
**PROPOSED MERGER OF
TAMWORTH REGIONAL AND WALCHA 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 Tamworth Regional and Walcha 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

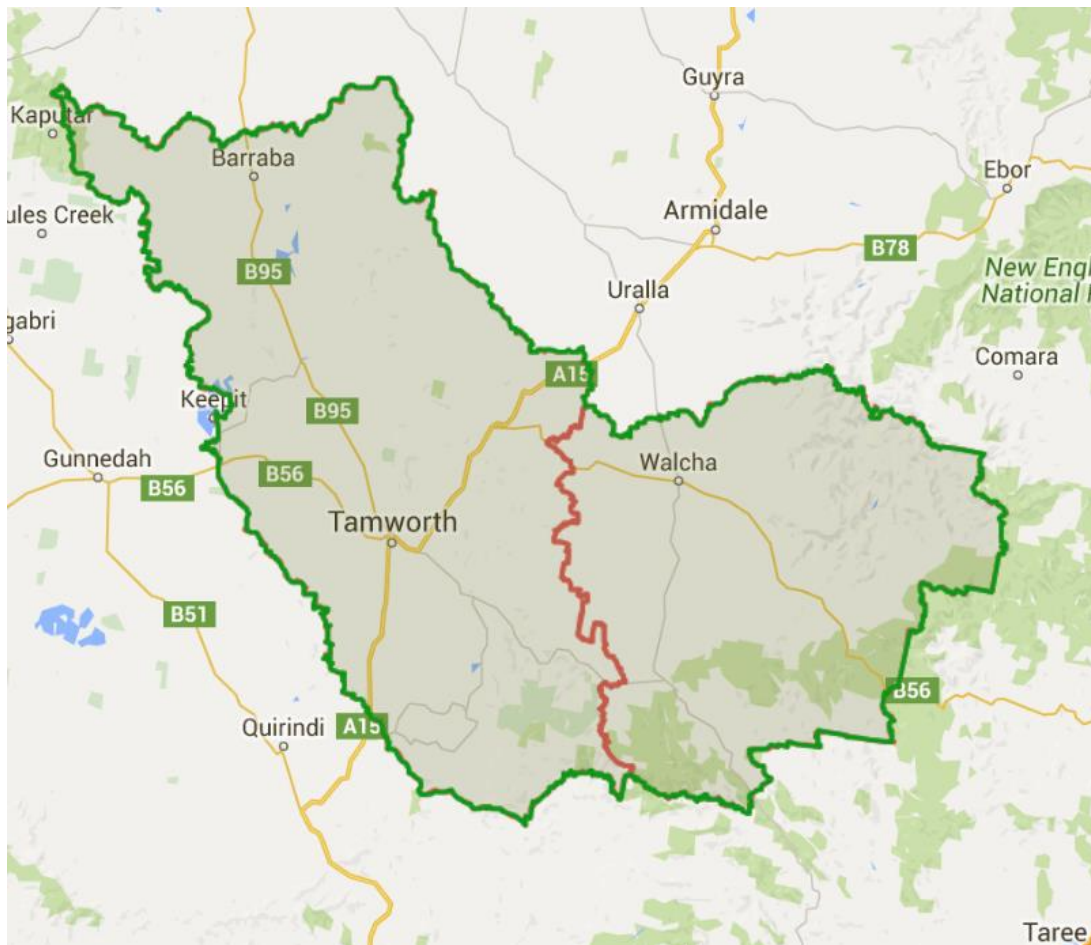
The Boundaries Commission has reviewed the Delegate's Report on the proposed merger of Tamworth Regional Council and Walcha Council to determine whether they show the legislative process has been followed and the Delegate has taken into account all the factors required under the *Local Government Act 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 those 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 Tamworth Regional Council and Walcha 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
Tamworth Regional Council	60,850	67,750
Walcha Council	3,050	2,750
New Council	63,900	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 were 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 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:

"the examination recommends implementation of the Minister's proposal to merge Tamworth Regional Council and Walcha Council".

The Delegate further recommended, should the Proposal proceed to implementation, that:

- *"the transitional governance arrangements until the first election of the new council are designed to facilitate a 'fresh start' for the newly merged community, for example the current Walcha Mayor and Deputy Mayor together with around four of the current Tamworth councillors,*

- *the new council implement comprehensive engagement and consultation strategies to engage with and listen to smaller town and rural communities, for example regularly hold council meetings in the small towns, consult annually with small towns and rural communities as part of the council's planning processes and consider establishing community development committees that include councillors' active participation,*
- *the new council note the views of both existing councils and many stakeholders about the importance of providing a council administrative office in Walcha town,*
- *ensure that councillors and the council's leaders embed a 'fresh start' into its culture to ensure a highly inclusive service and representation for the whole community."*

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

The Delegate held three public inquiries on 10 February 2016 at Walcha Ex-Services Memorial Club and Tamworth West Diggers Club.

