Local Government Workplace Reform Kit:

MANAGING WORKPLACE CHANGE
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MESSAGE FROM THE PRESIDENT

Local Government NSW is committed to supporting its members in their efforts to achieve the best possible workplace relations and to cope with the challenges posed by changes to their operating environment. Those challenges can take many different forms. They may arise from changing community needs; from new government policies and programs; from legislation; and in particular from structural reform – boundary changes and amalgamations.

Structural reform raises numerous workplace issues that members must address as they endeavour to achieve the best possible outcome. Resources are often severely stretched as they strive to maintain their normal operations and services whilst restructuring their workforce and operations.

In this environment local government employees will be called upon to make a special effort, but will also need maximum guidance and support to handle the potential impact of change on their own future and wellbeing.

The Local Government Workplace Reform Kit: Managing Workplace Change (the Kit) has therefore been prepared to help members manage change and reform processes in a way that meets their legal and ethical obligations to their employees; ensures that wherever possible the future employment of staff is secured; and creates opportunities for employees to further develop their skills and careers.

The Kit focuses on the processes involved in local government structural reform, but much of its content is also relevant to other forms of workplace change that is being undertaken by members.

Local Government NSW also offers a range of complementary advisory and support services; I commend both the Kit and those services to all members.

Cr Keith Rhoades AFSM

President
Local Government NSW
November 2015
INTRODUCTION

1.1. Dimensions of workplace change

Effective provision of essential services and infrastructure for communities throughout New South Wales depends on the skills and dedication of the 45,000 people who work for their local councils.

Clause 2 of the Local Government (State) Award 2014 states that the parties are committed to co-operating positively to increase the productivity, structural efficiency and financial sustainability of Local Government and to provide employees with access to more fulfilling, varied and better-paid work. This involves measures that will, among other things:

- Promote cooperative and open change management processes
- Encourage innovation
- Improve skill levels and establish skill-related career paths
- Achieve greater flexibility in workplace practices
- Foster job security.

The integral role and function of local government is clearly enhanced, if there is an emphasis placed on ensuring the best possible workplace environment and employee relations. Councillors, senior management, employees and their representatives must maintain close communication with each other and their relationships must be built on consultation, negotiation and agreement.

At the same time, councils and the way their workforce is managed must be responsive to community needs and aspirations. The Integrated Planning and Reporting framework introduced in 2009 includes requirements for the preparation of Community Strategic Plans and resourcing strategies, including Workforce Plans that will ensure councils’ human resources are geared to achieving community goals.

A responsive and cooperative approach to workforce and workplace management is essential at all times, but becomes even more important at times of change. Local government is a dynamic institution that must reflect the changing circumstances of widely differing places and communities across New South Wales. Sometimes changes to councils’ functions are imposed by legislation or promoted by state or federal funding programs. But councils must also review their operational needs regularly and make corresponding adjustments to priorities, their organisational structures, and the mix of skills and positions in different sections of the workforce.

In addition, councils periodically undergo alterations to their boundaries or amalgamate with adjoining local government areas. These are sometimes voluntary but in the past have been more typically imposed by the State government. Over the past century the number of local councils in NSW has more than halved. Prior to the State government’s current ‘Fit for the Future’ campaign, the most recent round of amalgamations took place in 2003-4, and posed major challenges for workplace change and management. Some of those challenges are still to be fully resolved. Councils need to be prepared for similar challenges in the future.
1.2. Purpose and scope of this Workplace Reform Kit

The Local Government Workplace Reform Kit: Managing Workplace Change (the Kit) offers detailed and practical guidance on working through workplace change resulting from boundary changes or amalgamations that require staff to transfer from one council to another, or to a newly created council. It is based on both the legislative framework and the lessons learned by councils that have experienced substantial structural reform.

At the time of writing (October 2015), local government faces the immediate prospect of another round of structural reform. A substantial number of councils may be affected. However, the material and advice contained in this Kit is designed to be of longer-term value to any council that becomes involved in a boundary change or amalgamation proposal. Much of the material will also be relevant when councils undertake other reforms (for example, internal organisational change, Improvement Plans prepared under the State government’s current ‘Fit for the Future’ initiative, or new arrangements for regional cooperation (including voluntary regional cooperation and shared services or the establishment of a Joint Organisation as proposed in ‘Fit for the Future’).

Past experience of both forced and voluntary amalgamations and boundary changes shows that managing the workforce and workplace issues is one of the most significant challenges to be faced. For many communities, local government is a very important employer, and councils rely on a high quality workforce to undertake their vital roles in service delivery, planning and regulation.

The disruption associated with structural reform can all too easily generate widespread concerns about potential redundancies, reduced local employment and commensurate cuts to services. These risks have been minimised by protective employment legislation, a flexible award and established industrial practices, but considerable expertise is required to use those measures to best effect.

This Kit is focused on the legal and industrial relations framework for workforce and workplace change. It is not designed to be an all-encompassing guide to implementing and managing structural reform, but will complement the broader review, planning and coordination activities that need to be undertaken to get new councils operational and ready to achieve their objectives. Councils are encouraged to seek further advice on related matters as required, and LGNSW can offer additional guidance and support (see Attachment A).

The Kit has four main components:

- An outline of the current provisions of the Local Government Act 1993 (NSW) and the Local Government (State) Award 2014
- Advice on some of the key issues involved in implementing those provisions, taking into account the experiences of councils involved in the 2003-4 amalgamations
- A step-by-step guide to planning and managing workplace change
- A brief discussion of ongoing requirements for sound workforce planning and management.
2. THE LEGISLATIVE FRAMEWORK

Under the current provisions of the *Local Government Act 1993* (NSW) (the Act) and the *Local Government (General) Regulation 2005*, any ongoing process of local government reform involving council boundary changes or amalgamations (forced or voluntary) will involve issues of workplace change in five ways:

- The requirement under section 263(3)(e2) of the Act to consider ‘the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned’ when examining the merits of a proposed amalgamation or boundary change.
- The various requirements of Part 6 of Chapter 11 of the Act that govern the process of workplace change and protect the employment and conditions of existing staff when an amalgamation or boundary change takes place.
- The provisions of the Regulation concerning the possible need for Ministerial approval with respect to payments made to senior staff on termination (section 354A (4)), and determinations relating to staff entitlements made by a council during the Proposal Period before an amalgamation or boundary change takes place (section 354E).
- Any relevant provisions of a Proclamation by the Governor that gives effect to an amalgamation or boundary change, or that alters the constitution of a county council.
- The requirement for workforce planning for and by the new entity, in accordance with the requirements for Integrated Planning and Reporting (section 403(2) of the Act).

2.1 Stages in the amalgamation process

As indicated in section 1.2, the various provisions of the *Local Government Act 1993* (NSW) do not come into play until the Minister makes or receives a formal proposal under section 218E. However, there will often be a period before then during which potential boundary changes or amalgamations are being openly discussed, and councils would be wise to consider various aspects of workforce and workplace arrangements during that time (see section 4.2 of this Kit and Attachment E). This may be called the Pre-Proposal Phase.

Once the Minister makes or receives a firm proposal, he must refer it to either the Boundaries Commission or the Chief Executive of the Office of Local Government (OLG) for examination and report (section 218F). This initiates the Proposal Period that is defined in section 354B and related employment protection provisions come into effect.

It is important to note that the process relating to the establishment, dissolution or amendment of a county council is distinct from that of a general-purpose council. In this regard the relevant processes relating to a proposal period in relation to a county council are found in Part 5 of Chapter 12 of the Act.

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1 As at November 2015
The Proposal Period normally starts on the day a proposal for an amalgamation or boundary adjustment is made to or by the Minister. For councils other than a county council the proposal period ends:

- On the day the Minister decides not to proceed with the proposal, or declines to recommend to the Governor that the proposal be implemented; or
- On the day immediately before the date specified in the Proclamation implementing the proposal.

However pursuant to section 354B(2), the Minister may, by notice in writing to a council, extend the Proposal Period in relation to that council by determining an earlier starting date than the date the proposal was initiated under section 218E. This might occur, for example, if the original proposal is modified or replaced.

Also, it should be noted that, whilst past practice in NSW has been for a new council to be created as soon as the Minister makes the decision to proceed with an amalgamation or boundary proposal, there is nothing in the Act to prevent the Proclamation nominating a date sometime in the future on which the new council will commence operations and staff transfers will occur.

This alternative approach would enable:

- A ‘Transition Phase’ during which detailed planning for the new council and workforce issues could be carried out before it commences operations; and/or
- Retention of the existing elected councils until such time as elections can be held for the new council (eliminating the need for a temporary Administrator).

Among other things, the Proclamation could include a requirement to establish a joint transition committee and to appoint an interim General Manager for the new council who could help the committee carry out detailed planning. This was the approach adopted in Queensland in 2007-08.

Employment protection provisions (preservation of existing entitlements, no forced redundancies except for designated senior staff) come into effect from the beginning of the Proposal Period. After the ‘transfer day’, additional protections take effect and apply for three years (or longer by agreement). This period may be called the Establishment and Protection Phase.

Thus in the current circumstances the process of change and steps required to be taken by councils can be considered in five stages:

1. Pre-Proposal Phase
2. Proposal Period
3. Transition Phase
4. Establishment and Protection Phase
5. Ongoing Operations.
The key legal provisions and policy issues that apply to each stage are summarised in Figure 1. Actions required or desirable in each phase are discussed in detail in Part 4. If a Proclamation does not allow time for a Transition Phase, the activities proposed for that period of time would have to be carried out during the Establishment and Protection Phase – although some can get under way during the Proposal Period if the councils concerned are willing to cooperate.

Figure 1: Stages of the Amalgamation or Boundary Change Process

- **Pre-Proposal Phase**
  - No legal requirements but opportunity to:
    - Consult staff on possible changes
    - Audit workplace / entitlements
    - Review current workplace plans

- **Proposal Period**
  - Employee entitlements preserved
  - No forced redundancies (except senior staff)
  - Restrictions on changes to staff terms and conditions and to senior staff termination payments

- **Transition Phase**
  - Detailed planning and preparation for new council

- **Establishment and Protection Phase**
  - No forced redundancies (except for senior staff)
  - Transferred staff retain conditions
  - Maintain staff numbers in rural centres as far as practicable

- **Ongoing Operations**
  - Continuing planning, training and improvement
  - Finalise redundancies for staff not required under new structure
  - Maintain staff numbers in rural centres as far as practicable
2.2 Main provisions of the legislation

2.2.1 Definitions

Under section 354B of the Act, councils affected by reform are defined as either:

- **Transferor council** - the council from whose employment the staff concerned were transferred on the transfer day (described in this Kit as the ‘former council’).
- **Transferee council** - the council into whose employment the staff concerned were transferred on the transfer day (described in this Kit as the ‘new council’); or

Also under section 354B, staff of councils affected by reform are classified as:

- **Existing staff member** – (of a new council) a person who was a member of the staff of the new council immediately before the transfer day and who has not ceased to be a member of that staff. It should be noted that in the situation of amalgamation of council areas, or where all councils involved are dissolved, there are no existing staff members, as all staff are transferred to the employment of a new council;
- **Remaining staff member** – (of the former council) a person who was a member of the staff of the former council immediately before the transfer day and who has not ceased to be a member of that staff. Again, in the situation of amalgamation of council areas, there are no remaining staff members, as all staff are transferred to the employment of a new council;
- **Transferred staff member** - a member of the staff of a council who is transferred to the employment of another council by or under a Proclamation.

2.2.2 Designated senior staff

It is important to bear in mind at the outset that there are important differences in the treatment of designated ‘senior staff’ compared to other staff.

Under sections 332 and 334 of the Act, senior staff include the General Manager and the holders of positions that:

- Are identified and determined as ‘senior staff’ positions in the organisation structure by resolution of the council, and
- Entail responsibilities, skills and accountabilities that are generally equivalent to those applicable to the Executive Band of the Local Government (State) Award, and
- Attract a remuneration package, the total value of which is equal to or greater than SES Level 1 in the State Public Service, i.e. $174,500 (as at 1 July 2015).

Thus although an employee’s position may be described as ‘senior’ at a council, if the position has not been properly designated as such by resolution of the council, and/or the employment conditions do not comply with the criteria described above, then the position holder is entitled to the same protections as non-senior staff.
Termination Payments and Changes to Entitlements

Section 354A of the Act provides that the Minister must approve termination payments made to senior staff and the General Manager. It applies at all times, not only when councils are amalgamated or boundaries changed. Payments covered include termination payments made under or in addition to contract requirements.

The reasoning for this provision can be found in the Hansard extract of 25 June 2003, which indicates that the provision is designed ‘…to promote greater transparency and accountability in local government … to prevent inappropriate ‘golden parachute’ payments …[and] will apply at all times - not only in cases of council restructure’.

However, some payments may be exempted from these provisions by Regulation. To this end, section 405 of the Local Government (General) Regulation 2005 provides that the following kinds of payments do not require Ministerial approval.

- Termination payments up to the value of the senior staff member’s total remuneration package over the 12 months preceding termination of employment [regulation 405(1)(a)];
- Statutory entitlements on termination of employment under any Act [regulation 405(1)(b)]
- Payments for untaken long service leave or untaken sick leave that is an entitlement pursuant to any Act or award (within the meaning of section 27 of the Industrial Relations Act 1996 (NSW) [regulation 405(1)(c)].

In addition, regulation 406 applies to increases or decreases in staff entitlements during a Proposal Period, and removes the need for approval by the Minister under section 354E of the Act (see below, section 2.2.3). This applies to all staff, senior and non-senior.

2.2.3 Non-senior staff

Proposal Period

Section 354C of the Act provides that during the Proposal Period the employment of a member of staff (other than senior staff) affected by a proposal must not be terminated, without the employee’s agreement, on the ground of redundancy (i.e. an employee can take a voluntary redundancy, but a council cannot implement any forced redundancies).

Also, without the Minister’s approval, changes to entitlements made during the Proposal Period may not be binding on the new council. During the Proposal Period the Minister may, pursuant to section 354E of the Act, refuse to approve any unjustifiable increase or decrease in the terms and conditions of staff arising from, or in anticipation of, a proposal to constitute, amalgamate or alter council areas. The provision relates to all council staff and covers conditions of employment established under industrial agreements and council policies, including offering new contracts and changing the terms of existing contracts.

However, regulation 406 qualifies this provision by removing the need for Ministerial approval where a change in entitlements:

- Is authorised by an industrial instrument, or employment policy of the former council, made or approved before the Proposal Period
• Is either in or authorised by an award, enterprise agreement or other industrial instrument made or approved by the NSW Industrial Relations Commission or the Australian Industrial Relations Commission (now known as the Fair Work Commission)

• Comprises the renewal of an employment contract entered into before the Proposal Period.

Therefore increases in terms and conditions that result from competency-based progression up the salary scale, or from changes to the Award or a council/enterprise agreement (including rates of pay) may be granted during the Proposal Period in the normal manner without Ministerial approval.

Establishment and Protection Phase

The following provisions come into effect for three years from the transfer day. They apply only to non-senior staff, and are discussed further in section 3.2 of this Kit.

• All staff have the right to continue on the same terms and conditions as applied to each staff member immediately before the transfer day until another provision is duly made under an Act or law – see sections 354D(1) and (2) of the Act – but changes may be made by negotiation.

• Employees’ continuity of service and accrued rights will be preserved following transfer – see section 354D(3).

• A transferred staff member is not entitled to receive any payment or other benefit merely because the staff member ceases to be employed by the former council – see section 354D(4).

• The transfer of a staff member does not affect any accrued rights (annual leave, sick leave, long service leave and superannuation) the staff member had immediately before the transfer, but does not entitle the staff member to claim dual benefits for the same period of service – see section 354D(5).

• A staff member’s employment must not be terminated by the new council on the ground of redundancy arising from the transfer without the staff member’s agreement – see section 354F.

