

○ ***Guidance
for merged
councils on
planning
functions***

May 2016



**Planning &
Environment**



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May 2016

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ISBN 978-0-7313-3657-9

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This document provides guidance to councils to maintain efficient land use planning functions as they implement mergers.

Part One: Introduction



1.1 Purpose

This document provides guidance to councils to maintain efficient land use planning functions as they implement mergers. The document complements other NSW Government guidance material for merging councils including Preparing for Change: **Guidance for Councils**.

The Government's decision to consider council mergers has come from a long process of consultation on local government reform designed to ensure that the sector will be fit for the future challenges that it will face.

The NSW Government has identified 30 priorities to respond to the challenges of growing the economy, delivering infrastructure, protecting the vulnerable, and improving health, education and public services across NSW. Achievement of these priorities is backed by the delivery of housing and jobs by investing in better public transport and roads, schools and hospitals, and renewed sports and cultural infrastructure. Councils have an important role to play in the delivery of these priorities, particularly through their roles in managing planning and land use decisions, as well as the sector's own investments in infrastructure and service delivery.

Maintaining a seamless approach to council planning and development processes while amalgamations are being implemented is critical to achieving these priorities.

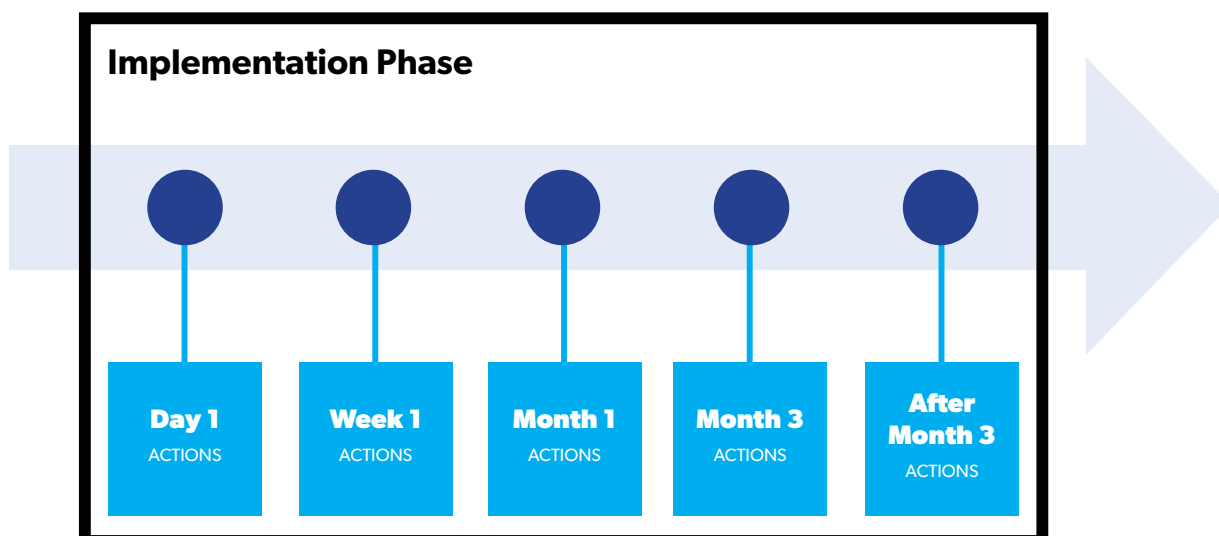
1.2 Structure and timing

This document provides councils with outcomes and actions to guide the implementation of a successful merger. The document is divided into three parts:

- **PART 1 Introduction** – role, function and structure of the document.
- **PART 2 Outcomes** – outcomes to achieve when integrating planning functions.
- **PART 3 Priority Actions** – guidance and actions based on issues of housing priorities, e-Planning, assessment systems and processes, strategic planning, local planning controls and contributions.

The timing of the actions covers both the preparation and implementation phase and is identified in Figure 1.

Figure 1 Timing of actions



A detailed matrix showing the actions and the recommended timeframe to achieve is attached to this document.