The Commission's view is that the Delegate has met the relevant requirements.

5.2 Review of the Delegate's consideration of the factors specified in the Act

Under section 263(3) of the Act, the Delegate is required to have regard to a range of factors when considering a merger proposal.

Overall, the Commission's view is that the Report shows the Delegate adequately considered all the factors.

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

The Commission makes the following comments relating to each factor:

5.2.1 Financial factor

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

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

The Delegate noted that both Councils were assessed as *financially* ‘Fit for the Future’ by IPART in 2015. She also noted that Treasury Corporation’s more negative assessment of Walcha Council’s financial viability was based on financial performance over the period 2008-09 to 2011-12, ie two years earlier than the information used by IPART.

The Report noted that in 2013-14 both Councils were performing well relative to councils of a similar size and against Office of Local Government benchmarks. Walcha did not meet one of the Office of Local Government benchmarks in 2013-14 but met them all in 2014-15, reporting a net operating result before capital of \$928,000.

The Delegate conducted additional analysis of projected merger savings (outlined in Appendix D of the Report). She indicated that if half of the labour efficiency estimated by KPMG is achieved, scenario testing of the merger suggested a net benefit between \$5.8 million and \$10.3 million Net Present Value (NPV) over 20 years.

The Delegate noted that the population of Tamworth is projected to increase which will increase its revenue base and, if economies of scale are available, further enhance the financial viability of the council. In contrast, Walcha’s population has decreased in recent years and is projected to decrease by a further 9.8% over the period 2016 to 2031 which will create ongoing upward pressure on Walcha ratepayers.

The Delegate noted that there are limited opportunities for economies of scale, due to the distance between population centres and low population density.

The Report stated:

“On balance the examination concluded that the financial advantages of the merger are expected to outweigh the financial disadvantages to residents and ratepayers of the area concerned. The conclusion reflects:

- *the merger will produce a net positive financial advantage for the new council which directly advantages residents and ratepayers through the merger,*
- *however the examination’s estimate of the net saving is less than that modelled by KPMG as the estimated labour efficiencies modelled by KPMG are unlikely to be achieved in full ...,*
- *both Councils were judged financially ‘Fit for the Future’ by the Independent Pricing and Regulatory Tribunal and Walcha Council has since further improved its financial performance which reduces future risks for ratepayers,*

- *Walcha’s declining population will continue to create upward pressure on its rates which is expected to be unsustainable given the ageing and socio-economic profile of its population.”*

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 Tamworth Council identified that some communities near the boundaries of the proposed merger area may feel isolated from the decision-making processes of a future merged council. However it suggested that:

- *the “geographical spread of the proposed council is not considered to be a significant obstacle to effective government,”*
- *the merged council could use “a variety of communication channels to inform residents, along with a commitment to meet with the community in their locality regarding important issues.”*

Walcha Council suggested that the two communities are “more easily defined by their differences than by their similarities” and argued that “Walcha has a strong and enduring local identity unrelated to Tamworth and is a distinct community in its own right”.

The Delegate concluded that changes to the boundaries of councils are unlikely to impact most communities of interest and traditions. However, she also stated that the Walcha Council area is characterised by largely distinct communities of interest with limited evidence of geographic cohesion with Tamworth and identifies significant communities of interest that could be negatively impacted by the merger as the resources and culture of Walcha Council itself play a pivotal role in these communities of interest.

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 considered Council and community submissions on the historical and traditional values of the areas.

The Report identified the main economic activities in the Tamworth Regional Council area as retail, services, tourism and agriculture in an area of approximately 9,894 km² with a population of 59,743.

The Report stated that Walcha Council has an area of approximately 6,267 km² with a population of 3,087. Its major industries are agriculture and forestry.

While of concern in many stakeholders' submissions, the Delegate concluded that the traditional and historical values of the Walcha and Tamworth regions would not be impacted by the proposal.

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 Report noted that Tamworth has taken an impartial approach to the proposed merger with Walcha. Walcha's submission summarised the history of local residents' consistent and long-held opposition to mergers first with Armidale and now Tamworth. The submissions were virtually unanimous in their opposition to the merger.

The Delegate considered that an attitude of opposition or support by a majority of submissions received is not a sufficient rationale to determine the Delegate's recommendation.

The Delegate identified that it is critical that, if implemented, the new merged council proactively and consistently engage the Walcha community.

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".

As noted by the Delegate, the ratio of residents to elected councillors in the two councils is vastly different. Tamworth has 9 councillors with a resident representation ratio of 1:6,638. Walcha has 8 councillors with a resident representation ratio of 1:386. A merged council with 12 councillors would have a resident representation ratio of 1:5,299.