• Preference shall be given to both transferred and existing staff that had been performing substantially the same duties prior to a transfer occurring in connection with the constitution of a new area, where appointments by way of lateral transfer are being made. Where there is more than one applicant in such cases, selection will be made on merit – see section 354G.

• Except for senior staff positions, external advertising is prohibited where there are one or more suitably qualified transferred and/or existing staff available for selection, unless the Minister is satisfied that the number of transferred staff as a result of boundary change was not significant – see section 354H.

• A staff member must not be required to be based outside the boundaries of the area of their former council as it existed immediately before the transfer day, unless the staff member gives written consent to the change of work base, or such a
requirement would not cause the staff member to suffer unreasonable hardship because of the distance required to travel to the proposed work base – section 354I.

**Staff numbers in rural centres**

Section 218CA of the Act requires new councils to ensure that the number of ‘regular staff’ of the council employed at a ‘rural centre’ is, *as far as is reasonably practicable*, maintained at the same level as were employed by the previous council at the centre immediately before the amalgamation or alteration of boundaries took effect. This provision applies beyond the Establishment and Protection Phase and impacts the ongoing operations of the amalgamated or new council.

A *rural centre* is defined as a centre of population of 5,000 people or fewer. It may also include a geographical area that is prescribed, or is of a kind prescribed, by regulation as being a rural centre, but at present no such regulation is in force. Lack of a more precise definition of ‘rural centre’ can create problems (see section 3.3 below).

The *regular staff* of the council includes all appointments made within the organisational structure of the council, as well as casual staff who are engaged by the council on a regular and systematic basis for a sequence of periods of employment during a period of at least 6 months, and who have a reasonable expectation of continuing employment with the council. It does not include temporary appointments or senior staff (see section 3.3 below).

### 2.2.4 Proclamations

As noted earlier, the Proclamation establishing a new or altered local government area may contain specific provisions concerning the workforce and workplace management. In 2004, Proclamations provided direction in the following areas:

- Appointment of Acting General Manager and Administrator
- Appointment of the new General Manager and other senior staff
- Organisation structure and delegations
- Location of offices
- Codes, policies and plans, including the EEO management plan
- Transfer of senior staff and other staff
- Additional employment protections.

Whilst Proclamations may include a number of generalised provisions, councils should be careful to note and address any matters that apply specifically to them. Also note that if there are inconsistencies with legislative requirements, the Act and/or Regulation override the directions in a Proclamation.

As an illustration, excerpts from the 2004 Proclamation of Clarence Valley Council are included in Attachment B.
2.3  The Award and council agreements

Some of the provisions in the Act and Regulation are supplemented by clauses in the Local Government (State) Award 2014 and/or individual enterprise or council agreements. It is beyond the scope of this Kit to deal with the latter.

2.3.1  Consultative Committee

Under Clause 32 of the Award each council must have a Consultative Committee which shall:

- provide a forum for consultation between the employer and its employees that encourages a free and open exchange of views
- positively co-operate in workplace reform to enhance the efficiency and productivity of the employer and to provide employees with access to career opportunities and more fulfilling, varied and better paid work.

Consultative Committees are advisory, but can and should be valued as a key element of sound workplace relations and a starting point for discussion of change management issues (see section 3.1.2 below). An effective Consultative Committee is vital when significant structural reforms or organisational changes take place (see section 2.3.4 below).

2.3.2  Place of work

Clause 15(xi)(e) of the Local Government (State) Award 2014 relating to travel allowances provides that an employee may be transferred to a different normal place of work at any time by agreement or by giving reasonable notice, provided that the relocation is reasonable in the circumstances and does not unreasonably disadvantage the employee (see section 3.2.4 below). In the event of a dispute, grievance and dispute procedures under Clause 35 apply.

This provision of the Award applies at all times, but during the 3 years of the Establishment and Protection Phase section 354I of the Act also needs to be taken into account. The test is essentially the same: that the employee shall not suffer ‘unreasonable hardship’.

2.3.3  Training Plan and budget

Clause 31(iii) of the Award provides that the employer shall develop a Training Plan and budget consistent with:

- the current and future skill requirements of the employer
- the size, structure and nature of the operations of the employer
- the need to develop vocational skills relevant to the employer and the local government industry.

The Training Plan is to be designed in consultation with the Consultative Committee. It needs to be closely linked to organisational objectives and performance review and salary systems. In developing the plan, consideration should be given to corporate, departmental and individual training needs. Review and updating of Training Plans is a key element of change management associated with structural reform (see section 3.4).
### 2.3.4 Workplace change

Clause 39 of the Award provides detailed guidance on steps to be taken where workplace change will have ‘significant effects’ on the workforce. These are defined to include:

...termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs. Provided that where the Award makes provision for the alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

Clearly, such 'significant effects' are highly likely to arise as part of structural reform. Clause 39 therefore needs to be applied in conjunction with relevant sections of the Act. Key provisions of Clause 39 are as follows:

- Nothing in this clause prevents the council from immediately implementing a change in organisation structure with the consent of the affected employee(s), and where the union(s) to which they belong have been provided at least seven days’ notice of the proposed change.

- Where a proposed change in organisation structure is likely to have significant effects on employees and/or result in a reduction in the size of its workforce, the council shall notify the union(s) whose members may be adversely affected by the proposed change at least twenty-eight (28) days before the change is implemented. (NB: the Award does not prevent notification being given before a proposed change has been finalised and adopted formally by the council, so consultations can commence at an early stage while a range of options are still under consideration – see section 3.1 below).

- The council shall discuss with the employee/s affected and the union(s) to which they belong, inter alia, the introduction of the changes proposed, what effects the changes are likely to have on the employee/s, and measures to avert or mitigate the adverse effects on the employee/s. It shall give prompt consideration to matters raised by the employee/s and/or their union in relation to the changes and may reconsider its original decision.

- Discussions shall commence as early as practicable after a definite decision has been made to make the changes, and the council shall provide to the employee/s concerned and the union to which they belong, all relevant information about the nature of the changes proposed, the expected effects on the employee/s and any other matters likely to affect the employee/s (see section 3.1 below).

Clause 39 also details steps to be taken with respect to individual redundancies and termination of employment (see section 3.2.2 below).
3. INTERPRETING AND IMPLEMENTING THE PROVISIONS

Experience shows that, in practice, implementing the provisions of the Act, Regulation and Award does not always proceed smoothly. Sometimes this is because the wording of provisions is open to varied interpretations, particularly where different provisions overlap; on other occasions the individual workplace is characterised by a lack of adequate consultation or relations in general between the parties are less than satisfactory.

This part of the Kit focuses on some of the key areas in which councils need to have a very clear understanding of what can and should be done to get the best results for all concerned from the legislative and Award framework. It draws in particular on the experiences of councils affected by the 2003-04 amalgamations.

3.1 Getting the process right

The early weeks after an amalgamation offer a unique opportunity for management and employees to ‘brand’ the new entity. However, grasping this opportunity depends on all parties understanding what needs to done, knowing the best process to follow, and having the skills required to do the job properly.

3.1.1 Awareness, understanding and preparedness

It is of fundamental importance that councillors, senior managers and staff are aware of all the relevant provisions of the Act and the Award, and as far as possible agree on what those provisions mean and how they can best be implemented. Councils should consider well in advance their statutory obligations and what they need to achieve in terms of workforce management and staff relations at all stages of the change process (see Part 4 of this Kit). This should not be left until after the Minister makes a proposal.

New councils (whether amalgamated or after boundary changes) will need to be aware of potential problems both before and after the transfer day: possible disputes with the union(s) over terms and conditions of transferred staff; the emotional impact on staff of transferring to a new council, and the potential for associated stress claims or work, health and safety concerns, including by management staff who are responsible for implementing and managing change; and appeal mechanisms (if applicable).

Effective consultative procedures, coupled with sound, up-to-date workforce planning will provide a firm basis for change management (see Part 5 of this Kit on workforce planning).

3.1.2 Maximising communication and consultation

There are three vital strands to communication and consultation during the change process:

- Establishing a clear sense of strategic direction from the outset, and then maintain continuous communication amongst all concerned
• Ensuring that employees are treated with respect and that their individual needs are recognised and addressed
• Making the best possible use of the Consultative Committee.

These three strands should be brought together in the form of an agreed communications plan. Consistent with the Workplace, Change and Redundancy provisions of the Award, an agreed communications plan should reflect the requirement to provide a 28-day period of notice that must be provided to affected employee/s and the union/s to which they belong.

## Case Study: Metropolitan Council Change Process

**Key principles:**

• Genuine and wide consultation on draft structure, given time constraints
• Improvements to the organisation will be the main consideration, but staff will provide input and their interests will be taken seriously
• Employees affected by any restructure will be treated with respect
• Staff will receive timely information and support to make decisions regarding their future
• For newly created positions, all recruitment will be based on merit
• All regulations, including awards and employment contracts, will be complied with.

Formal 28-day consultation required under the Award was undertaken before any council decision in order to:

• Provide more genuine staff input and enable staff welfare to be supported
• Facilitate organisational agility including improvements to draft structure
• Assure council that staff are being supported when decisions need to be made.

**Process elements:**

• Draft structure and position descriptions for new roles given to all staff and unions
• Numerous staff and union briefings, emails and individual discussions
• One-on-one briefings for affected staff prior to release of draft structure
• All staff briefings given by the General Manager
• Questions answered as promptly as possible
• Additional support provided to staff through the Employee Assistance Program, superannuation advice and career counselling
• Draft structure altered in response to feedback.

**Strategic direction**

If staff understand the context within which the change is occurring and the council’s strategies, goals and expectations in response, then employees are more likely to be willing
to have constructive discussions about what needs to be done, and will accept (albeit for some with reservations) the decisions that are finally taken.

Employees therefore need to be fully informed on the big picture from Day 1 – as soon as the council and senior management become aware that changes are likely. Even if there is no ‘hard’ information, discussion and exchange of views between council, management and staff is better than anxious speculation and predictions of ‘doom and gloom’. Structural reform usually forms part of a bigger State government agenda and that also needs to be understood so that potential local implications can be considered.

As soon as a definite sense of direction can be established, council and senior management need to adopt and communicate a clear statement of principles and intent regarding potential workforce change and how the process will be handled. This may well need to be modified as further information comes to hand and in light of staff feedback, but nevertheless workplace discussions need to begin as early as possible. As noted in section 2.3.4 and in the Metropolitan Council case study, consultation can – and wherever possible should – begin before council makes any definite decisions regarding its preferred options for workforce change.

**Addressing individual needs**

Different individuals and groups of staff will react in different ways to the prospect of change, and will have different ways of understanding and coming to terms with what may be involved.

Communications in general and one-on-one contact in particular must reflect an appreciation of these differences. For example, professionals and administrative staff will usually be more accustomed to electronic communications than their colleagues in the ‘outdoor’ workforce. Also, their working lives are more likely to have involved moves from one employer and one location to another.

It is essential that those employees whose positions are most likely to be affected by change are first informed individually and given the opportunity to discuss the situation in private. In this regard, councils should ensure that they have access to suitable professional support for counselling needs, such as through an adequate Employee Assistance Program (EAP).

Once workforce arrangements for the new council are finalised, each member of staff should receive a fresh letter of appointment confirming their terms and conditions, the continuity of their employment and welcoming them to the new organisation.

**Consultative Committees**

Consultative Committees provide a structured and formal focal point to facilitate continuous communication and effective consultation between the council, senior management and employees. They can provide both a sounding board and ‘litmus test’ for staff sentiment, and – most importantly – they can help to create a positive climate in which employees are more likely to embrace change.

During the Proposal Period the Consultative Committees of the existing councils should be used to help consider options for future workforce arrangements and for ongoing communication programs, as well as dealing with specific collective industrial relations issues as they arise. The Consultative Committees can begin to discuss how the process of
workplace change will be handled, and how the personal needs of employees will be identified and addressed.

Once the outcome of the amalgamation/boundary change proposal become clear and the change process gets under way, management and the Consultative Committee must work in partnership to develop and implement an effective communications plan. The fundamental goal must be to ensure that employees fully understand the background to the changes taking place, why those changes are necessary, and how they are being handled.

3.1.3 Establishing a new Consultative Committee

Clearly, Consultative Committees have a central role to play in ensuring that the structural reform process is undertaken in a manner that enables a smooth transition, and that all employees are able to adapt to new structures and new procedures – particularly having regard to the provisions of clause 39 of the Award.

After a Proclamation has been issued, steps should be taken as quickly as possible to establish a single Consultative Committee for the new council. A joint meeting of the committees chaired by the (Acting) General Manager is a good way to begin the process of integration. This provides an opportunity for all parties to get to know each other and discuss the task at hand, and to begin identifying representatives to form the new council’s Consultative Committee. Initially this is likely to consist of all or most of the members of the previous committees, but a process should be agreed to reduce the membership to a manageable number for ongoing operations. The efforts of members of the previous committees need to be recognised, perhaps through an event linked to the first meeting of the new committee.

Once established, the new Consultative Committee will make important contributions across a wide range of the tasks involved during the Establishment and Protection Phase. These are identified in section 4.2 below (Figure 2). A number of the issues and tasks involved will be quite complex, and group training should be provided to Consultative Committees to enable all members to enhance their skills.

The size and composition of the new Consultative Committee in the early stages of the merger needs careful consideration. Clause 32B of the Award sets out minimum membership requirements as follows:

- The size and composition of the Consultative Committee shall be representative of the employer’s workforce and agreed to by the employer and the local representatives from the following unions: USU; DEPA and the LGEA, and such agreement shall not be unreasonably withheld.

- The Consultative Committee shall include but not be limited to employee representatives of each of the unions who have members employed at the employer.

- Officers of the union(s) or LGNSW may attend and provide input to meetings of the Consultative Committee, at the invitation of the Consultative Committee or their respective members.

Over and above these minimum requirements, consideration should be given to a membership structure that ensures effective workforce representation by having a mix of employees from a range of different workplaces – and from each of the former councils. An
appropriately structured membership that is seen to offer sound representation of employees across the entire organisation, coupled with an effective communications plan, can go a long way to minimising negative perceptions of workplace change.

A new Consultative Committee constitution should be adopted as soon as possible to fully describe the committee’s aims, objectives, membership structure and scope of functions. At a minimum, the constitution should cover the following functions and activities:

- Award implementation
- Exploring cultural change options
- Training including change management strategies
- Consultation with regard to organisation restructure
- Job redesign
- Salary systems
- Communication strategies and education mechanisms
- Performance management systems
- Changes to variable working hours arrangements for new or vacant positions
- Proposed variations to leaseback vehicle arrangements
- Workforce management planning including options to implement provisions of employment legislation.

### 3.1.4 Creating a new salary system

It is usually preferable to move as quickly as possible after an amalgamation or boundary change to introduce an integrated salary system for all employees of the new organisation. This will avoid the problems associated with staff undertaking the same duties but with different employment conditions, or new employees having different conditions from transferred staff.

There are, however, risks involved in moving too quickly. These include:

- Failing to give sufficient thought to the changed circumstances, priorities and operational needs of the new council – and hence the implications for workforce structure and employment conditions
- Overlooking the protection outlined in clause 7(xii) of the Award that employees shall not suffer a reduction in salary range because of a change to the salary system structure
- Acceding to pressure to ‘round-up’ salaries and other employment conditions to the most generous offered by one or more of the former councils.

Consideration of these issues may lead to extensive use of Current Occupant Only (COO) arrangements for some years alongside a new salary structure (see below).
Case Study: Clarence Valley Council

Clarence Valley Council was proclaimed in February 2004 following a merger of four former councils and two county councils.

Initially, a series of working groups was established, each with broad staff representation from all the former Councils, to address specific aspects of workforce change. The roles of these working groups were adjusted over time, or they were disbanded if no longer required.