1.3 Principles

The NSW Government's **Preparing for Change: Guidance for Councils** provided principles on the Government's expectation on how both the preparation and implementation phases of potential mergers will be conducted. The principles have been tailored to guide merging councils' land use planning functions with a focus on community engagement.

Principle	Description
Service	Maintaining the ability for people to lodge, review and have applications for planning matters to be considered from the first day of a new council
Opportunity	Using the mergers to strengthen planning systems, particularly the opportunities to give communities access to planning matters through the use of web technology such as the NSW Planning Portal, online applications and alternate decision making forums such as IHAPs
Cohesion	Recognising and building on the strengths of councils to create greater strategic capacity to face the challenges of the future, particularly the opportunity for a stronger approach to strategic planning
Engagement	Creating a culture of engagement, where council is outward facing in its dealings with the community, other government sectors and business interests
Integrity	Instilling confidence and trust in the planning processes and decision making of councils by creating rigorous and transparent systems
Respect	Creating an open facing council that uses its planning system and processes to recognise the many varied views and opinions seeking a better outcome for neighbourhoods and places

1.4 Giving the mergers legal effect

The legal mechanism giving effect to the mergers is a Proclamation issued by the Governor under the *Local Government Act 1993*. Two proclamations were published on 12 May 2016:

- *The Local Government (Council Amalgamations) Proclamation 2016* amalgamated 39 local government areas and created 17 new local government areas. The councils of the amalgamated areas were dissolved, and administrators appointed to exercise the functions of the 17 new councils; and
- *The Local Government (City of Parramatta and Cumberland) Proclamation 2016* declares the boundaries of the The Hills Shire and Hornsby, and amalgamated the City of Auburn, City of Holroyd and City of Parramatta. Two new local government areas have been created: the City of Parramatta and Cumberland Council, with administrators being appointed to exercise the functions of the two new councils.

Further merger proclamations are pending with proposals for the merger of other council areas.

The proclamations deal with the creation of the new councils and ensures all relevant staff, assets, rights, liabilities and responsibilities to former councils are transferred to the new councils. Its key purpose is to ensure that new councils can commence operations on day one with minimal disruption to their delivery of services.

Under the proclamations, the previous decisions and actions of former councils are recognised as decisions and actions that the new council can rely on. As an example, if a former council took a development application and exhibited it, the new council can determine the application. Councils should not be re-tracing the statutory decision making steps of a former council and re-exhibiting applications (as an example). References in certain plans, controls, consents or delegations to the former council are to be treated as references to the new council.

Recognising that the mergers will in some cases require the sharing of information, databases, systems and expertise across new council boundaries, the proclamations give staff from councils the framework to work together. The establishment of formal and informal committees, as well as the ongoing assistance of government agencies, such as the Department of Planning and Environment, will be important resources to guide collaboration. Councils can ask for advice and direction from the Government, including the Department, should there be disputes while the councils are under administration.

Part Two: Outcomes

New councils should finalise and implement robust internal measures to ensure that processes are in place to meet the challenges of the future. Amalgamations will be successful where the new council has a clear strategic purpose, rigorous systems and processes, including strong financial positions and an outward facing culture.



Table 1 Outcomes to achieve when integrating planning functions

Outcome	Description
Seamless service delivery	<p>Residents, businesses and community groups will expect the new council to be 'open for business' from its very first day.</p> <p>The primary focus of the new council must be on service continuity and the delivery of the housing and employment opportunities necessary to secure the sustainable future of their community.</p>
A positive workplace culture	<p>An open and engaged workforce will include staff focused on service delivery, working collaboratively to resolve complex challenges and committed to building the capacity of their communities for the future.</p> <p>Opportunities to be part of the development and implementation of new planning systems, or to be at the forefront of setting a new strategic agenda for the council will be important for staff.</p>
Strong governance, financial management and administration	<p>Creating strong councils that are fit for the future challenges they face requires a commitment to strategic administration that goes beyond simply meeting the requirements of legislation.</p> <p>Community confidence in a planning system requires a commitment to quality processes and staff capacity. Councils are expected to manage complex assessment processes, drive strategic planning and guide communities to a resilient and sustainable future. These challenges require an outward facing approach to engagement and governance.</p>
Integrated vision and priorities	<p>A new council identity requires a new vision to support positive change and provide a shared sense of direction guiding communities to a resilient and sustainable future. Integrating community aspirations on how local areas can grow and develop will empower councils to prioritise land use planning outcomes to achieve this shared vision.</p>
Informed community and stakeholders	<p>Community confidence in the planning system requires transparent, evidence based decision making and readily available planning information. The amalgamation process provides an opportunity for councils to foster new ways of engagement and participation with the community.</p>
Clear local planning environment	<p>Communities will expect councils to maintain existing development rights and opportunities, ensure developments contribute positively to a sustainable future and the transition of centres and corridors are managed in an open and engaged manner.</p> <p>The mergers provide the opportunity to consider options for greater transparency and efficiency in assessment processes such as Independent Hearing and Assessment Panels.</p>

