the early colonial and Victorian periods. The proposed expanded area contains many links to Australia's early history, including Tarago with its historic buildings and Araluen and Majors Creek whose gold rush histories ran in parallel through the second half of the 19th century.

The Delegate noted submissions that addressed the historical and traditional linkages of Braidwood and the former Tallaganda Shire to Goulburn, with submissions citing over 170 years of shared sheep grazing and farming history. Other submissions highlighted the more recent arrival of the creative economy in the Braidwood district.

The Delegate observed that number of presenters indicated that newcomers to the area value the history and lifestyles enjoyed in the area. It was also mentioned that the younger generations gravitate towards Canberra for commerce, retail, education, health and entertainment rather than to Goulburn.

The Delegate concluded that, while the boundary does split the historic 'gold rush' area, on balance the Proposal has limited adverse impact on the historical and traditional values in the existing areas.

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 proposal generated 36 oral presentations to the Public Inquiry and 101 written submissions, including two petitions. The Delegate indicated that the vast majority of residents and ratepayers opposed the merger for a range of reasons, including:

- the process followed by the NSW Government, including the lack of information and community consultation;
- a lack of confidence in the financial advantages quoted;
- a lack of due-diligence in the proposed boundary alignment through Araluen and Majors Creek.

Despite their opposition, the Report stated that the majority of submitters offered alternative merger suggestions as a ‘second preference’ should amalgamations be deemed essential, suggesting as alternatives:

- merger of the former Tallaganda Shire area with Goulburn Mulwaree;
- merger of the whole of Palerang with Goulburn Mulwaree;
- merger of the whole of Palerang with Queanbeyan;
- boundary adjustments bringing Araluen and Neringla into Eurobodalla Shire.

The Delegate stated that the majority of the submissions related to the boundary and financial issues which are documented in other parts of his Report. He noted that residents and ratepayers generally do not support the proposal.

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 stated that around 20% of submissions cite elected representation under a merger Council as a reason to oppose the Proposal. The most common grounds for opposition were:

- reduced Councillor to resident ratios, particularly for Palerang Council, with one submission arguing that smaller Councillor to resident ratios allow councillors to work in their local communities, use community facilities, and thereby understand and respond to the needs of ratepayers;

- the likelihood and effectiveness of representation for Braidwood and districts under a city-based Council, which will “permanently subordinate” the former Palerang residents in the new Council.

It was noted by the Delegate that both Council submissions highlighted the cooperative relationships between elected representatives and local community volunteers, for example through the use of section 355 committees to assist in council work.

The Delegate stated that nine councillors could administer the merged local government area and would only slightly increase the number of residents per Councillor in the Goulburn Mulwaree LGA but double the number in the Palerang area under consideration. He also noted that the rural part of Goulburn Mulwaree LGA is represented by a third of the Councillors on that Council. Both Councils have good models for community involvement which a new Council could build on.

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 approximately 36% of submissions cited service delivery impacts as grounds to oppose the merger. Submissions discussed:

- Expected long term service delivery disruption to the new Council, with reference to the years of rebuilding that took place following the merger creating Palerang Council in 2004. One submission suggested ongoing service deficits experienced in the Mulwaree areas since merging with Goulburn.
- Accessibility of rural communities to city-based Council services, with suggestions of undesirable driving distances exceeding 1 hour 30 minutes to Goulburn and Queanbeyan from the southern-most reaches of the proposal area.
- The loss of Braidwood as a key local service centre for its surrounding district. One submission noted that residents in the Bombay and Farringdon area will be unable to use the tip at Braidwood unless paying for it, and that rates paid in this area will not translate into services delivered due to prohibitive distances to Queanbeyan-based services.
- Disjointed service delivery in the villages of Araluen and Majors Creek and surrounds created by the division between two local government areas, with Council planning rules, garbage collection and road maintenance most commonly raised.

The Delegate noted that both Councils have a good record in service provision. However, he concluded that the forecast negative financial benefit of the Proposal meant that a new Council would have difficulty in maintaining service levels and little opportunity for service equalisation.