Considerable effort was put into establishing good communication processes that appealed to the staff e.g. FAQs sheets, HR bulletin, HR roadshows, as well as formal reporting to the working groups as well as senior management. Also the consultation process with staff was carefully structured and extensively ‘road showed’ so that everyone understood how they could participate.

The Terms and Conditions working group was the precursor to the first joint Consultative Committee, and developed a number of protocols as the basis for implementing change e.g. a recruitment protocol and the process for lateral transfers (see Attachment C). As well, it assisted in identifying, listing and quantifying all the pre-existing working conditions of staff of the former councils that had either to be maintained or changed by negotiation.

The first salary structure was also negotiated through the Terms and Conditions working group, prior to establishment of the joint Consultative Committee. A key issue to arise was the complexity of the salary structure: a decision was made to capture as many previous positions as possible in the new structure, but this resulted in a structure with 20 grades, 4 steps across and a spread from entry to step 4 of almost 20%. This approach was successful in minimising the number of current-occupant-only positions (only 27 amongst 500+ employees), but created a major task in developing competencies for so many steps, and tended to increase staffing costs overall.

Current Occupant Only (COO)

A COO can be defined as a person whose current rate of pay (for whatever reason) exceeds that which would be paid based upon the evaluated skills grade or salary step for their position under the new salary system. This is likely to be a common occurrence unless the new council makes the costly decision to place all staff on the previously most generous conditions.

It is essential to ensure that identification of COO positions is undertaken correctly and that staff members are formally notified that their terms and conditions are COO. Before any position can be declared a COO position the new council should review a number of aspects of the salary system and the placement procedures of any affected employees as follows:

- Involve the affected employee in the review process
- Review and evaluate the position and identify those areas that may not have been evaluated
- Determine whether the salary range and nature of the work, including any peculiar features or ancillary duties have been taken into consideration
- Review the skills and expertise required for the position at each salary point
• Review the skills and expertise the employee is required to bring to the position
• Examine all agreeable job redesign alternatives
• Offer training to affected employees as a priority in order to bring their level of skill into line with the salary payable
• Ensure the methodology is transparent and undertaken in accordance with approved processes and procedures as communicated to the Consultative Committee

As salary systems are dynamic an issue that arises is the extent to which a new council is able to absorb subsequent award increases into the COO’s rate of pay, ultimately with the intention of bringing the COO back into synchronisation with the salary system. Opportunities to implement such arrangements (without agreement) whilst restricted are available and may arise where:

• A COO has been subsequently employed in a position where the rate of pay is in excess of the maximum grade and salary range for the position under the new salary system.
• An employee’s income has been maintained by agreement as opposed to an obligation under the employment protection provisions and the income maintenance is above the maximum grade and salary range for the position under the new salary system.

The important factor here is to ensure that proper identification and notification procedures for all declared COO positions are completed correctly.

3.1.5 Re-allocating staff when boundaries change

Boundary changes, in isolation or in conjunction with amalgamations, require an assessment of how to divide staff numbers either between their former council and a neighbouring council with expanded boundaries, or between two or more new councils. In 2004, for example, this occurred when the former Barraba Shire Council was split between the new Gwydir Shire Council and Tamworth Regional Councils; and when the former Hume Shire was split between the new councils of Greater Hume, Albury and Corowa.

There are no clear guidelines for precisely how staff should be re-allocated in these circumstances. In such circumstances disagreements can easily arise between the new councils as to what proportion of the former council’s staff will be re-allocated, and which of the former employees are required to meet operational requirements. Of course, members of staff themselves will also wish to express their own views. Some form of dispute resolution between the councils concerned, and under the Award, may be required.

Case Study: Greater Hume

Greater Hume Shire council was created in May 2004 amalgamating the former Culcairn, Holbrook and Hume Shires, and at the same time adding parts of Hume Shire to Albury and Corowa Councils. The Proclamation simply stated that Greater Hume, Corowa and Albury should divide the staff of the former Hume Shire ‘by agreement’. Subsequently a Severance Agreement entered into by the three councils allocated numbers of former Hume staff on the basis of each council’s share of the former Shire’s rate revenue.
Albury and Corowa were required to provide a list of possible positions for transfer and Expressions of Interest (EOI) were sought in the first instance from former Hume staff. Former employees of Holbrook and Culcairn were also considered for transfer where there were exceptional circumstances and where it assisted Albury and Corowa to meet their staff transfer obligations.

Following the closure of EOIs, Albury and Corowa went through an interview process and selected staff that had the requisite skills and experience for the positions on offer. However, if insufficient EOIs had been lodged to fill all the vacancies with suitably skilled and experienced employees, there was no effective mechanism for Greater Hume to make all the transfers required to reduce its staff numbers to the level specified in the Severance Agreement.

### 3.2 Interpreting the Act and Award

#### 3.2.1 Protected conditions of employment

Determining what actually constitutes the pre-existing terms and conditions of employment of a staff member for the purposes of section 354D can be problematic. As well as the provisions of the Award, protected conditions of employment may include arrangements that have been established over time with individual employees. Usually such arrangements relate to an extra benefit or entitlement that has been conferred on an employee by either express written agreement, or even by oral agreement (a 'handshake deal').

By definition, these arrangements must usually be examined on a case-by-case basis, and are often difficult to pin down precisely, especially if there is no written record of what exactly was agreed, and why. Thus a detailed audit and examination of individual over-Award arrangements is essential to enable a council to make an accurate assessment of its exposure under section 354D.

An appropriate ‘test’ that can be applied is as follows: in all the circumstances of the case, did the former council or the individual employee have the ability to vary the arrangement?

If the answer is ‘yes’, then the new council has in effect formed the view that the proposed change does not involve a protected term or condition of employment. If the answer is ‘no’, then section 354D would apply and the proposed change can only be made by agreement.

**Example: Regular Payment of Penalty Rates**

An employee’s letter of appointment from the former council included an unqualified requirement to work a 9-day fortnight including every Saturday and Sunday, and such work attracts specified penalty rates. The new council has adopted different arrangements and no longer has this requirement. However, because the employee’s original terms and conditions were clearly stated in writing, and without qualification, they could not have been changed by the former council and would be deemed protected under s.354D. Hence the new council is obliged to continue paying an amount equivalent to the penalty rates, regardless of its operational needs.
Example: Use of a motor vehicle to travel to and from work

An employee has been allowed to drive a council vehicle to and from home each day because the vehicle is used routinely for operational purposes out-of-hours and/or between the employee’s home and work base. The new council wishes to change those operational requirements and withdraw the approval to drive the vehicle home. Applying the ‘test’ suggests that the practice was based on operational needs, the former council could have withdrawn the right to drive a vehicle home, and it is not a term or condition of employment. It is possible, however, that if the practice has continued for many years and there is no written record that it is NOT part of the employee’s remuneration package, so the employee and union may be able to argue that it is a condition of employment by way of custom and practice and section 354D could apply. In those circumstances negotiation and perhaps a buy-out of the entitlement may be appropriate.

Neither the council nor the employee has the power to unilaterally alter the terms and conditions upon which the employee was employed. However, protected terms and conditions may be altered under certain circumstances. Variations may be formalised through a new or revised enterprise agreement, which would meet the requirements of section 354D(2). Further, clause 40 of the Award enables councils and employees to enter into a Council Agreement that has the effect of varying arrangements by agreement. The types of arrangements that may be varied are limited to the following Award provisions:

- Clause 9 - Performance Evaluation and Reward;
- Clause 11 - Payment of Employees;
- Clause 15 - Travelling and Camping Out Allowances;
- Clause 18 - Hours of Work;
- Clause 19 - Overtime;
- Clause 20 - Public Holidays;
- Clause 26 - Part time Employment; and
- Clause 27 - Job Share Employment.

Buy-Outs

As noted earlier, it is not uncommon to find that a former council has deliberately or inadvertently (through custom and practice over an extended period) established terms and conditions for some employees that are no longer appropriate and cannot or should not be addressed through COO arrangements or adjustments to the preferred salary structure and position descriptions.

In circumstances such as these, ‘buying-out’ protected conditions of employment can be an effective tool to move forward during the Establishment and Protection Phase. The need may arise to deal with some matters expeditiously so as to avoid the potential for disputes, promote a positive environment, and to achieve operational efficiencies.

When considering a ‘buy-out’ of an unwanted workplace practice or some longstanding workplace arrangement it is essential that it be justified financially and well documented.
Handled properly, the cost of ‘buy-outs’ can often be recouped over quite a short period – a year or less – and in such cases they may prove an attractive proposition to all concerned.

**Vacant positions**

Section 354D applies to the ‘person’ not the ‘position’. Therefore the Act does not prevent the new council from offering vacant positions on new and/or altered terms and conditions. If a transferred employee applies and is selected for a vacant position during the three-year protection period, a council does not need to offer the vacant position to the transferred employee on the same terms and conditions as were applicable to the transferred employee’s previous position. However, in such a situation, the transferred employee’s service would be continuous and further, the transferred employee remains protected from forced redundancy for the remainder of the three-year period.

The new council maintains the freedom to design and revalue vacant positions where necessary based on operational needs. When exercising this discretion it is important to ensure that the methodology is transparent and undertaken in accordance with approved processes and procedures as communicated to the Consultative Committee.

Also, the new council should ensure that where positions are advertised with altered terms and conditions, those alterations are made clear and fully explained to affected employees at the time of offer.

### 3.2.2 Redundancies

During the Proposal Period and Establishment and Protection Phase, any redundancies of non-senior staff must be voluntary. However, this does not mean that councils can depart from what is usually accepted as proper practice for implementing redundancies. As discussed above, clause 39 of the Award sets out the procedures involved and highlights the importance of careful planning, early consultation and sensitivity to the personal needs and circumstances of the individuals involved. Any employee whose position may be in doubt deserves to hear first in private, and to be given as much information about the situation and the likely outcome as possible.

**No forced redundancy of non-senior staff members for three years after transfer**

An important consideration here is the application of section 354F as it relates to contracted non-senior staff on fixed term appointments.

A fixed term employment contract that comes to its natural conclusion is not protected by the 3-year moratorium on redundancies. If an existing contract expires, then subject to any conditions it might include regarding renewal, the new council is normally free to decide whether to renew it or not. The terms of section 354F do not apply as there is no issue of the position being made redundant.

However, if the new council wished to terminate a transferred staff member on a fixed term employment contract before that contract expires, or contrary to a right of renewal under that contract, then the employee would be duly protected under section 354F. Therefore termination of the employment relationship could not be effected until 3 years after the transfer day or upon complete expiration of the contract, whichever occurs first.
3.2.3 Lateral transfers and prohibition of external advertising

Under sections 354G(1) and (2), if:

- a staff transfer occurs in connection with a boundary alteration or amalgamation, and
- within 3 years after the transfer day, the new council proposes to make an appointment to a position within the organisational structure (other than a senior staff position), and
- a staff member (other than a senior staff member) of one of the former councils was, immediately before the transfer day, performing substantially the same duties as are required to be performed in the position to be filled,

then the new council must notify its staff members of the position and give them a reasonable opportunity to apply for the position, and must not externally advertise the position.

Moreover, the staff member who was performing substantially the same duties must be considered for appointment to the position in preference to any other applicant. If there is more than one such staff member who is eligible for appointment to the position, then the appointment must be made on merit, determined in accordance with section 349(2) and (3) of the Act.

A new council proposing to make one or more appointments on the basis of being satisfied that a transferred staff member was ‘performing substantially the same duties’ for their former council, needs to ensure that it applies methodology and procedures that are transparent and consistent.

Care needs to be taken in interpreting the phrase ‘substantially the same duties’. Consistent criteria should be applied to different positions e.g. precisely what duties (and hence knowledge, skills, competencies etc.) are involved in the previous and new positions; what proportion of the duties of the new position are the same as or different from the previous position held by the transferred employee; what difference is there between the salary grades of the two positions?

In addition to the provisions of 354G, section 354H requires that the new council must also consider whether one or more of its transferred staff (other than senior staff) may be suitably qualified for a vacant position within the organisation structure. If that is the case, then the council must again notify staff members of the position and afford them a reasonable opportunity to apply, and must not externally advertise the position.

The important distinction between section 354G and section 354H is that employees need not have performed substantially the same duties for the former council, and under section 354H the council is not obliged to give preference to any particular applicant – it can choose from all those transferred staff who are ‘suitably qualified for the position’ regardless of their previous duties.

However, making a determination as to the exact meaning of ‘suitably qualified for the position’ can be problematic. It requires careful consideration of both the nature and background of the position, and the skills and qualifications possessed by the transferred employees.
Consideration of the position involves an analysis of the skills required to properly carry out the duties required, and to that end the six skill descriptors set out in the Local Government (State) Award 2014 provide a useful guide. Those descriptors, which cover the four bands and 12 levels, are:

1. The required authority and accountability.
2. The required judgement and problem solving skills.
3. The specialist knowledge (both in breadth and depth) and skills acceptable for performance of the position.
4. The required management skills.
5. The required interpersonal skills required for negotiating, influencing and gaining cooperation from others.
6. The required qualifications, education, training and experience to perform in the position.

Turning to the attributes of the relevant members of staff, consideration should be given to:

- Their formal qualifications
- Their current position descriptions
- Recent performance assessments.

Once again, it is very important to ensure that in applying section 354H of the Act, decisions are guided by a consistent and transparent set of criteria, and that there has been adequate discussion about the process with the Consultative Committee. Care also needs to be exercised to ensure that there is no discrimination against staff members in a manner prohibited by any relevant legislation.

As an example of how to handle these issues, Attachment C presents the lateral transfer protocol and checklist adopted by Clarence Valley Council (amalgamated in 2004).

### 3.2.4 Limitations on transfer of work base of non-senior staff

Under section 354I, a new council may change the work base of a transferred staff member provided the staff member gives their written consent to the change, or such a requirement would not cause the staff member to suffer ‘unreasonable hardship’ because of the distance required to travel to the proposed work base.

Problems can arise in the interpretation of ‘not cause the staff member to suffer unreasonable hardship’. On most occasions the question must be answered on a case-by-case basis, taking into account all relevant factors. Again, consistency of process and criteria used, as well as discussions with the Consultative Committee, are vital.

The application of this provision will be highly dependent on the geographical circumstances of the situation. Metropolitan local government areas will encounter very different scenarios to rural locations – it is quite normal in large cities for people to accept lengthy commuting as inevitable, and to move from one home or place of work to another on a regular basis.
One option in rural areas when a change of workplace results in significant additional costs on an employee would be to negotiate a travel allowance. However, the agreed sum should be calculated and documented carefully, and should take into account the fact that a modest increase in commuting costs may well not be unreasonable. Nor should payment of the allowance be open-ended: the justification and amount of the payment should be reviewed from time to time, particularly if the employee concerned elects to change their place of residence.

3.3 Rural Centres

As noted earlier, section 218CA of the Act requires that the number of ‘regular staff’ employed at a ‘rural centre’ is, as far as is reasonably practicable, maintained at the same level as were employed immediately prior to the amalgamation or boundary change. This provision applies not only during the Establishment and Protection Phase, but also to the ongoing operations of the new council.

It is evident from the wording of this provision that the statutory imperative to maintain regular staff numbers does not over-ride the need for the new council to make practical decisions. This means that if it is impractical to maintain a particular position in a rural centre then the council may properly decide to remove that position. Therefore it follows from this application that the actual number of regular staff employed at a rural centre will rise and fall according to practical considerations resulting from changing external environmental factors.

**Examples of Legitimate Reductions in Rural Centre Staffing**

1. Voluntary Transfers

For a variety of personal and professional reasons, staff based in a rural centre prior to the amalgamation may request a transfer to another workplace. Such voluntary transfers should not be perceived as a problem or a practice to be discouraged. Council should place a high priority on providing flexibility to staff in the workplace and displaying a positive attitude towards the benefits of amalgamation by welcoming new opportunities for staff to achieve improved job satisfaction and career opportunities.