Part Three: Priority Actions

New councils should finalise and implement robust internal measures to ensure that processes are in place to meet the challenges of the future. As councils implement mergers they will be considering how the planning systems of councils that they succeed operate, looking across the broad range of functions and responsibilities. The following provides advice to councils on the practical implications and opportunities presented by amalgamation.

In preparing this advice two different merger scenarios have been considered:

- Scenario one – Councils created as a result of the merger of two or more local government areas; and
- Scenario two – Councils created as a result of both the amalgamation and alteration of local government area boundaries (for example, as a result of the *Local Government (City of Parramatta and Cumberland) Proclamation 2016*).

3.1 Housing and jobs

In September 2015 the NSW Government announced 30 Priorities, including 12 Premier's Priorities to grow the economy, deliver infrastructure and improve health, education and other services across NSW. A link to the Government's delivery Priorities is here: <https://www.nsw.gov.au/making-it-happen>

The Premier's Faster Housing Approvals Priority sets a target of *90% of housing approvals within an average of 40 days*. The target includes both development approval and complying development certificates. Achieving the target will require a ready supply of appropriately zoned land requiring ongoing rezonings to create capacity.

Faster housing approvals will strengthen confidence in the housing industry, provide certainty to the housing market and bring new housing online sooner. This will make it easier for people to find or build homes to suit their lifestyles and help grow the economy, including additional employment opportunities for builders and tradespeople. A pipeline of housing activity also provides a robust economy assisting with another of the Premier's priorities of creating 150,000 new jobs by 2019.

These priorities provide a great opportunity for the Department to work with local councils and industry stakeholders to help deliver faster housing approvals and provide housing capacity.

Maintaining the momentum and the confidence of the community and businesses in the planning system will be an important part of achieving the housing targets set by the Government. The Department and councils need to work together during the amalgamation process to remove impediments to the effective operation of planning systems.

Specific housing priorities for consideration are shown in Table 2

Issue	Action
Progress planning proposals, gateway applications and planning agreements	Councils need to continue to progress planning proposals with strategic merit, planning agreements and gateway applications that are consistent with the established strategic and community vision of the former councils. It is important to maintain a pipeline of appropriately zoned for housing and employment opportunities.
Ongoing assessment of major development applications	All development applications, including those regionally significant proposals submitted to Joint Regional Planning Panels, are to continue to be assessed consistent with the local environmental and development control plans in place for the former councils.
High quality service levels	Planning processes must continue to meet high service levels. Particular processes that need attention at the earliest opportunity include building certification, and the management of development contributions including negotiation of planning agreements.

3.2 Strategic planning and engagement

Strong councils can more effectively represent local communities with greater opportunities for strategic regional planning, leading to better amenity and economic development outcomes. Strategic planning should continue through the implementation of a merger. This will ensure that local, district, regional and State housing and employment outcomes are not adversely impacted.

All councils should undertake local strategic planning to underpin Community Strategic Plans and to inform Local Environmental Plans and Development Control Plans. This includes town centre plans, urban activation plans, precinct planning and planning for urban release areas.