The Report noted around 90 written submissions and a number of verbal submissions that expressed concern that the merger would result in a loss of representation. Submissions from Walcha residents and also Nundle and Manilla residents expressed concern about the consequences of a decline in the ratio of elected representation as it might result in a decline in the quality of council services provided to villages and rural ratepayers.

The Delegate undertook a detailed analysis of the representation ratios of regional councils with closely aligned population numbers. This analysis disclosed ratios of elected representation ranging from 1: 4,178 through to 1:9,685.

On that basis, the Delegate recommended that 12 elected representatives would provide the most desirable and appropriate relationship between ratepayers and elected representatives.

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 noted that Walcha Council currently provides a range of local government service to a small community within the financial constraints of a small revenue base. A number of submissions evidenced the communities' appreciation of Walcha Council's customer service and their fears that services, especially road grading, may reduce after a merger.

The Report also noted that Tamworth Regional Council provides a range of local government service to a large community from a significantly larger and more secure long-term revenue base. A number of submissions identified concerns that some services to smaller regional centres such as road grading and swimming pool hours had reduced after the merger with Tamworth in 2004.

Walcha has an extensive gravel road network. It invests around 41 per cent of its total expenditure on roads, bridges and footpaths. Consequentially, the merged council would need to continue comparable levels of investment in road grading and gravel road maintenance.

The Delegate referred to a number of studies which addressed the issue of service delivery subsequent to a merger, finding strong links between amalgamation and the provision of new services and service delivery innovation.

The Delegate concluded that the merger is likely to improve the council's ability to provide adequate, equitable and appropriate services.

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 through their submissions, Tamworth and Walcha Councils both identified the employment protection provisions relating to award employees and for employment in regional centres of less than 5,000 people (Walcha LGA has a published population of 3,098).

The Delegate concluded that the impacts of the proposal on employment can be adequately managed. She based this conclusion on the employment protections entrenched in legislation, the greater opportunities for individual staff member's career progression in a larger council and analysis of other recent mergers that suggested employment levels increased after merger. Specifically, for rural centres such as Walcha town and the villages, the Report stated that regional employment must be maintained, as far as practicable, by the new merged council in perpetuity.

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 Tamworth Council's submission identified that the merger would have little or no impact on the existing rural communities of Tamworth. Walcha identified a range of potential negative impacts for its rural communities arising from the proposed merger including reduced elected representation, reduced access to centralised services, decision-making processes and their elected representatives, economic and social cost associated with travelling additional distances to access council services, risk of reduced employment options for Walcha young people if entry or other suitable roles are relocated to Tamworth, and risk of reduced economic support for Walcha rural businesses that currently provide services to the council.

The Delegate also considered over 90 submissions in relation to this factor.

The Delegate concluded that the impacts of the proposal on rural communities can be adequately managed if the new merged council implemented appropriate strategies such as regularly holding council meetings in the smaller towns, establishment of section 355 committees, community engagement in the Community Strategic Plan process and continued operation of a council administrative centre facility in Walcha town.

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 noted that Tamworth does not currently utilise a ward system. Walcha has four wards with two councillors from each. The Delegate noted that Tamworth does not support the introduction of wards and Walcha similarly submitted that it did not believe a ward system would ensure elected representation for Walcha given the significant populations differences.

Division of the proposed merger into wards was not recommended by the Delegate.

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”.

As outlined in the Report, Tamworth submitted on the positive contribution of Community Development Committees established under section 355 of the Act for the period after the 2004 merger “to ensure smaller communities had a mechanism to provide input, feedback and recommendations to the elected council on matters of concern”. The Report suggested that if the merger is implemented, new Community Development Committees are established to maintain a whole of community voice.

The Delegate noted that there were no submissions received about representation of the views of ethnically and culturally diverse communities. She stated that this may reflect that both Local Government Areas are characterised by relatively low levels of ethnic diversity.

The Report stated that, according to Office of Local Government data, 7.4 per cent of the Tamworth population and 8.4 per cent of the Walcha population identify as Aboriginal or Torres Strait Islander. The Delegate considered that the opinions of diverse communities can be adequately represented if strategies suggested by her in the ‘Rural impacts’ section of the Report are implemented.

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”.

Transitional governance. The Delegate considered that transitional governance arrangements are critical. She recommended that these arrangements should facilitate a ‘fresh start’ for the newly merged community, and recommended that the transitional arrangements include the current Walcha Mayor and Deputy Mayor together with around four of the current Tamworth councillors.

Name of merged area. Tamworth Regional Council recommended that the name Tamworth Regional Council is retained given the significant investments made by ratepayers and regional businesses over many years to growing recognition of this brand domestically and internationally. This suggestion was supported by the Delegate.

The Delegate re-stated Walcha Council’s comments regarding economic sustainability.

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

The Commission notes that the name of a new council and the composition of an interim council are matters for the Minister.