It follows that employees should not be restricted from transferring to another workplace simply because that would reduce the number of regular staff working at a particular rural centre. This type of restriction would not be placed on other staff and would be unreasonable.

2. Impact of Boundary Changes

When a significant part of a local government area comprising a rural centre is transferred to another council, regular staff numbers will need to be adjusted to reflect the new revenue base and operational requirements. It is simply not practicable to maintain the full complement of regular staff at the rural centre of the former council when the income generated is reduced and the previous scope of work at the centre is no longer required. A simple formula may be applied to determine the necessary reduction in regular staff numbers, according to criteria such as rates revenue, land area, or total road and bridge length.

3. Staff Employed in Specialised Facilities
Some staff of a former council may have been employed at a special facility (such as an aged care centre) located in a defined rural centre. In these cases there may be alternative options for the future operation of the facility involving outsourcing or transfer of ownership to the non-profit or private sectors. If this occurs, then it may not be practical for the new council to maintain regular staff numbers at their previous level.

Under the Integrated Planning & Reporting framework, it is requirement of councils to undertake workforce management planning. A council’s workforce plan should consider the people, skills, experience and expertise required for the workforce to meet changing priorities, utilise new technologies and adapt to the needs of the community in the wake of local government reform. It is through work force planning that a council can endure that the right people are in the right places (including rural centres) to implement the council’s community strategic plans.

At the same time, however, the council should at all times be seen to comply with the principles of good governance and ensure that decisions on staffing are justifiable and transparent. Ongoing consultation with staff is essential. In addition, the council should be conscious of the need to ensure that the information required to make decisions is readily available to the local communities affected to the maximum extent permitted by law and sound industrial relations. To achieve this goal, a decision not to replace a regular staff position at a rural centre should be supported by written documentation stating the reasons for the decision. These documents could be placed in a public register (subject to any restriction imposed by law). Also, council’s annual report can provide regular updates on the actual number of regular staff employed at designated rural centres.

### 3.3.1 Defining a ‘rural centre’

Although the Act defines a ‘rural centre’ as one with a population of 5,000 people or fewer, a problem can arise in determining the boundary within which that population is to be counted. For example, is it an area defined by the ABS for census purposes? Sometimes the ABS definition may exclude a rural area immediately adjacent to a town even though the two are inextricably linked. Although the Act makes provision for prescribing ‘rural centres’ by regulation, this provision is yet to be used. As a result, a new council may well find itself needing to negotiate a suitable local definition of the area involved. This could involve a discussion with the local community as well as consultations with the employees and relevant industry union(s).

### 3.3.2 Counting ‘regular staff’

In accordance with the definition provided in section 218CA, the following employees can be classified as ‘regular staff’ for the purpose of determining the total number employed at a rural centre immediately prior to an amalgamation:

- Permanent full-time staff employed as at transfer day
- Permanent part-time staff employed as at transfer day
• Casual staff as at transfer day employed on a regular and systematic basis during a period of at least 6 months ending on transfer day, and who have a reasonable expectation of continuing employment.

Also in accordance with the definition the following staff can be excluded from the number of ‘regular staff’:

• Senior staff as at transfer day
• Temporary staff as at transfer day
• Casual staff who commenced employment less than 6 months prior to transfer day
• Casual staff who did not work on a regular or systematic basis or who did not have a reasonable expectation of continuing employment
• Any positions that were not within the organisation structure
• Any positions in the organisation structure that were vacant as at transfer day.

It is recommended that on transfer day the new council undertake the following actions:

1. Formally record the actual number of regular staff (as defined) employed at rural centres located within the former councils’ areas immediately prior to transfer day
2. Record the factors expected to influence the number of staff employed at rural centres
3. Outline council’s strategies for the application of section 218CA including ongoing public reporting of changes in staff numbers and the reason those changes have occurred.

Future movements in staff numbers at ‘rural centres’ may occur for a number of reasons:

• Some staff may volunteer to transfer to ‘head office’ for personal reasons
• There may be legitimate changes to operational needs that make it impractical and unreasonable for the council to maintain numbers at the ‘rural centre’
• On the other hand, there may be opportunities to transfer some existing operations to a ‘rural centre’, or to establish a new function there
• Functions being undertaken at a ‘rural centre’ may be outsourced – by agreement during the Establishment and Protection Phase, or later by way of a reasonable operational decision in consultation with affected employees (see the Greater Hume Shire Council example below).

To apply the intent of section 218CA in an ordered and consistent manner, the council will need to establish and implement a standard process when a staff member departs a rural centre. If the number of regular staff employed at a rural centre falls significantly below the number employed at transfer day, then the council should investigate possible strategies whereby other regular staff positions may be reasonably and practically based there.

Attachment D presents a draft policy on staffing in rural centres that covers a number of the issues addressed above.
Case Study: Greater Hume Shire Council

Following the amalgamation and boundary changes in 2004, the new Greater Hume Shire Council contained three towns (Culcairn, Holbrook and Jindera) that met the definition of a rural centre under section 354B. Given the absence of a definition in the Local Government Act 1993 (NSW) of a ‘centre of population’, the council adopted boundaries used for rating purposes.

Greater Hume Shire Council is committed to meeting the requirements of section 218CA – Maintenance of staff numbers in rural centres, as far as is reasonably practicable in order to:

- ensure staff confidence is maintained
- avoid unnecessary industrial disputes
- meet the expectations of elected members, and
- maintain the support of rural communities across the Shire.

The former Hume Shire Council had an administrative office in Albury and following the amalgamation some of the administrative staff there were transferred to offices in Culcairn and Holbrook. Maintaining regular staff numbers in those rural centres has therefore been relatively easy.

However, the Hume Shire works depot, together with a family day care centre and council-owned aged care hostel were located in Jindera, and maintenance of staff numbers in this township has been more problematic. In particular, following a review of operations the new council decided to sell the hostel to a not-for-profit organisation, and as a result the number of council employees in Jindera fell below the level recorded prior to amalgamation. Council took the view at the time that under the circumstances it was not reasonably practicable to maintain the previous number of regular staff, but in the spirit of the legislation it has subsequently made every effort to locate other positions in Jindera where it has been reasonable to do so.

3.4 Training Plans

An amalgamation and all the associated workplace changes require all concerned to recognise that ensuring the efficiency and productivity of the new organisation, and the wellbeing of its employees, demands a renewed and ongoing commitment to education, training and skills development.

At the outset, a useful strategy is to guarantee that all the former councils’ adopted Training Plans will continue to be implemented for at least twelve months. This offers continuity and certainty for employees, and allows time to develop the new organisational structure, process staff transfers, and construct a new Training Plan in consultation with the Consultative Committee and employees.

A Training Plan should represent the agreed, documented outcome of a systematic planning process that identifies the council’s current and future needs for skilled staff, and how those needs can be met. The quality of the Training Plan is therefore linked to the quality of that planning. As the planning takes place at different levels within council the Training Plan (or plans, as it needs to cascade logically from the organisational to individual level) needs to
document the training effort and activities required at each level. In fact at many councils, Training Plans may need to be developed at three or even four levels – the council as a whole, departments and units, and individual members of staff.

As noted in section 2.3.3 the Award indicates that Training Plans should be matched by a suitable budget. Councils differ in their methods of constructing and allocating training budgets, but as a general rule it is essential that:

- On the one hand, development of the Training Plan is aligned to reasonable expectations of the budget that can be made available
- On the other, the budget is sufficient to support a Training Plan that is robust and adequate to meet the council’s (and community’s) needs for skilled staff, as well as employees’ reasonable expectations for skills development.

Higher-level Training Plans for departments or the council organisation as a whole should be closely aligned with – or form part of – the broader Workforce Management Strategy required under IP&R guidelines. Those guidelines suggest that the following questions might be addressed:

- How effective are the council’s current employee development programs in equipping employees to meet its strategic objectives?
- What are the critical skills areas the council needs to address in 4 and 8 years’ time? Is there a strategy in place to provide existing employees with the opportunity to develop these skills?
- Is the council’s employee performance management system linked to its learning and development system? How effective is this?
- Do the council’s business succession planning strategies provide opportunities to all employees to develop and attain individual career objectives?

There is often an important link between Training Plans and salary structures, particularly when a council uses a skills-based progression method in determining appropriate salaries. An employee’s competency or performance is often reviewed against agreed criteria in order to progress through the salary system, and the gap in skills possessed and skills required can then form the basis of an individual Training Plan.

For individuals, a Training Plan typically includes information such as:

- Current competencies held
- Competencies needing to be developed
- Timeframes and resources
- Assessment methods
- Career development opportunities.

As with many other fundamental management processes, ensuring a meaningful and useful approach to the development of Training Plans will need time and sufficient attention from the senior management team. In order to meet the specific training needs of an amalgamating council there are some particular kinds of training that the council might wish
to consider. The following programs offered by LGNSW Learning Solutions may be useful to promote positive workplace relations in times of change:

- Applying for jobs and performing in interviews
- Building wellbeing and resilience
- Constructive workplace communication
- Making Consultative Committees more effective
- Managing people: personality and performance
- Managing the stages of change.

For more information on each of these programs see Attachment 1.
4. PLANNING AND MANAGING CHANGE

4.1 Building a new organisation

The essential starting point for planning and managing workplace change is a realisation that the task at hand is to build a ‘brand new’ organisation that will best serve the interests of the communities involved. Successful implementation of an amalgamation can easily be thrown off course by a view on the one hand that Council A is ‘taking over’ Council B, with all the resentment that will entail; or on the other hand that the aim should be to cobble together the previous organisations with the minimum disruption to established ways of doing things and their old identities.

Neither of those approaches is likely to yield a successful outcome. Planning for workplace change as part of an amalgamation needs to adopt a similar approach to Integrated Planning and Reporting:

- Begin by considering the characteristics, needs and aspirations of the new local government area, its communities and key stakeholders; seek agreement on desired outcomes (Community Strategic Plan)
- Identify preconditions for success; then design an organisational structure and staff profile that will best deliver the desired outcomes over the initial planning period (Delivery Program)
- Then establish and implement detailed arrangements and programs (Operational Plan).

An amalgamation can offer a unique opportunity for all concerned to implement in partnership with the community a new and exciting modernising agenda. The early years after the merger are a time for the ‘brand new’ organisation to establish its own reputation and create its own destiny. The council can set goals that look with a fresh and courageous mind into the future to establish new agendas for community wellbeing and prosperity, and those goals need to be reflected in the organisation structure and workforce arrangements.

There will be some who believe the amalgamation will fail: those who wish to succeed need to seize the opportunities on offer and work hard to achieve outcomes that exceed earlier expectations.

4.1.1 Cultural change

If the goal is to build a ‘brand new’ organisation, then a central challenge will be to achieve cultural change. This will involve several key elements:

- Leadership along the lines discussed above
- An effective Consultative Committee
- Continuous communication amongst all those involved, commencing as soon as an amalgamation proposal becomes clear
• Recognising and celebrating the achievements of the former councils, and identifying features that should be preserved
• An understanding of the cultures of the previous organisations, their strengths and weaknesses, and the underlying dynamics
• A holistic view of the new organisation, highlighting the need for a collective effort across councillors, senior management and staff
• Establishing shared goals, values and principles to underpin future operations and working relations
• A focus on longer term results as well as short-term change
• Development of specific individual and team-building strategies as well as organisation-wide efforts
• Availability of support mechanisms to address staff concerns and build their confidence to contribute rather than oppose, including a full explanation of the ‘safety net’ offered by the legislation and Award
• Honesty, openness, accountability and commitment on the part of all concerned.

An early start should be made in bringing together key elements of the strategic plans and policies of the former councils, and then preparing a Community Strategic Plan for the new local government area, and a workforce plan for the organisation. This will focus attention on future needs and how the new council can best organise itself to support its expanded community.

In such an environment, all concerned will be better able to let go of the past, focus on fresh opportunities, and see where individual contributions can be made towards a successful outcome.

4.1.2 Leadership

The weeks and months before and after the creation of a new council are a time like no other. There is a huge challenge for the leadership team to celebrate the history and achievements of the former councils, whilst at the same time taking positive steps to establish the image and presence of the new organisation. This can only be done by first confronting the reality of change that has occurred, then setting high aspirations for the future and winning the support of all concerned for that vision, and finally putting in place the plans, policies and structures to make the required journey.

At the same time, the council will be under intense pressure to get organised and to start producing results. The State government and the community will have high expectations for improved service delivery and better value for ratepayers’ money to justify the amalgamation and/or boundary change. The leadership team must cope with the immediate complexity and demands of an enormous range of issues through thoughtful planning, effective communication, encouragement and persuasion, skilful organising and smart problem solving.

The leadership attributes required are special. This is almost certainly not the time for ‘management text book’ or ‘crash through’ styles of leadership. Careful consideration needs
to be given to assembling the right mix of skills and personalities to create a leadership team appropriate to the challenge.

Managing the mood

This is a time when relationships are disrupted, friends are stressed and some will resign, jobs disappear and uncertainty abounds. In such an environment, managing the mood of the organisation is an essential leadership skill.

The leadership team must pay close attention to employees’ emotions and work hard to maintain a receptive climate for the many changes that need to occur. Employees need to be nurtured to believe that the merger is a positive change, that past and present accomplishments are valued and that the future holds new career promises. But they also need to be reminded that complacency is not an option.

So the leadership team needs to find the right balance of optimism and realism and carefully calibrate the timing, tone and positioning of their actions and communication. The mood of the organisation must be one where the majority of employees are receptive, on board and feeling optimistic – even excited – about the future.

Cultural differences

Managing the cultural issues associated with an amalgamation is essential to achieve effective integration of the former councils’ staff. Cultural differences between the former councils will be seen in espoused values, in systems and processes, and also in unwritten and unsaid assumptions about what matters and how things should be done. A balance has to be struck – one that is seen to be fair and sensible, and that represents a step forward for the majority of those concerned.

A significant risk that often has to be managed is the perception that one of the councils has ‘taken over’ the other/s. There is a need for consistent communication to reiterate the key message that it is a ‘brand new’ organisation with its own unique destiny.

Establishing credibility

The leadership team must quickly establish its credibility, and this will generally emanate from two sources – demonstrated expertise and productive relationships.

Credibility and respect can be gained at the outset by showing that the leadership team is knowledgeable about the reasons for the change and the issues involved, and well-informed about the process of mergers, the short-term goals that must be achieved, and how best to proceed. Frank exchanges of views with other councils and with colleagues who have experienced amalgamations before will be extremely valuable in this regard (see section 4.1.3 below).

In terms of relationships, the leadership team must demonstrate at every opportunity that they can be trusted to listen and will always work in the best interests of the council, staff and community. This requires being open, consistent, supportive and fair in decision-making, and always acting with integrity.

Persuasive leadership

In an environment of change, ‘persuasive leadership’ is essential. This is not a matter of ‘selling’ change, but rather being a ‘first among equals’, making the journey with everyone
else – albeit in the front row – and learning, discussing and negotiating on the way. People need to be drawn together through a belief in a brighter future, by agreeing on shared goals, and by having a genuine say in how to get there.

Persuasive leadership is governed by some basic practices:

- Model the behaviours you want to see, like mutual respect and a spirit of cooperation.
- Connect emotionally by showing openly your personal dedication and commitment.
- Have a strong and accurate sense of the emotional state of employees and adjust the tone and style of communication accordingly.
- Favor the rational, the orderly and a common sense approach.
- Use similarities to create bonds with employees, thus creating a presumption of goodwill and trustworthiness.
- Deliver reassuring, consistent and sensible messages.
- Face up frankly and honestly to the hard truths of situations and set step-by-step goals.
- Give praise by crediting good work and offering positive feedback.
- Communicate even when there is nothing new to say.
- Enlist champions that share and understand the vision and support the initiatives – peer power provides influence and promotes learning horizontally rather than vertically.
- Always be willing to compromise and give-and-take where it is necessary to respond to staff and community concerns – but retain a clear view of the ‘long game’ and the sustainable solutions that need to be put in place.
- Be patient: it is seldom possible to reach shared solutions in a single step, so listen to employees, test and model positions, develop new positions that incorporate ideas from others, then test again – eventual outcomes will more than justify the effort.