Local strategic planning will also need to continue to reflect relevant State, regional or district planning including *A Plan for Growing Sydney*. The newly established Greater Sydney Commission is tasked with driving the implementation of *A Plan for Growing Sydney*, and will work with councils to ensure that growth is aligned with infrastructure and delivered in the right places at the right time. District Plans, along with council local strategic plans will be crucial in achieving these goals.

Table 3 shows the implementation focus of strategic planning and engagement for councils as they implement a merger.

Table 3 Strategic planning and engagement implementation actions	
Issue	Action
Ongoing engagement	An immediate priority will be to maintain networks and engagement with community and external stakeholders
Stocktake strategic planning work	Undertake a stocktake of former councils' current strategic planning work including: <ul style="list-style-type: none"> • Evidence gathering; • Committees and stakeholders (including PCGs, consultative groups, implementation committees, working groups); and • Status of any strategies in draft form. These should be finalised wherever possible in discussion with the Department.
Broader strategic environment	Councils should be scanning the broader strategic environment to: <ul style="list-style-type: none"> • look for opportunities to combine strategic planning; and • assess whether the merger has changed strategic priorities (e.g. centres hierarchy or corridors).
Harmonise strategic planning efforts	Councils should work to harmonise strategic planning efforts to: <ul style="list-style-type: none"> • identify engagement responsibilities (e.g. representation in strategic planning processes); • continue community engagement based on endorsed programs or processes for engagement; and • revise the forward program for the development (and finalisation) of strategies.

3.3 e-Planning

The creation of new councils provides the opportunity to embed e-Planning concepts and principles in the planning process.

e-Planning improves access to the NSW planning system for all, making it more transparent and easier to use. The focus of e-Planning is transforming the traditional paper-based and face-to-face interactions to an online environment where people can access planning services from anywhere, at any time, as well as digitising planning content to assist with evidence-based planning. This delivers consistency and time and cost savings.

Merged councils have an opportunity to embed e-Planning technologies into assessment and planning functions, and to get more involved in initiatives such as the NSW Planning Portal. Councils are encouraged to make early contact with the Department on the capabilities of the NSW Planning Portal before finalising software decisions.

Specific e-Planning implementation focus areas for consideration are shown in Table 4.

Table 4 e-Planning implementation actions	
Issue	Action
Opportunities for integration with the NSW Planning Portal	<p>Merged councils have a real opportunity to embed e-Planning technologies into assessment and planning functions, without having to invest millions of rate payers dollars by utilising the investments made by the NSW Government in online planning systems. This is particularly relevant where former councils have different hardware and software systems.</p> <p>The NSW Planning Portal has been purposefully designed to provide a broad range of ePlanning tools and transactional services which are specifically aimed at reducing the burden on councils through sizeable investments in new technology or the provision of data to the NSW Government.</p> <p>As the primary stakeholder, it is important that councils engage in new e-Planning initiatives (such as Online lodgement through the NSW Planning Portal) to assist in delivering key functions and outcomes to communities.</p>
Council e-Planning systems	<p>Consider the implications of accepting and assessing development applications from day one, identifying e-planning capabilities, platforms, systems and potential challenges to overcome.</p> <p>In the long term, councils should consider the opportunities presented by the NSW Planning Portal to:</p> <ul style="list-style-type: none"> • implement online lodgement (for development applications and complying development certificates) through the use of standardised forms, fees and documentation accompanying applications; • track the progress of development applications; • Investigate what developments can be undertaken as exempt or complying development.
Data quality	<p>The quality of data is critical to an efficiently functioning e-Planning environment. Exercising a high standard of quality control over data is an important consideration during the merging of data. Initial work to 'cleanse' data before integration will help with system operation and to streamline reporting functions.</p> <p>Councils should consider how they can utilise the services provided by the NSW Planning Portal including application tracking, application lodgement and investigation tools.</p>
Software Systems	<p>Councils will need to understand how a merger will impact on existing software systems including property information systems, finance modules, document record management systems and geographic information systems (GIS). There may be an opportunity to upgrade or replace existing software systems to utilise the incoming data streams from the NSW Planning Portal. There may also be opportunities to improve planning and assessment processes.</p>
IT hardware	<p>Councils will need to understand how a merger will impact on existing IT hardware platforms including the capacity of servers, failover and bandwidth requirements. There may be an opportunity to upgrade staff resources to improve planning and assessment processes.</p>

3.4 Assessment systems and processes

The development application and assessment process is the point where the majority of people come face to face with the planning system. Whether as an applicant or resident, it is important that councils are able to maintain service delivery, rigour and integrity in the assessment process.