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 stated that section 218CA of the Act is a major constraint to achieving efficiencies in the Proposed LGA. He noted that the 47.3 FTE Palerang staff in the area proposed to be transferred are employed in rural towns and as such these positions are protected under section 218CA so that any staff reductions would have to occur in the existing Goulburn Mulwaree Council area. This would obviously impact on the ability of a new Council to equalise services and achieve efficiencies.

The Report stated that the combination of the negative financial impact of the Proposal and the protection provided under the Act will over time have a major impact on staff available to provide services, the ability to employ apprentices and trainees and the opportunities for the development of staff.

The Delegate concluded that section 218CA will lead to issues associated with the location of staff and if staff who provide services in Goulburn are the first to be reduced there will be either a reduction in service levels at Goulburn or increased travelling time and cost for Palerang staff to undertake the service.

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 many submissions mentioned the impact on rural communities particularly the splitting of the village of Majors Creek and Araluen Valley. He stated that Braidwood needs the Council presence for its economic viability as the Council is the major employer in the town and the loss of staff would impact on the town’s sustainability. The Delegate noted that section 218CA will provide protection to the 47 plus staff employed by Palerang Council based at Braidwood.

The Report noted the argument by Palerang Council that many of its staff are engaged in roads construction and maintenance through contracts with Roads and Maritime Services. This means that the funding of their employment comes from the State Government. Loss of a contract may have an impact on the number of people employed by the Council.

The Delegate stated that both councils have a good record and experience in delivering services to rural communities, and that the retention of a Council presence at Braidwood is important for the economic wellbeing of the town.

The Delegate concluded that the financial capacity of a new Council would impact on its ability to provide services to rural communities, and that the financial analysis of the merger proposal reveals that an expanded Council would not have the financial capacity to maintain service levels.

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 neither Goulburn Mulwaree nor Palerang councils is currently divided into wards. He observed that whilst a number of submissions highlighted a need for fair representation across a council area that contained a large urban population and rural communities, only a small number specifically considered the need for wards in the merged Council. The Report noted the argument in one public submission that the creation of wards should be subject to further community discussion to secure representation for eastern Palerang, citing the former Tallaganda Shire adoption of a ward structure, but also noted other submissions rejecting wards, both in a general sense and as a result of previous decisions of the Palerang community.

The Delegate's conclusion was that, if the merger proceeds, Councillors should be elected at large (i.e. from an undivided area). The rural part of the current Goulburn Mulwaree LGA is represented by a third of the Councillors on that Council and as such rural representation can be reasonable without a ward system. Both councils have good models for community involvement which a new Council could build on.

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 a petition received highlighted the diversity and needs of the community by stating:

“some of us own and operate small to medium enterprises across industry. Some of us create skilled and unskilled employment. Some of us are education and health professionals, scientists, technologists, engineers, tradespeople, creatives, artists, farmers, biotech and agribusiness specialists. Some of us commute to Canberra, the coast and Goulburn, others work locally ... we hold the diversity of opinion, experience,

education and knowledge the Department is seeking from our region, and we'd like to be heard".

The Delegate stated that he was confident both Goulburn Mulwaree and Palerang Councils have good networks in place to ensure the opinions of diverse groups are represented.

The Commission's view is that the Delegate has not 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".

Fit for the Future: The Delegate noted that Goulburn Mulwaree has been assessed as meeting the Scale and Capacity criteria but does not meet the financial sustainability requirement. The Council is however addressing this and expects to meet the Fit for the Future requirements within five to seven years.

Proposal to merge Palerang and Queanbeyan: The Delegate is aware that, following a submission from Palerang Council, the Minister for Local Government has proposed the merger of Palerang Council and Queanbeyan City Councils. A number of submissions provide commentary and opinion on this Merger Proposal, which is subject to a separate examination. The suggested merger and boundary changes are beyond the scope of the current proposal.

Conclusion: The Delegate believes the Proposal counteracts the desire of Goulburn Mulwaree Council to become Fit for the Future. Currently the Council does not meet the Financial Sustainability Criteria. However, he noted that the Goulburn Mulwaree Council, through its submission, clearly expresses its support for the State Government's reform proposals.

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