On the other hand, avoid the ‘hard sell’. Beginning the post-amalgamation process with definite positions and precise targets will rarely achieve a good result. This is an environment of immense workplace uncertainty and volatility. Setting out seemingly rigid positions may simply provide those who still oppose change with something to fight against and an excuse to ‘maintain the rage’.

4.1.3 Collective intelligence

Amalgamations and boundary changes are nothing new. Moreover, they usually occur in batches involving a substantial number of councils. This creates numerous opportunities to learn from the experience of others, and to work through the change process in partnership with colleagues handling the same issues and problems that have presented themselves. Building collective intelligence is the smart way for councils in similar circumstances and like-minded individuals to learn from each other in ‘real time’, to provide mutual support, to discover fresh opportunities and solutions to problems, and to achieve outcomes they might not be able to reach separately – and often more quickly.
4.2 A staged approach

There are many issues to consider in managing the change process and it will not be possible to do everything at once – a staged approach is essential and this can be based on the four phases described in Figure 1 (section 2.1). Of course, issues and tasks may not be strictly limited to one phase or another, and there will be a significant degree of crossover.

Figure 2 below summarises how activities may be placed in a logical sequence. It identifies the earliest point at which a given activity might be expected to occur or – in the case of those activities through two or more phases – when they should be initiated. However, no one model will suit all councils, so the range of activities and sequencing suggested in Figure 2 will need to be tailored to local circumstances.

As noted in section 2.1, the Pre-Proposal Phase offers an invaluable opportunity to consider a range of workforce and workplace issues that may be involved if an amalgamation or boundary change is subsequently pursued, either voluntarily or by the Minister. Steps that should be taken are listed in Figure 2. Attachment E provides an example of the model adopted by two metropolitan council preparing for a voluntary merger: a similar approach could be taken to explore the likely consequences of a potential forced amalgamation or boundary change.

Also as discussed in section 2.1, having a Transition Phase is conditional upon the Proclamation of the new council allowing a period of several months before it commences operations and staff transfer. If there is no Transition Phase, then the activities assigned in Figure 2 will need to be re-allocated to either the Proposal Period or the Establishment and Protection Phase.

As a general rule, it would be preferable for as much preparatory work as possible to be completed during the Proposal Period (see Attachment E for an example of how this might be handled). Understandably, existing councils will often be reluctant to do this, either because they doubt that the proposal will come to fruition, or because they are strongly opposed to the proposal and wish to demonstrate their resistance. Councils should, however, consider the community interest and understand that much of what needs to be done to prepare for possible boundary adjustments and/or amalgamations is also sound practice in itself and will be of benefit whether changes actually take place or not.

**Figure 2: Key Activities and Sequencing**

<table>
<thead>
<tr>
<th>Pre-Proposal Phase (before Minister makes a formal proposal)</th>
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<tbody>
<tr>
<td>• Consider possible change scenarios and their implications</td>
</tr>
<tr>
<td>• Hold discussions with other affected councils and, if agreed, undertake preliminary joint investigations and planning</td>
</tr>
<tr>
<td>• Review existing workforce plans and identify any outstanding issues</td>
</tr>
<tr>
<td>• Preliminary consultation with staff and unions</td>
</tr>
<tr>
<td>• Ensure all existing staff employment terms and conditions are documented, including</td>
</tr>
</tbody>
</table>
informal arrangements that are not entrenched by way of custom and practice

- Audit existing term contract, casual and temporary positions
- Quantify which casual positions are undertaken by real casuals
- Undertake an audit of senior staff contracts and the expiration of those contracts
- Ensure all staff position descriptions accurately reflect current roles and that all staff policies are current and relevant

Proposal Period (from the day a proposal is formally made until it is determined or a Proclamation is issued)

- Establish a change management team and commence change management training
- Initiate (or continue) joint investigations and preliminary planning with other affected councils
- Undertake an audit of all positions (tasks, status, skills, tenure, vacancies, contractors etc.)
- Finalise detailed documentation of all staff terms and conditions, and current position descriptions
- Audit the relevant salary systems, job evaluation systems and performance appraisal processes of the amalgamating entities
- Ensure staff policies, EEO plan and Training Plans are up-to-date
- Review delegations and authorisations and update register
- Respond consistently and effectively to staff concerns and offer support required
- Develop strategies to minimise stress and manage Worker's Compensation claims
- Ensure there is an adequate Employee Assistance Program

Transition Phase (from date of Proclamation until staff transfer to new council)

- Establish Transition Committee and appoint Interim General Manager
- Commence formal consultations under the Award through Consultative Committee/s
- Establish a combined change management team with broad membership from all affected councils, and expand training
- Prepare and implement a communications plan (ensure consistency of information and process)
- Review existing services and assess likely service delivery programs and priorities for
the new council (CSPs and Delivery Programs)

- Identify likely locations of offices, depots and other workplaces
- Consider options for a new organisation structure
- Consider potential acting senior staff positions, assess legal obligations and the possible termination of some senior staff contracts
- Develop a preliminary change management strategy
- Allocate responsibilities for coordinating and implementing the transition

### Establishment and Protection Phase (for 3 years from the date staff transfer)

- Recruit new General Manager (Administrator and Acting GM may be appointed by Proclamation)
- Review role and composition of change management team
- Establish new Consultative Committee and Work Health and Safety Committee
- Continue consultations, communications and staff support
- After elections, engage fully with councillors and address their needs for additional information, guidance and professional development
- Recognise and celebrate achievements of the previous councils
- Agree upon a new statement of corporate values, goals and priorities
- Formulate and adopt ‘interim’ CSP and Delivery Program to guide workplace change
- Determine new organisation structure and prepare new Workforce Plan (staff numbers, skills needed, status and tenure of positions, other employment conditions, training and development programs, cultural change etc.)
- Appoint new senior staff
- Determine the termination arrangements for former senior staff
- Agree strategy for workplace change (including cultural change, team building, staff policies, specifying continuing/new positions, amended roles/status/tenure, potential redundancies or redeployment, future workplace locations, timetable for action)
- Consolidate previous enterprise/council agreements
- Adopt new grading/salary structure and performance appraisals (and identify COO positions)
- Determine delegations and authorisations
- Consolidate all HR functions/processes and ensure they meet organisation and staff needs (change management and longer term)
Establishment and Protection Phase (for 3 years from the date staff transfer)

- Prepare new EEO plan
- Adopt updated Code of Conduct
- Determine circumstances, processes and incentives for voluntary redundancies
- Develop complementary redeployment and retraining initiatives
- Identify and manage situations where members of staff teams have different conditions
- Ensure all outstanding grievances are settled
- Establish long-term programs for training, staff development and continuous improvement
- Maintain staff numbers in Rural Centres as far as practicable

Ongoing Operations (beyond 3 years from the Proclamation)

- Review progress achieved during Establishment and Protection Phase and issues arising
- Address any outstanding matters
- Prepare updated CSP, Delivery Program, organisation structure and Workforce Plan in accordance with the Act (may be required during Transition Phase)
- Identify needs for new or amended positions and recruit as necessary
- Implement further redundancies if required and in accordance with due process (voluntary and/or forced)
- Determine and meet ongoing needs for redeployment and re-training
- Regularly update programs for training, staff development and continuous improvement
- Maintain staff numbers in Rural Centres as far as practicable

4.3 Managing risk

Sound risk management is essential. Any structural reform process will increase the chances of conflict and upset in the workplace. Whilst managing and minimising this risk can generally be accomplished by giving consideration to issues discussed in Parts 2 and 3 above and seeking appropriate advice and/or assistance, there are several critical aspects that warrant further emphasis.
4.3.1 Change and stress

It is well documented that Worker’s Compensation claims based on stress arise during periods of major workplace change. Of course stress can be both positive and negative, but it is the negative effects of stress on both an individual’s wellbeing and an organisation’s productivity that can be very costly.

As indicated in Figure 2, important steps to be taken as early as possible in the reform process include:

- Establishing a change management team no later than during the Proposal Period
- Providing change management training – LGNSW Learning Solutions provides a range of courses dealing with the change procedures, as outlined in Attachment A
- Developing strategies to minimise stress and manage potential Worker’s Compensation claims – councils should contact StateCover or their own Worker’s Compensation insurance providers to ensure any potential claims, particularly for stress or injuries with gradual onset, are managed properly.
- Establish an Employee Assistance Program (EAP) or, if necessary, update and expand an existing EAP – council’s provider can provide professional support and counselling to employees undergoing stress or encountering other problems arising in the workplace or in their private lives. The Employee Assistance Professionals Association and StateCover can be contacted for general advice on EAP providers, especially in country areas.

4.3.2 Industrial risks

Individual conditions of employment

As mentioned in section 3.2.1, there may be longstanding arrangements established with individual employees that may or may not have been conferred by written agreement. These are typically over-award payments and/or entitlements that were established to satisfy a particular circumstance in the previous council, and may in some cases be interpreted as binding terms and conditions of the employee’s employment contract created through custom and practice.

These situations can easily become the subject of disputes in the new council if not dealt with properly at an early stage. Councils should be proactive by initially conducting an audit of all such arrangements across all line managers and documenting the results. Councils should also not hesitate to contact the LGNSW Industrial Relations Unit for advice and assistance when seeking to discuss and/or negotiate these matters with employees.

Delaying the implementation of workplace change, such as confirming the placement of positions in new organisation structures and the introduction of a new salary system, raises the potential of additional disputes occurring at the conclusion of the 3-year Establishment and Protection Phase.
**Anti-discrimination**

During the change process councils will have to make decisions on staff transfers, selecting transferred employees for new roles, provision of training, recruitment and, perhaps, redundancy.

Unless these decisions are handled carefully, councils may be exposed to claims of unlawfully discriminating against one employee with a particular attribute in favour of another with a different attribute.

State and federal legislation prohibits councils from discriminating in employment matters on the grounds of age, race, gender, sexual preference, pregnancy, marital status, religion, HIV, disability or carer's responsibility.

Suggested risk management strategies in this regard are:

- Ensure that managers fully understand their obligations under the *Anti-Discrimination Act 1977* (NSW); the *Industrial Relations Act 1996* (NSW) and Pt 6-4 of Chapter 6 of the *Fair Work Act 2009* (Cth).

- Establish fair, equitable, relevant and objective selection criteria for processes such as internal recruitment, transfer of positions and/or employees, training opportunities and redundancies. Involve employees and unions in the development of these criteria: the Consultative Committee is an ideal forum for this purpose.

- Document thoroughly and communicate to employees not only the process (what?) but the rationale behind the process (why?). Well-informed and involved employees will be less likely to feel they have been discriminated against than those who feel that they have been left in the dark and disenfranchised. Whilst the council may have established fair and equitable criteria in its processes, there will inevitably be some employees who will allege unfair treatment if they are not selected for a position, or feel that they may potentially suffer some form of detriment in their employment. Even though a council may be able to account for its actions, there may still be potential exposure to a claim if any employee can substantiate that they were not adequately informed and involved.

The LGNSW Industrial Relations Unit can be contacted for assistance on anti-discrimination matters.

**Redundancy**

Generally, employees (other than senior staff) affected by either an amalgamation or boundary change proposal cannot be terminated on the grounds of redundancy without their agreement during both the Proposal Period and the 3-year Establishment and Protection Phase. Councils are therefore only able to offer voluntary redundancies until the Ongoing Operations phase.

A small risk may arise if a voluntary redundancy occurs during the change process and the employee concerned later claims that the redundancy was in reality 'forced'. This can lead to time-consuming and costly claims for unfair or constructive dismissal.
As a precaution, councils are advised to ensure they have a defensible process for both voluntary and, after the Establishment and Protection Phase, forced redundancies. This should include:

- Consultation in accordance with Award requirements
- Fair and equitable procedures for selection
- Development of objective criteria
- Clear and thorough documentation.

Clause 39 of the Award encourages the consideration of arrangements that would mitigate against the effects of termination. Good human resources management practice would also dictate that councils terminating employees on the grounds of redundancy should offer assistance in the form of professional out-placement (career transition) and financial advisory services.
5. **BEYOND THE TRANSFORMATION**

5.1 **Consolidating Change**

As indicated in Figure 2, the period immediately following the Establishment and Protection Phase will be characterised by a need to handle inevitable ‘loose-ends’. A detailed review of progress achieved during the Establishment and Protection Phase and issues arising should be conducted as a matter of some urgency. In particular, outstanding matters may well include:

- Finalising some redundancies where protected positions are no longer required and there is no alternative position suitable for the employee concerned
- Bringing to a conclusion some or all COO arrangements
- Updating position descriptions
- Further re-deployment and re-training as necessary
- Recruiting for new or amended positions where that has been deferred pending other staffing adjustments
- Completing full implementation of the new salary structure
- Efforts to maintain staff numbers in Rural Centres at the highest practicable level.

As always, these matters should be handled sensitively, having regard to all the relevant provisions of the Act and Award, and through discussion with the Consultative Committee. Successfully consolidating change will also require careful ongoing attention to the various matters covered in sections 3 and 4, particularly effective communication and leadership, as well as maximising the value of the Consultative Committee and other arrangements for two-way consultation with staff. Cultural change and establishing the council’s new brand and image will also undoubtedly need further attention.

5.2 **Ongoing Planning and Improvement**

During the Establishment and Protection Phase, the new council needs to turn its attention to putting in place the plans and policies that will underpin its long-term operations and promote continuous improvement. In one sense, this is largely a matter of meeting requirements under the Act and Award, but the creation of a new council and – hopefully – the emergence of a new culture offers an opportunity to approach the tasks involved with a renewed sense of purpose and vigour.

In the context of workplace management, two dimensions of ongoing planning and policy development stand out:

- The Integrated Planning and Reporting (IP&R) process, especially the preparation of a workforce management plan
Establishing and successfully implementing longer-term programs for training, staff development and continuous improvement, including the Training Plan required under the Award.

### 5.2.1 IP&R and the workforce management plan

The Integrated Planning and Reporting (IP&R) system is established under sections 402-406 of the *Local Government Act 1993* (NSW). In particular, section 403 of the Act requires councils to prepare a Resourcing Strategy that includes ‘workforce management planning’. This has to be carried out in accordance with guidelines mandated under section 406.

A Workforce Plan is a four-year strategy to address the human resources required to achieve the objectives identified in the Community Strategic Plan (section 402). According to the current guidelines issued by the NSW Office of Local Government it should address a range of issues related to training including:

- Learning and development
- Succession planning
- Opportunities to create and retain positions for local young people
- Incentives and other programs to make the council ‘an employer of choice’
- Performance management.

Ideally workforce planning is an ongoing process aimed at progressively re-shaping the workforce to achieve current and future organisational objectives. It should not be seen as simply the periodic preparation and implementation of a ‘plan’. Also, rather than being an activity largely confined to the council’s HR unit, it should be a function of all managers and senior managers to ensure that the organisation has the right skills at the right time in the right place.