The merger process provides councils with an opportunity to support continuous improvement of the assessment and certification process. This can enhance the efficiency and transparency of the assessment and decision making processes, and increase the focus on achieving reduced assessment times.

Development application systems and processes

Proclamations that created the new local government areas provides the legal basis to allow the staff of merged councils to continue to assess and determine development applications under delegation and rely on all the procedural steps taken by a former council. However, it will be necessary for the new council to consider who will make the final decision on the application and how the decision will be registered, as existing delegations may no longer be appropriate. Applications determined under incorrect delegations could be subject to potential challenge.

In the case of new development applications, proponents will be expecting to lodge applications on day one. The new council will need to ensure it has processes in place to receive, notify, assess and determine these applications.

The availability of council databases, development registers and information to enable the assessment of development applications will need to be an early priority. New councils need to establish cooperative access arrangements for databases and information sharing, particularly for scenario two councils.

Table 5 shows the implementation focus of assessment systems and processes for councils as they implement a merger.

Table 5 Assessment systems and process implementation actions	
Issue	Action
Understand applications in progress	As an early priority councils need to be aware of what applications are in the system. Creating back ups or ensuring access to records will be useful should records not be accessible as information systems are combined.
Continuing to assess applications	Following the establishment of the new council existing applications are to be processed within statutory timeframes. Some issues that should be confirmed by new councils: <ul style="list-style-type: none"> • Who is the assessment officer for the application, to assist the applicant. • Processes to receive comments, particularly for external agencies; and • Who will be determining the application and the form of the assessment reports required.

Table 5 Assessment systems and process implementation actions

Issue	Action
<p>Receiving new applications</p>	<p>Councils are expected to receive applications from the very first day of their establishment. This raises a number of issues requiring early priority:</p> <ul style="list-style-type: none"> • Where will applications be lodged? Councils can give clear advice (via their websites and customer service signage) on the best location to lodge applications. Councils should be able to receive applications at all its sites. • Access to the databases of the former councils should be organised. This may be external ‘log ins’ (remote access) or other arrangement for access. In the case of scenario two councils, the access to databases will likely require service level agreements to be negotiated. • Confirm the processes for receipt of fees, organisation of referrals and consultation and allocation to an assessment officer. It would be expected that existing procedures would be able to be utilised unless decisions about transfers of staff or information have not been finalised. • Appropriate forms and templates to allow DAs to be taken showing the new council name. • An understanding of the new DA numbering system to be used. This will in part depend on software systems, although councils need to be careful that DA numbers of the new council are not confused with the former council(s).
<p>Establishing who has delegation to determine applications</p>	<p>The proclamation establishing the new council preserves all existing delegations of former councils. However, as new council structures are developed, these delegations will need to be updated and confirmed.</p> <p>Councils can use the opportunity of preparing new delegations to establish clear protocols on when it is appropriate for delegations to make decisions on behalf of council and how those decisions are reported. This is also an opportunity to ensure routine matters are delegated to relevant staff.</p>
<p>Membership of panels and committees</p>	<p>Each joint regional planning panel (JRPP) has 5 members: 3 State members appointed by the Minister for Planning and the 2 nominees of the council within whose local government area the land to which the particular matter relates is situated.</p> <p>The proclamations amalgamating local government areas “save” an existing ‘Panel’ where a development application has been formally referred to a JRPP meeting for determination. This allows the two council nominees to continue to sit on the Panel for those matters (where the meeting date has been set and agenda papers sent out).</p> <p>For all other JRPP matters the nominees of the former councils cease to be nominees and the new council will need to “re-nominate” 2 new members. As a matter of urgency councils should use the <i>JRPP Operational Procedures (September 2012)</i> to decide:</p> <ul style="list-style-type: none"> • Who to nominate to represent the council on the panel; • Appropriate remuneration for council members; and • Who to appoint as alternates of members nominated by the council (to act in the absence of a member). <p>A similar approach should be considered for any established IHAPs and other committees.</p>