Workforce Plans need to include data on workforce profiles and capabilities, and should also contain clear strategies and targets that are regularly reported and updated to guide future activities. Depending on the needs identified within the workforce planning process, data might be used to monitor and track the following trends:

<table>
<thead>
<tr>
<th>Separation rates</th>
<th>Leave patterns — sick leave, long service, family, and parental leave</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobility within the agency</td>
<td>Time taken to recruit</td>
</tr>
<tr>
<td>Turnover rates</td>
<td>Skills shortages and oversupply</td>
</tr>
<tr>
<td>Retention rates</td>
<td>Achievement of EEO targets</td>
</tr>
<tr>
<td>Vacancy patterns</td>
<td>Wages and salary costs</td>
</tr>
<tr>
<td>Retirement patterns</td>
<td>Turnover costs</td>
</tr>
<tr>
<td>Promotion patterns</td>
<td>Workload patterns</td>
</tr>
</tbody>
</table>
Case Study: Port Stephens Council

Workforce planning is conducted annually at Port Stephens Council and involves a comprehensive process that provides managers with a framework for making staffing decisions to address short, medium and long-term business needs. It includes the following steps:

- Understanding the organisation’s strategic direction and its impact on the workforce
- Analysing current and future workforce needs and competencies
- Analysing the gap between current and future needs
- Developing strategies to address workforce gaps
- Implementing strategies to align the workforce with future business needs
- Evaluating the success of the workforce planning strategies in meeting objectives.

An important component of Council’s workforce planning and succession processes is the identification of each position by workforce segment, and which positions are most critical e.g. those which present the most significant risk to service delivery and where there is potential for a substantial gap between future demand for services and supply of labour.

Succession planning can be broadly defined as identifying future potential staff to fill key positions. Generally one or more successors are identified and development activities are planned for them. Under the Council’s Talent Management Strategy, all positions in the organisation are ranked according to the potential risk of losing the person and the consequence for the organisation:

- High – critical workforce position and/or employee may leave in the next 6-12 months
- Medium – may leave in the next 12-24 months
- Low – no immediate risk

Positions rated as high risk receive priority in the training budget. Potential successors are provided with development opportunities that form part of their learning and development (L&D) plan.

Direct managers have responsibility for developing appropriate L&D plans for staff in accordance with the talent sector training options matrix. This ensures that all staff have the skills required to perform the duties of their position. Education assistance is also available to assist staff to achieve recognised qualifications relevant to their current role or identified through succession planning.

Each year, the L&D team facilitate discussions with managers to identify the training requirements for staff for the forthcoming year. This will inform the Individual Work and Development Plan process conducted in June/July. Learning and development needs will be identified through:

- Performance review process
- Annual workforce planning process
• Internal audit process
• Legislative requirements
• Identified areas of extreme risk.

Individual Work and Development Plans have been in place for a number of years and provide a clear line of sight to the achievement of the objectives in the Community Strategic Plan. Council wants employees to be accountable. The Plans help employees to know what is expected by Council, and apply in conjunction with the individual position description.


5.2.2 Training, staff development and continuous improvement

The nature and preparation of Training Plans was discussed at some length in section 3.4. Having a suitable plan and budget for its implementation is an ongoing requirement under the Award, but anecdotal evidence suggests that this is an area that is often somewhat neglected in the face of competing demands for staff time and councils’ limited resources.

The 2013 report of the NSW Independent Local Government Review Panel highlighted a broader need for councils to enhance their performance and productivity. It proposed amongst other things:

• A sector-wide program to identify and promote innovation and best practice
• That councils should undertake regular, structured reviews of their services
• New arrangements for performance monitoring and benchmarking.

Sound workplace management and constructive industrial relations are critical for those or similar initiatives to succeed. Much of the material presented in earlier sections of this Kit is therefore relevant to ensuring ongoing improvement in councils’ performance.

Programs for continuous improvement are a longstanding feature in many councils across NSW, but are by no means universal and rarely implemented in a consistent, concerted fashion over extended periods of time.

Continuous improvement and good practice

Within the first year, the new council should introduce a structured program to ensure staff are accountable for their roles in the change process and ongoing reform initiatives, and to create the momentum for a culture of continuous improvement and good practice.

Continuous improvement and good practice needs to cover a broad range of issues:

• Strategic planning and management
• Financial sustainability
• Efficient and effective operations and service delivery
• Human resources management
• Quality governance and ethical conduct.
The Office of Local Government’s *Promoting Better Practice* program provided councils with a range of tools, practice notes and self-assessment checklists that offered a useful starting point. Regular reviews along those lines act as a ‘health check’ to focus attention on key concerns and priorities, and to give both the council and its community confidence about what is being done.

Similarly, business excellence models (such as the Australian Business Excellence Framework) also provide a holistic framework for coordinating and managing a program of continuous improvement. Such models are typically structured around a range of key components against which councils can assess and measure their performance, target areas for improvement and embed good practice.

A useful approach involves identifying two key groups of factors: enablers and results.

**Enablers** may include:

- **Leadership** – how the behaviour and actions of the leadership team and other leaders, inspire, support and promote continuous organisational improvements.
- **People Management** – how the organisation is seizing opportunities to access and release the full potential of its people to continuously improve all operational areas.
- **Policy and Strategy** – how the organisation develops, implements and reviews policy and strategy and turns it into real meaningful plans and actions.
- **Resources** – how the organisation continuously improves through the maximum utilisation and maintenance of its resources.
- **Processes** – how the organisation adds value, and how processes are identified, reviewed, and, if necessary, revised to ensure continuous improvement of the organisation’s operations.

**Results** may include:

- **People Satisfaction** – how employees feel about the organisation and importantly how well they think their needs and aspirations are being managed and met.
- **Customer (Ratepayer) Satisfaction** – external perceptions of an organisation’s services/products and how well customer needs and expectations are being managed and met.
- **Societal Impact** – perceptions of the organisation amongst the wider community (including regionally), and how well those broader needs and expectations are being met.
- **Business and Non-Financial Results** – what the organisation is achieving in relation to its planned objectives, needs and expectations.
6. RESOURCES

Local Government NSW (LGNSW)
www.lgnsw.org.au

- for information on Local Government reform (media releases, discussion papers etc.) at the LGNSW home page, click on Key Initiatives and then Reform – Fit for the Future
- for workplace/employment related advice and services (Industrial Relations, Management Solutions, Learning Solutions) at the LGNSW home page, click on Member Services and then on the appropriate area (e.g. Industrial Relations)
- Industrial Relations Unit, phone: 9242 4142, fax: 9242 4188, email: wps@lgnsw.org.au
- Management Solutions, phone: 9242 4161, fax: 9242 4188, email: lgms@lgnsw.org.au
- LGNSW Learning Solutions, phone: 9242 4081, fax: 9242 4188, email: learning@lgnsw.org.au

Local Government Procurement (LGP)

Phone: 02 8270 8700, fax: 02 8270 8711, email: info@lgp.org.au

Office of Local Government
www.olg.nsw.gov.au

- for information on mergers and boundary change proposals: at the OLG home page, click on Boundaries Commission and then on Mergers and Boundary Alteration Proposals
- for information on Proclamations: at the OLG home page, click on Boundaries Commission and then on New Councils

‘Fit for the Future’

Local Government Professionals Australia, NSW
www.lgprofessionals.com.au

- a collaborative professional association dedicated to strengthening the professional capability of its members

Local Government Unions

New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union (the United Services Union)
www.usu.org.au

- the USU represents a little under 30,000 local government employees throughout NSW
Professionals Australia Local Government Engineers’ Association (LGEA)
www.professionalsaustralia.org.au/lgea

- The LGEA is a specialist group within Professionals Australia that advocates the vital role engineers have in local government.

The Development and Environmental Professionals’ Association (depa)
www.depa.net.au

- depa is an industrial organisation representing professional employees working in NSW local government in a variety of jobs in the fields of environmental health, public health, building and development control and planning.

NSW Electoral Commission
www.elections.nsw.gov.au

- for information on Local Government elections

StateCover
www.statecover.com.au

- for general advice on StateCover Services, Workforce Health and Safety contact Diane Blake, Jo Powell or Wendy Ablott on 8270 6000 or email: whs@statecover.com.au

Employee Assistance Professional Association
www.eapaa.org.au

- for advice on EAP providers
ATTACHMENT A: WHERE TO GET HELP WITH WORKPLACE REFORM

Local Government NSW (LGNSW) coordinates a range of high quality, cost-effective workplace services to support councils in NSW undergoing reform and change. LGNSW works with councils, groups of councils, ROCs, pilot JOs, accredited training providers and expert consultants to offer support services, advice, training programs, workshops, seminars and courses which are:

- Tailored to local government
- Delivered by staff and consultants experienced in working with councils
- Invaluable in supporting both elected members and staff.

**Industrial Relations**

LGNSW is a registered industrial organisation of employers that represents member councils in both the state and federal industrial jurisdictions in a wide variety of matters. LGNSW is the employer party to the major industry award covering Local Government employees, the *Local Government (State) Award 2014*.

The Industrial Relations Unit services member councils by providing:

- Advice about employment related issues such as performance management, employee discipline, discrimination, workers compensation and work, health and safety;
- Assistance in resolving workplace disputes and grievances;
- Advice about changes to legislation and developments in recent case law;
- Assistance in negotiating, processing and varying awards and enterprise agreements;
- Representation when dealing with unions;
- Advocacy before the Industrial Relations Commission of New South Wales, the Industrial Court of New South Wales, the Fair Work Commission, the Chief Industrial Magistrates Court, the Anti-Discrimination Board, the New South Wales Civil and Administrative Tribunal and the Human Rights and Equal Opportunity Commission;

**LGNSW HR Advance**

HR Advance is a multi-award winning website offering customisable HR, IR & Safety documents all with online storage. LGNSW HR Advance is a comprehensive library ‘local government’ customised HR, IR and Safety documents including contracts, policies, forms, communications and checklists. All documents come with extensive notes on their use and application. LGNSW works with Australian Business Lawyers & Advisors to ensure that all documents are both compliant with the latest legislation and legally sound.
Management Solutions

Local Government Management Solutions provides a professional and cost effective service to the industry. The Unit’s procedures have been designed with the needs and concerns of the Local Government industry in mind. Management Solutions’ services include:

- General manager and executive recruitment
- Placement of locum general managers and senior staff
- Performance management to ensure that councils observe their annual senior management performance management obligations and maintain an effective relationship with their general managers and senior staff;
- Organisation reviews;
- HR Benchmarking survey;
- Annual remuneration survey and tailored comparison report for NSW councils comparing the remuneration for general managers, directors and managers;
- The NSW Local Government Reform Impact Study which is a climate survey designed to provide a ‘pulse-check’ on employee engagement, change optimism and the impact of reform.

Services under development include outplacement service for senior staff displaced due to amalgamations.

Learning Solutions

LGNSW Learning Solutions is the training arm of LGNSW and coordinates a range of high quality, cost-effective professional development options for councils across NSW. Learning Solutions works with councils, groups of councils, ROCs, accredited training providers and expert training consultants to offer training programs, workshops, seminars and courses in areas of need for member councils. The following workshops can be provided in-house for councils or groups of councils, and are designed to support councils undergoing workplace change:

1. **Applying for Jobs and Performing in Interviews**
   This one-day workshop will help participants learn the art of applying for roles and performing in interviews.

2. **Building Well-being and Resilience**
   The overall aim of the workshop is to prepare and empower supervisors to give individuals in the workplace the opportunity to consider ways to deal with workplace stressors at work, both physical and psychological.

3. **Constructive Workplace Communication**
   This program will improve communication knowledge and outcomes and reduce unproductive communication to your internal and external customers. It will assist participants to develop the personal insights and skills to enable them to reduce their
interpersonal conflict. It will also assist employers to maintain a standard of workplace communication that demonstrates safety, respect and inclusion.

4. **Making Consultative Committees More Effective**

This one-day workshop will provide participants with an understanding of the roles and responsibilities of Consultative Committees in the Local Government context. The course is based on regulations required under the Local Government Act, the Local Government (State) Award and internationally accepted meeting procedures.

5. **Managing People – Personality and Performance**

This one-day program will help participants learn the art of managing people. The focus is on communicating with different personality types and performance management communication.

6. **Managing the Stages of Change**

This one-day program will assist participants to better understand their role in implementing or managing change in the workplace. There are significant drivers for change today in local government, including drivers for reform and discussions about amalgamations.

All managers are expected to assist staff both embrace these changes and then implement them in a constructive manner. Many change initiatives are either not successful or result insignificant and time-consuming resistance.

**IP&R and Workforce Planning**

Councils across NSW have been operating under Integrated Planning and Reporting (IP&R) legislation since 2009. Over the next 12-18 months councils will need to review their IP&R frameworks and processes in preparation for the next local government elections and as part of the ‘Fit for the Future’ reform process.

To assist councils with progressing their IP&R frameworks, Local Government NSW has established an IP&R Review and Capacity Building Program:

<table>
<thead>
<tr>
<th>Document Review</th>
<th>Process Review</th>
<th>IP&amp;R Improvement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Your council’s IP&amp;R plans and reports</td>
<td>Your council’s IP&amp;R approach and methodology</td>
<td>Facilitated scoping and design and of new plans</td>
</tr>
</tbody>
</table>

The introduction of Integrated Planning and Reporting has provided councils with structured opportunities and pathways to enhance their strategic capacity, engage with their communities and develop a clear vision for the future. IP&R has provided strong foundations for councils to manage their service planning and delivery according to a clear long-term outlook, stronger alignment with community expectations and heightened awareness of resourcing opportunities and constraints.

LGNSW will work with the Council’s Executive team to identify the improvements that are needed and develop an IP&R Improvement Plan.
This program includes a focus on Workforce Planning, and can offer a review of the Workforce Plan to assess its coverage of the council’s short and long-term workforce needs in reference to the CSP and Delivery Program.

LGNSW Advocacy

LGNSW represents, advises, lobbies and advocates on behalf of members across all levels of government, on major issues that include but are not limited to:

- local government finances such as the freeze on Financial Assistance Grant indexation;
- local natural and built environments and environment sustainability;
- the pursuit of social justice through submissions and other input on federal and NSW Government funding for ageing and disability positions,
- the Commonwealth Home Support program;
- National Aboriginal Constitutional recognition;
- asbestos; and
- waste.
ATTACHMENT B: EXTRACT FROM PROCLAMATION OF CLARENCE VALLEY COUNCIL

Schedule G

1. Definitions

In this Schedule:

clause means a clause in this schedule.

Director General means the Director General of the Department of Local Government.

former Area means any or all of the following:

- that part of the former Area of Copmanhurst which, by this Proclamation, is constituted as the Clarence Valley Council
- that part of the former Area of Grafton City which, by this Proclamation, is constituted as the Clarence Valley Council
- that part of the former Area of Maclean which, by this Proclamation, is constituted as the Clarence Valley Council
- that part of the former Area of Pristine Waters which, by this Proclamation, is constituted as the Clarence Valley Council

former Council means any of the former Councils Copmanhurst, Grafton City, Maclean or Pristine Waters.

former County Council means any of the former Clarence River County Council or former Lower Clarence County Council.


the Act means the Local Government Act 1993.

2. First election

1. The date of the first election of the Councillors of the new Council is 5 March 2005.

2. Unless otherwise required by the Act or the context, the provisions relating to ordinary elections shall be taken to apply to the first election of the councillors.

3. For the purposes of:

   a. the entitlements of persons to be enrolled as electors for the new Area and to vote at the election, and
b. the entitlements of persons to be nominated for election as Councillors for the
new Area at the election, and

c. the conduct of the election by the State Electoral Commissioner, and

d. any other matter relating to the election,

the new Area is taken to have been constituted on the date of publication of this
Proclamation.

3. Administration of new Council for interim period
   1. For the interim period between 25 February 2004 and the declaration of the first
election, one Administrator is appointed and is Mr Neil Payne to direct and control
the affairs of the new Council.

   2. If Mr Neil Payne declines to be appointed as the Administrator, then the Minister may
appoint an alternate person as the Administrator.

   3. The Administrator will be paid $80,000 per annum on a pro-rata basis for the interim
period.

   4. For the purposes of the Local Government Act 1993, the Administrator does not
hold an office or a position of profit under the new Council.

4. Appointment of Acting General Manager
   1. The Acting General Manager of the new Area shall be Mr Ken Boyle for a period
commencing from 25 February 2004 until the declaration of the first election.

   2. The General Manager of the new Council is to be confirmed at the first meeting of
the new Council, or otherwise recruitment processes commenced.