Table 5 Assessment systems and process implementation actions

Issue	Action
<p>Consider establishing an Independent Hearing and Assessment Panel (IHAP)</p>	<p>Introduction of an IHAP provides the opportunity to create transparency in decision making for local planning matters.</p> <p>An IHAP, usually consisting of at least 3 members, can undertake the determination roles undertaken by a council until a new council is in place. This provides the opportunity for the Administrator to focus on the management and establishment of the new governance and operation of the council. It also provides the opportunity to ensure decisions are carried by qualified and independent persons. The <i>JRPP Operational Procedures (September 2012)</i> provides useful guidance on the qualifications and expertise of IHAP members.</p> <p>Once elections are held for the new councils in September 2017, continuation of IHAPs provides the opportunity for councillors to concentrate on strategic policy matters for the local government area.</p>
<p>Managing information and databases</p>	<p>Readily accessible databases will be needed to enable development applications to be taken from the very first day of the new council. For scenario one councils, it should be possible for existing databases to continue to operate. Councils need to ensure their systems can talk to each other, or appropriate links made to allow applications to be taken at any office.</p> <p>For scenario two councils where council areas are being redistributed, councils will need to work cooperatively to ensure access to data and records are available at the earliest possible opportunity. If these extra connections cannot be made from day one, councils should look to establish service level agreements ensuring the new councils can access the data to enable them to take and assess development applications.</p>

Table 5 Assessment systems and process implementation actions

Issue	Action
<p>Harmonising assessment systems</p>	<p>When new councils have established service delivery models that provide 'business as usual' processes, the opportunity to work on harmonisation of assessment systems should become a medium term priority.</p> <p>Consideration of how to harmonise assessment processes will need to assess the compatibility of the various systems being used by the former councils. New councils can also use the opportunity to examine how the different systems may operate and 'cherry pick' the best approaches.</p> <p>Issues that will need examination include:</p> <ul style="list-style-type: none"> • Access to data and information on land details, zoning and the application of planning controls. The opportunities afforded by e-Planning technologies should be considered; • The process chain for the assessment of a typical development application. This covers the receipt, registration, referral, consultation and allocation of applications; • Methods and processes to provide reports on assessment of applications. These include reports to Australian Bureau of Statistics or the Department; and • The tools of assessment such as standard conditions, templates for letters and reports, and consultation methods.
<p>Looking for Best Practice assessment</p>	<p>With mature and robust systems in place new councils can look to drive best practice in their assessment processes. Some of the issues to consider:</p> <ul style="list-style-type: none"> • Reviewing and 'pressure testing' procedures, looking to document and understand the process to ensure consistency and measurability; • Incorporating e-planning technologies to provide DA tracking, electronic lodgement and customised processing of assessments; • Adopting e-planning and interactive building applications to assist applicants and certifiers to 'self serve'; and • Identify and build staff skills and capabilities in assessment and engagement.

Certification processes

The post development approval certification process is an important function for councils in assuring building works are safe, meet appropriate building or subdivision standards and comply with development approvals.

In undertaking certification assessments, councils will be able to rely on the decisions of the former councils under the provisions of the Proclamation. As an example, the appointment of a former council as a principal certifying authority will be deemed to be the appointment of the new council to that role and it will be able to rely on the certification and inspection processes already done. This does not alleviate the council from its responsibilities to undertake due diligence on any action it takes, but does give statutory certainty.

Table 6 below shows the implementation focus of certification processes for new councils as they implement a merger.