   3. If the new Council resolves to commence recruitment processes for a General
Manager, the term of the Acting General Manager named in subclause (1) is
extended until the General Manager commences with the new Council.

5. Number of Councillors
   1. The number of Councillors to be elected to the new Council at its first election is nine
   (9).

   2. Subclause (1) does not limit the power of the new Council to re-determine, after
the first election the number of its Councillors under section 224 of the Act.

6. Ward Structure
   1. The new Council shall not be divided into wards for the first election.

   2. Nothing in subclause (1) limits the power of the new Council following the first
election to hold a constitutional referendum to obtain approval to divide its Area into
wards in accordance with Division 1 of Part 1 of Chapter 9 of the Act.
7. **Election of Mayor following the first election**

   1. The Mayor of the new Council is to be elected by the Councillors as referred to in sections 227(a), 282 and 290 (1) (c) of the Act at the new Council’s first meeting following the first election.

   2. Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to determine the basis on which the Mayor attains office in accordance with Division 2 of Part 2 of Chapter 9 of the Act.

8. **Appointment of the General Manager and other senior staff**

   The operation of this clause and clause 4 is not to be regarded as a breach of contract between a former Council or former County Council or the new Council and a senior staff member (including a General Manager).

9. **Activities of former Councils and former County Councils**

   1. Anything that was done or omitted to be done by a former Council or former County Council and that had effect immediately before the Proclamation date continues to have effect as if it had been done or omitted to be done by the new Council.

   2. Anything that was commenced by a former Council or former County Council may be completed by the new Council as if it had been commenced by the new Council.

   3. Without limiting subclause (1) any approval, order or notice that was given or made by a former Council or former County Council, and that had effect immediately before the Proclamation date, continues to have effect as if it had been done or made by the new Council.

10. **Delegations**

    1. Any delegation from a former Council or former County Council that was in force immediately before the Proclamation date is taken to be a delegation from the new council and may be revoked or amended accordingly.

    2. Subclause (1) ceases to have effect when the new Council adopts new delegations under the relevant provisions of the Act.

11. **Codes, policies and plans**

    1. The following policy and plan of the new Council are, as far as practicable, to be a composite of the corresponding policies and plans of each of the former Councils and former County Councils:

       a. local policies for approvals and orders (Part 3 of Chapter 7),
       b. management plan (Part 2 of Chapter 13).

    2. Each of the following codes, policies and plans of the former Grafton City Council apply, as far as practicable, to the new Council:

       a. code of conduct (section 440),
       b. code of meeting practice (Division 1 of Part 2 of Chapter 12),
c. expenses and facilities policy (Division 5 of Part 2 of Chapter 9),

d. EEO management plan (Part 4 of Chapter 11).

3. Subclauses (1) & (2) cease to have effect in relation to a code, policy or plan of the new Council when the new Council adopts a new code, policy or plan under the relevant provisions of the Act.

12. Fees

1. The annual fee paid to each Councillor of the new Council and the annual fee paid to the Mayor of the new Council is to be equal to the highest of the corresponding fees paid by the former Councils.

2. Subclause (1) ceases to have effect in relation to an annual fee when the new Council fixes the annual fee in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

13. Organisation Structure

The initial organisation structure of the new Council is, as far as practicable, to be a composite of the organisation structures of each of the former Councils and former County Councils.

14. Transfer of Staff

1. Each member of staff of a former Council or former County Council (a transferred staff member) is transferred to the new Council.

2. Part 6 of Chapter 11 of the Act (employment protection) applies to the employment of a transferred staff member.

3. The senior staff of each former Council or former County Council are taken to be the senior staff of the new Council.

15. Additional employment protection

1. For the period between 25 February 2004 and the election of the new Council staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission may not be unreasonably based outside the general locality in which they were based immediately before the transfer without their approval.

2. For the period between 25 February 2004 and the election of the new Council no staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission are to be made redundant without their approval.

16. Transfer of assets, rights and liabilities

1. The assets, rights and liabilities of the former Councils and former County Councils are transferred to the new Council.
2. The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclause (1):

a. The assets of the former Councils and former County Councils vest in the new Council by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,

b. The rights or liabilities of the former Councils and former County Councils become, by virtue of this clause, the rights and liabilities of the new Council,

c. All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Councils or former County Councils or a predecessor of any of the former Councils and former County Councils, and pending immediately before the transfer, are taken to be proceedings pending by or against the new Council,

d. Any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Councils or former County Councils or a predecessor of any of the former Councils or former County Councils is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Council,

e. Anything that was commenced by a former Council or former County Council and uncompleted at the Proclamation date may be completed by the new Council as if it had been commenced by the new Council. This includes but is not limited to any application for approval or consent under the Act or any other Act.

f. In so doing, the new Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the relevant former Council or former County Council, until such time as the new Council makes a new code, policy or plan in relation to that matter in accordance with the Act or any other Act.

g. Anything that was done by a former Council or former County Council, and that had effect immediately before the Proclamation date, or that was commenced by a former Council or former County Council and completed by the new Council as a result of this Proclamation, continues to have effect and may be enforced by the new Council as if it had been done by the new Council.

h. Without limiting subclause (2)(g) any approval, order or notice that was given or made by a former Council or former County Council, and that had effect immediately before the Proclamation date, continues to have effect and for all the purposes of the Act or any other Act shall be deemed to have been given or made by the new Council.

i. Any decision of the Land and Environment Court in an appeal from a decision of a former Council or former County Council, determined by the Court after the Proclamation date shall be deemed to be a decision of the new Council.

3. In this clause:

- **Assets** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any
description (including money), and includes securities, streams of income, choses in action and documents.

- **Liabilities** means any liabilities, debts or obligations (whether present or future and whether vested or contingent) and includes liabilities relating to criminal acts.

- **Rights** means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent).

17. **General provisions with respect to transfers**

1. A transfer affected by this Schedule takes effect on the Proclamation date.

2. The Minister may, by notice in writing, confirm a transfer affected by this Schedule.

3. Such a notice is conclusive evidence of the transfer.

18. **Effect of transfer on third party rights**

1. The operation of clause 16 (Transfer of assets, rights and liabilities) is not to be regarded:

2. As an event of default under any contract or other instrument, or

3. As a breach of contract or confidence or otherwise as a civil wrong, or

4. As a breach of contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or

5. As giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.

6. No attornment to the new Council by a lessee from a former Council or former County Council is required in relation to a transfer affected by clause 16.

7. No compensation is payable to any person or body in connection with a transfer affected by clause 16.

8. Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between a former Council or former County Council and that person or body.

19. **Reports and reviews of the new Council**

A duty of the new Council under any Act, including a duty to report or review, which relates to a period before the Proclamation date, is to be performed by reference to the former Areas and the former Councils or former County Councils as appropriate.

20. **Auditor**

The Auditor, Hudson Shepherd & Partners will be the Auditor of the new Council unless the new Council appoints another Auditor in accordance with Division 3 of Part 3 of Chapter 13 of the Act.
21. References to former Areas and Councils
In any Act, in any instrument made under any Act or in any document of any kind:

1. A reference to any of the former Areas, or to a predecessor of any of the former Areas, is taken to include a reference to the new Area and is to be read as a reference to the new Area, and

2. A reference to any of the former Councils or former County Councils, or to a predecessor of any of the former Councils or former County Councils, is to be taken as a reference to the new Council and is to be read as a reference to the new Council.

22. Lower Clarence County Council
1. The Lower Clarence County Council is dissolved with its operations subsumed into the new Council.

2. The new Council is to enter an agreement with the Coffs Harbour City Council for the supply of water to its local government area with due consideration given to the matters set out in Clause 16.

23. Clarence River County Council
The Clarence River County Council is dissolved with its operations subsumed into the new Council.

24. Rating Structures
1. The new Council’s maximum general income for 2004/05 is to be determined by estimating the proportionate amount of general income for 2003/04 from land in the former Areas included in the new Area.

2. The new Council is to determine its rating structure taking into consideration subclause (1).

3. The rating structure is to be reviewed within the first term of the new Council.

25. Matters to be determined by Minister
1. In order to give effect to this Proclamation, the Minister may determine from time to time any matter or thing, including, without limitation, the content of the matters set out in clause 11.

2. In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by the new Council, Richmond Valley Council or Coffs Harbour City Council.

3. The Minister may also determine any matter or thing that has not been referred to him by the new Council if the Minister concludes that the matter or thing cannot be determined by agreement between the new Council and Richmond Valley Council or Coffs Harbour City Council or if the Minister is not satisfied with any agreement reached between the aforementioned new Council and Richmond Valley Council or Coffs Harbour City Council, including in relation to subclauses (2) and (4) herein.
4. A matter to be determined by the Minister shall be referred to the Director General, and/or another person or persons nominated by the Minister, for advice and recommendation, as appropriate.

5. The Director General and/or another person or persons nominated by the Minister, shall, if required by the Minister, convene a meeting between the new Council and Richmond Valley Council or Coffs Harbour City Council to assist in the determination of the matter.

6. The Director General and/or any person or persons nominated by the Minister under this clause, shall have regard to the Statement of Intent herein and any other principles or guidelines considered appropriate in the circumstances.

26. Statement of Intent

1. The Minister will consider an application made by the new Council for a Special Variation to increase its General Income.

2. There will be meaningful cooperation between the Councils of the Areas of Clarence Valley, Richmond Valley and Coffs Harbour City in the sharing of information and agreement of all matters necessary to facilitate the provisions of this Proclamation.

3. The new Council should give consideration to establishing precinct areas and committees, which have defined roles and responsibilities.

4. The Councillors of the new Council are to exercise community leadership for the whole local government area as set out in the Act.

5. the new Council is to negotiate with Coffs Harbour City Council and Richmond Valley Shire Council and resolve on a proposal to address the boundary anomalies identified in the Boundaries Commission report dated February 2004, titled “Examination of a boundary alteration and amalgamation proposal for a new Clarence Valley Local Government Area”, within one month.
ATTACHMENT C: CLARENCE VALLEY PROTOCOL FOR LATERAL TRANSFERS

1. Purpose
This Protocol sets out the process for the lateral transfer of employees within Council as a result of the creation of Clarence Valley Council on 25 February 2004.
Its purpose is to provide a lateral transfer process that is fair and equitable, and facilitates movement of staff to the new organisation structure with minimal disruption.

2. Background/Legislative Requirements
In particular the following legislation is relevant to this process as a result of amalgamation:
- The Local Government Amendment (Council and Employee Security) Bill 2004
- The Local Government (General) Amendment (Employee Protection) Regulation 2004
- The Local Government Amendment (Employee Protection) Act 2003
- The NSW Local Government Act 1993
- The NSW Local Government (State) Award 2001
- Proclamation of Councils - Gazettal Number 46
The Employees Lateral Transfer (Amalgamation) Protocol is to be carried out with reference to the following Protocols and Guidelines:
- Recruitment and Selection
- Equal Employment Opportunity
- Lateral Transfer Guidelines

3. Protocol Statement
Clarence Valley Council is committed to providing the simplest, least stressful processes in transferring its employees into the new structure. To achieve this Council will develop guidelines to ensure the equitable and consistent process for determining eligibility for lateral transfer in accordance with the requirements set out below.

4. Procedures
4.1 Notice of vacancy
- All employees will be notified of positions that have been identified for lateral transfer.
- Specific employees identified as eligible for lateral transfer to an identified position will be notified by letter (refer to 5. Identified lateral transfers).
• Any employee who feels they should also be considered for lateral transfer to an identified position will be given reasonable opportunity to request consideration for lateral transfer.

• Any positions identified for lateral transfer will be initially notified via staff notice boards, intranet and newsletters.

4.2. Eligibility for Lateral Transfer under Section 354(G)

Employees must satisfy all the eligibility criteria in order to gain preferential status and be eligible for lateral transfer to positions under the provisions of Sec 354(G) of the Local Government Act.

4.2.1. Eligibility criteria

a. On 24 February 2004 the employee must have been employed by either Clarence River Council, Copmanhurst Shire Council, Grafton City Council, Maclean Shire Council, North Coast Water, or Pristine Waters Council; and

b. Immediately prior to the amalgamation the employee must have been performing substantially the same duties as the available position; and

c. The employee must be a current employee of Clarence Valley Council.

4.3. Lateral Transfers under Section 350 of the Local Government Act

Any employee who has taken up a permanent position with Council after the amalgamation date shall be considered for lateral transfer to a position which requires the performance of substantially the same duties as those of the position the employee currently holds. Such consideration shall be given at the time the new position is to be filled.

4.4. General

a. Positions for which Council is unable to clearly identify an eligible employee or group of employees for lateral transfer shall be, in the first instance, open to application for lateral transfer by employees who consider themselves eligible and who submit a form in accordance with clause 4.5.

b. Employees wishing to submit an application for consideration for lateral transfer should also concurrently submit their application for internal recruitment, if they wish to be considered for the position should their lateral transfer application be deemed ineligible.

c. Employees on temporary leave, e.g. maternity leave, who meet the eligibility criteria as described above, will be eligible for lateral transfer during their period of leave.

d. An employee filling a position on a temporary or casual basis in the absence of an incumbent who holds a right of return to the position with Council, e.g. in the case of maternity leave, will not be eligible to apply for lateral transfer.

4.5. Applications for lateral transfer

An employee, who believes that they are eligible to, and wishes to, apply for a lateral transfer must complete an ‘Application for consideration for lateral transfer’ form, and if required supply a copy of their position description.
4.6. Selection processes and decision points

- An employee’s claim to eligibility for lateral transfer will be determined on the basis of agreed guidelines (see attached flow chart).

- If there are more eligible applicants than there are positions to be filled, then the applicant(s) who has the greatest merit will be selected through a competitive process in accordance with Council’s Recruitment and Selection Protocol. Additional information may be called for in these instances.

- If a position remains unfilled then Council’s Recruitment and Selection Protocol will apply and internal applicants will be considered.

- Should there be no suitable internal applicants the position will be reviewed prior to advertising externally to the organisation.

- Where a decision is made to implement a competitive process, the selection panel will be as outlined in Council’s Recruitment and Selection Protocol with the additional requirement that the members of the panel are to be drawn from separate work locations.

5. Identified lateral transfers

Where possible, Council will identify positions and appropriate employees or groups of employees that will be eligible for lateral transfer. In these instances employees will receive a letter from Council advising that they have been identified for lateral transfer and the position and the location to which the lateral transfer applies.

These employees will receive a “Confirmation of interest for involvement in the lateral transfer process” form through which they must indicate their interest as to whether they wish to continue with the lateral transfer process.

All employees will be advised of the vacancy as described in 4.1 of this Protocol, and any staff member not targeted may claim their eligibility for consideration through the lodgement of an “Application for Lateral Transfer” form.

6. Terms and conditions

When an employee accepts lateral transfer, their existing salary, terms and conditions will initially be maintained, until a new agreement is established.

The full wording of the Clause 354D of the Local Government Act, Part 6 Arrangements for Council Staff Affected by the Constitution Amalgamation or Alteration of Council Areas reads as follows:

**354D Preservation of entitlements of transferred staff members**

1. If a staff transfer occurs, the employment of:
   a. a transferred staff member, and
   b. in the case of a boundary alteration – a remaining staff member of the transferor council and an existing staff member of the transferee council,
   c. other than a senior staff member, continues on the same terms and conditions
that applied to the staff member immediately before the transfer day, subject to section 354E (Certain increases or decreases in staff entitlements during Proposal Period not binding on new council without approval).

2. Subsection (1) applies until other provision is duly made under any Act or law.

3. Neither the contract of employment nor the period of employment of a transferred staff member is taken to have been broken by the transfer for the purposes of any law, award or agreement relating to the employment of that staff member.

4. A transferred staff member is not entitled to receive any payment or other benefit merely because the staff member ceases to be a staff member of the former council.

5. The transfer of a transferred staff member does not affect any accrued rights the staff had immediately before the transfer, including in relation to recreation leave, sick leave, long service leave and superannuation, but does not entitle the staff member to claim dual benefits of the same kind for the same period of service.”

7. Appeals

Disputes or grievances over determinations made in accordance with this Protocol will be handled by the Lateral Transfer Panel in the first instance.

The Lateral Transfer Panel will consist of the following members and must have representation from both genders:

- Manager Human Resources and / or their delegate
- Director of the Department and / or their delegate
- Supervisor of the position under discussion, and
- An independent representative from the Human Resource Department

The Lateral Transfer Appeals Panel will consist of:

- At least one member of the original Panel, plus
- Manager Human Resources
- An independent representative from the Human Resource Department; and
- The Director of the Department

Employees wishing to appeal a lateral transfer determination should submit their appeal in writing within five working days of the date of notification of the determination.

Council will apply its best endeavours to resolve lodged appeals within 10 working days.

Further appeals will be handled in accordance with the Grievance Protocol.

8. Termination of Protocol

This Protocol will terminate 24 February 2007.
## Lateral Transfer Checklist

<table>
<thead>
<tr>
<th>Action</th>
<th>Responsible officer</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Final position description</td>
<td>HR Coord (P &amp; C)</td>
<td></td>
</tr>
<tr>
<td>Position number allocated (lateral transfer database updated)</td>
<td>Admin</td>
<td></td>
</tr>
<tr>
<td>Determination of eligibility completed</td>
<td>Admin</td>
<td></td>
</tr>
<tr>
<td>Confirmation of interest letters prepared</td>
<td>Admin</td>
<td></td>
</tr>
<tr>
<td>Preparation of advert</td>
<td>HR Coord (Recruit) Admin</td>
<td></td>
</tr>
<tr>
<td>Advertised intranet/newsletters/noticeboards</td>
<td>HR Coord (P &amp; C) Admin</td>
<td></td>
</tr>
<tr>
<td>Advertised internally (recorded on lateral transfer database)</td>
<td>HR Coord (P &amp; C) Admin</td>
<td></td>
</tr>
<tr>
<td>Confirmation of interest received &amp; collated (lateral transfer database updated)</td>
<td>Admin</td>
<td></td>
</tr>
<tr>
<td>Letter of offer sent (Lateral transfer/employee database updated)</td>
<td>HR Coord (Recruit) Admin</td>
<td></td>
</tr>
<tr>
<td>Acceptance received (Lateral transfer/Employee database update)</td>
<td>HR Coord (Recruit) Admin</td>
<td></td>
</tr>
<tr>
<td>Advise supervisor/IT/customer service new employee commencement date</td>
<td>Admin</td>
<td></td>
</tr>
<tr>
<td>Employee update sent to payroll</td>
<td>Admin</td>
<td></td>
</tr>
<tr>
<td>Send documents to records for registration</td>
<td>Admin</td>
<td></td>
</tr>
<tr>
<td>New employee package to records – create new personnel file</td>
<td>Admin</td>
<td></td>
</tr>
</tbody>
</table>
ATTACHMENT D: DRAFT POLICY AND ANNUAL REPORT FOR RURAL CENTRES

1. Introduction

Council (name) was constituted on (date) by a Proclamation of the Governor of NSW pursuant to the terms of the Local Government Act 1993 (the Act). The Council is an amalgamation of the former Councils of (names).

The Act provides that when an amalgamation of council areas occurs, the number of ‘regular’ council staff employed in rural centres prior to the amalgamation should be maintained as far as practicable.

The purpose of this policy is:

- to formally record the number of regular staff employed at rural centres located within Council as at 30 June annually compared to the staff numbers employed at rural centres as at date of Proclamation;
- to record a number of factors which will influence the number of staff employed at the rural centres (at least over the short term);
- to explain Council’s strategy for applying s218CA of the Act.

2. Legislative requirements

Section 218CA of the Local Government Act introduced a new statutory consideration which Council must take into account when making staffing decisions which impact upon the number of regular staff at a rural centre.

The Act provides that Council is to ‘ensure that the number of regular staff of the council employed at the rural centre is, as far as is reasonably practicable, maintained at not less than the same level of regular staff as were employed by the previous council at the centre immediately before the amalgamation or alteration of boundaries took effect’.

3. Rural Centres within the local government area

The Act defines a ‘rural centre’ as a centre of population of 5,000 people or fewer, and includes a geographical area that is prescribed, or is of a kind prescribed, by regulations in force for the purposes of this definition as being a rural centre. However, there is no relevant regulation currently in force.

For the purposes of this policy, the following rural centres have been identified (list names) as workplaces where ‘regular staff’ were employed by the former councils of (list names).

4. How is the ‘regular staff’ number determined?

The Act defines ‘regular staff’ to mean:
• staff appointed to a position within the organisational structure of the council, otherwise than on a temporary basis, and

• casual staff who are engaged by the council on a regular and systematic basis for a sequence of periods of employment during a period of at least 6 months and who have a reasonable expectation of continuing employment with the Council;

but designated Senior Staff are not included.

In accordance with this definition, the following staff are included for the purpose of determining the total number of regular staff employed at rural centres within what is now the new local government area immediately prior to the amalgamation:

• Permanent full-time staff employed as at the date of Proclamation
• Permanent part-time staff employed as at the date of Proclamation
• Casual staff employed on a regular and systematic basis during a period of at least 6 months ending on the date of Proclamation and who have a reasonable expectation of continuing employment with the Council.

The following staff and positions are not included:

• Senior Staff employed as at the date of Proclamation
• Designated temporary staff employed as at date of Proclamation
• Casual staff who commenced employment less than 6 months prior to the date of Proclamation
• Casual staff who did not work on a regular or systematic basis or who did not have a reasonable expectation of continuing employment with the council
• Any positions which were not within the approved organisational structures of the relevant councils
• Any positions in the approved organisational structures which were vacant as at the date of Proclamation.

5. Record of staff numbers

For reference, Table 1 shows the total staff complement of each amalgamated council as at Proclamation day.

Table 1: Total Staff at Proclamation Day

<table>
<thead>
<tr>
<th></th>
<th>Council ‘A’</th>
<th>Council ‘B’</th>
<th>Council ‘C’</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Staff</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Permanent Full-Time</td>
<td></td>
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<tr>
<td>Permanent Part-time</td>
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<tr>
<td>Casual Staff employed &gt;6 months</td>
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</table>
Table 2 shows the number of staff deemed to be ‘regular’ staff at each rural centre, based on the definitions contained in the Act. The table records the number as at Proclamation Day and at the most recent reporting date (30 June in the latest financial year).

Table 2: Regular Staff Numbers at Each Rural Centre

<table>
<thead>
<tr>
<th>Rural Centre ‘A’</th>
<th>Staff at Proclamation</th>
<th>Staff at 30 June XXXX</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>People</td>
<td>EFT</td>
</tr>
<tr>
<td>Permanent Full-Time</td>
<td></td>
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<tr>
<td>Permanent Part-Time</td>
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<tr>
<td>Casual Staff employed &gt;6 months</td>
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<tr>
<td>Vacant Positions</td>
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<td></td>
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<tr>
<td>Positions in approved structure but impractical to fill</td>
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<td></td>
</tr>
<tr>
<td>Total Regular Staff at Centre ‘A’</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Rural Centre ‘B’</th>
<th>Staff at Proclamation</th>
<th>Staff at 30 June XXXX</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>People</td>
<td>EFT</td>
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<tr>
<td>Permanent Full-Time</td>
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<tr>
<td>Permanent Part-Time</td>
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<tr>
<td>Casual Staff employed &gt;6 months</td>
<td></td>
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<tr>
<td>Vacant Positions</td>
<td></td>
<td></td>
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<tr>
<td>Positions in approved structure but</td>
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</tbody>
</table>
Staff at Proclamation | Staff at 30 June XXXX

<table>
<thead>
<tr>
<th></th>
<th>People</th>
<th>EFT</th>
<th>People</th>
<th>EFT</th>
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<tbody>
<tr>
<td>impractical to fill</td>
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<td></td>
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<tr>
<td>Total Regular Staff at Centre ‘B’</td>
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<tr>
<td>Rural Centre ‘C’</td>
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<tr>
<td>Permanent Full-Time</td>
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<tr>
<td>Permanent Part-Time</td>
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<tr>
<td>Casual Staff employed &gt;6 months</td>
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<tr>
<td>Vacant Positions</td>
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<tr>
<td>Positions in approved structure but impractical to fill</td>
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<td></td>
</tr>
<tr>
<td>Total Regular Staff at Centre ‘C’</td>
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### 6. Policy on the application of section 218CA

It is clear from the wording of section 218CA that the statutory imperative to maintain regular staff numbers does not override the need for Council to make practical operational decisions. This means that if it is impractical to maintain a particular position in a rural centre then the Council may properly decide to dissolve that position or transfer it to another workplace. It follows from this observation that the actual number of regular staff employed at a rural centre will rise and fall according to practical and operational considerations resulting from Council policies and varying external environmental factors.

However, if the number of regular staff employed at a rural centre falls below the number employed at that centre as at Proclamation Day, then the Council will turn its corporate mind to investigating whether alternative regular staff positions could reasonably and practically be based at the rural centre. This recognises the distinction made in section 218CA between rural centres and other Council workplaces.

Factors occurring since the amalgamation will be particularly important in relation to maintaining previous staffing levels at rural centres. Two examples of such considerations are shown below.
Examples of Legitimate Reductions in Rural Centre Staffing

1. Voluntary Transfers

For a variety of personal and professional reasons, staff based in a rural centre prior to the amalgamation may from time to time request a transfer to another workplace. Such voluntary transfers should not be perceived as a problem or a practice to be discouraged. Council should place a high priority on providing flexibility to staff in the workplace and displaying a positive attitude towards the benefits of amalgamation by welcoming new opportunities for staff to achieve improved job satisfaction and career opportunities.

It follows that employees should not be restricted from transferring to another workplace simply because that would reduce the number of regular staff working at a particular rural centre. This type of restriction would not be placed on other staff and would be unreasonable.

2. Impact of Boundary Changes

When a significant part of a local government area comprising a rural centre is transferred to another council, regular staff numbers will need to be adjusted to reflect the new revenue base and operational requirements. It is not practicable to maintain the full complement of regular staff at the rural centre of the former council when the income generated is reduced and the previous scope of work at the centre is no longer required.

3. Staff Employed in Specialised Facilities

Some staff of a former council may have been employed at a special facility (such as an aged care centre) located in a defined rural centre. In these cases there may be alternative options for the future operation of the facility involving outsourcing or transfer of ownership to the non-profit or private sectors. If this occurs, then it would not be practical for Council to maintain regular staff numbers at their previous level.

Process to be applied

It follows that section 218CA of the Act does not mean that a rural centre will always employ a specified number of regular staff at any given time. Regular staff numbers will fluctuate in accordance with the ordinary trends of any workplace.

However, in accordance with the spirit and intent of the Act, decisions concerning the employment of staff at rural centres will be subject to special considerations in addition to those which are taken into account at any Council workplace. This approach should secure a positive outcome for both Council and the communities of each rural centre.

When a regular staff position based at a rural centre is vacated or transferred for any reason, the operational need for that position at the rural centre will be reviewed:

- If Council considers that an operational need for the position remains at the rural centre, then it will be filled.
- If Council determines that there is no operational need for the position to be replaced, then the number of regular staff positions at the rural centre will be reduced by one.
If the number of regular staff employed at a rural centre falls below the number employed at that centre as at Proclamation Day, the Council will actively consider strategies to achieve a regular staffing level at the rural centre which is at least consistent with the pre-amalgamation number. Initially, this investigation will be co-ordinated by the General Manager. S/he may establish an ad hoc committee to look at the specific staffing issues involved, and to make appropriate recommendations to address those issues.

Council is conscious of the need to ensure that the information required to review the implementation of s218CA of the Act is readily available to the public to the extent permitted by law. To achieve this goal, a decision not to replace a regular staff position at a rural centre will be supported by a written document stating the reasons for the decision. These documents are to be compiled in a public register.

Additionally, the statutory Annual Report of the Council will report the actual number of regular staff employed at each of the rural centres in the manner shown in Table 2.

Consultation

Council will discuss its definition of rural centres with the Consultative Committee and local communities.

Throughout the process detailed above, Council will keep affected members of staff fully informed, seek feedback and provide support as required. Personal issues will be discussed privately. Council will also seek input from the Consultative Committee and will comply with the provisions of the Award, including clause 39 where workforce changes at rural centres are considered to have ‘significant effects’ and/or redundancies may be involved.

7. Appendix

Include an Appendix with this Policy that provides a full employee listing for each former council as at Proclamation Day, showing:

- Employee position number
- Employee position title
- Date employed
- Employee status.
ATTACHMENT E: TRANSITION PLANNING FOR TWO METROPOLITAN COUNCILS INVOLVED IN A VOLUNTARY AMALGAMATION

On [a date] Council A and Council B lodged a joint submission to the NSW state government proposing they be merged.

This brief paper sets out in broad terms a framework to move forward with this proposal. It is in five parts:

1. Purpose and needs
2. Role of the Transition Committee (TC) and guiding principles
3. The four pillars of change
4. Transition framework
5. Transition governance structure.

1. Purpose and Needs

The purpose is to transition the two Councils to create a single council by [a date].

The main needs of the parties are:

- That we are treated as equitable partners
- That the Mayors and General Managers of the councils are involved in shaping the future
- There is limited disruption to decision-making
- Costs associated with preparation for amalgamation are reimbursed
- The community does not lose a voice
- The process is seen as fair.

2. Responsibilities of the Transition Committee and Guiding Principles

The Transition Committee is responsible for overseeing the planning and implementation of reform prior to the new council being established. The TC is also responsible for reporting progress to the State government and communities of Council A and Council B. Meetings are to be held monthly and will be chaired by an independent chairperson, and will function on a consensus model. Other key responsibilities include:

- Represent the interests of residents in undertaking the amalgamation program
Act as a conduit to Council A and Council B
Consider and endorse a change management strategy that addresses the major organisational and strategic risks
Review and endorse an organisation and governance structure for the reform process as well as for the new entity
Ensure the delivery of key strategic deliverables is on track
Provide guidance and, where required, take decisions and resolve disputes.

The guiding principles for the Committee are to:

- Embrace the opportunity to create a new local government business model
- Make it easy to do business with local government
- Engage the community
- Deliver open and transparent communication
- Increase local government sustainability.

3. Four Pillars of Change

The transition to a new entity is supported by early joint work on four main pillars:

1. A new entity Strategic Plan
2. Cultural alignment
3. Caring for staff
4. Services offered by the joined up entity.

4. Transition Framework

The diagram below sets out the major areas of action required to get to the stage of execution of the merger.
Transition Governance Structure

A **Leadership Team (LT)** will report progress to the Transition Committee (TC) and relay TC directions to the Reform Program Office, Program Managers and Project Leaders.

Key responsibilities include:

- Ensure appropriate management of the Transition Program
- Ensure appropriate resources are engaged to deliver the program
- Ensure a system is developed to effectively monitor the progress of implementation and that reform status reports are prepared and provided to the TC
- Provide guidance and support to the Program Managers and Project Leaders and, where required, take decisions and resolve disputes.

**The Transition Project Team (TPT)** will facilitate project management processes, procedures and outcomes throughout the Transition Program.

Key responsibilities include:

- Implement the systems, processes and resources required to deliver the transition to the new entity
- Manage governance arrangements, reporting structures and cost reporting systems
- Provide for consistent planning, delivery and reporting across all projects
- Coordinate all aspects of the overall reform process to ensure individual projects are delivered within approved time, scope, risk and budget parameters
- Support the governance and administration of the TC and LT
- Provide guidance and support to the Project Managers
- Ensure relevant stakeholders are identified and appropriately engaged throughout the program.