Table 6 Certification process implementation actions	
Issue	Action
Access to databases and information	<p>Councils will need to ensure access to databases and information on the status of development and certification activities, including any certificates issued by private accredited certifiers.</p> <p>In the case of scenario one councils, ensuring the availability of access across the new council should be sufficient as an immediate priority and until harmonisations for databases occur.</p> <p>In the case of scenario two councils, service level agreements on access to databases and registers should be negotiated, or options for 'external log in' access arranged as an immediate priority. This should be an early focus of the new councils.</p>
Understand applications and inspections in progress	<p>Proponents who have contracted councils to undertake certification services will expect continued availability of council certifiers.</p> <p>In scenario one councils, the ability to provide seamless service delivery can be maintained by keeping the assigned staff on projects.</p> <p>In scenario two councils, it will be necessary to understand the service delivery obligations on councils and for the new council to ensure it has enough appropriately accredited and qualified staff with access to appropriate databases to continue to provide services. In the medium term, as transfers of staff are resolved, councils will be able to allocate appropriately accredited staff.</p> <p>Where new staff are allocated certification functions it will be important that they are able to access data and registers on:</p> <ul style="list-style-type: none"> • development consents and requirements; • certificates issued for the site (construction or compliance certificates); • the status of any critical stage inspections; and • any enforcement action, notices or orders issued for the site.

Table 6 Certification process implementation actions

Issue	Action
Appropriate accreditations	<p>Building certifiers, even if working for councils, need to have an accreditation from the Building Professionals Board (BPB). These accreditations are issued to the person based on their employment with a council. Under the proclamation these employment arrangements will typically be transferred to the new council, although informing the BPB would be appropriate.</p> <p>New councils must ensure the accreditation of staff is of an appropriate level to be able to certify the likely development to occur in the area.</p> <p>With the interaction of certifiers and hazardous construction sites, new councils will also be required to use the opportunities to update appropriate workplace health and safety procedures and systems.</p>
Harmonisation of certification processes	<p>The consideration and issue of certificates is based on an application process. Aligned to the work to harmonise assessment processes councils should also look to harmonise the application and assessment processes for certificates. This is a medium to longer term priority.</p>

Enforcement, appeals and legal action

From time to time councils are required to take legal action to enforce the requirements of an approval, correct/respond to unauthorised work or defend a planning decision. The Proclamation identifies that any approval, order or notice given or made by a former council continues to have effect as if it had been given or made by the new council.

The new council needs to be aware of the actions that it will be taking responsibility for, including being able to review and assess the information and evidence taken to commence any action. Where the enforcement action has not yet progressed to legal proceedings, new councils should ensure they are aware of the preceding notices and orders that may have been issued.

Table 7 below shows the implementation focus for new councils.

Table 7 Enforcement, appeals and legal action implementation actions	
Issue	Action
Understand the enforcement or legal action underway	<p>New councils need to identify and document the enforcement and legal proceedings that former councils have on hand, including:</p> <ul style="list-style-type: none"> • Any notices of intention to issue an order; • Any orders issued and for which compliance is outstanding; • Legal actions commenced in the Courts (either Local Court or the Land and Environment Court); and • Any appeals lodged against council determinations. <p>Scenario two councils need to consider whether proceedings have been transferred to a new council or remain with the “altered council” under the terms of the relevant proclamation. The provisions of the Proclamation provide for a new council and an altered council to reach agreement on the transfer of specified assets, rights and liabilities. Proceedings in relation to such assets, rights or liabilities (if transferred to the new council) can be treated as proceedings against the new council.</p>
Ensure council commitments to actions are clear	<p>Should a new council decide not to continue with legal action it should take the appropriate steps to discontinue any proceedings as early as possible. If council is prepared to continue with legal action it should ensure that appropriate resources and commitments of staff are identified.</p>

Planning and building certificates

Councils will continue to be required to issue planning and building certificates during the implementation of a merger. These are important certificates relied upon by the community when making decisions on house purchases and considering new development applications. It's important for councils to continue to deliver seamless customer service through the provision of advice on relevant planning documents. Particular attention should be paid to whether staff from pre-merger councils are able to give advice on areas in newly merged councils where they may have had little previous experience.

Table 8 below shows the implementation focus for new councils as they implement a merger.

Table 8 Planning and building certificates	
Issue	Action
Continue to process priority applications for planning and building certificates	An immediate priority will be to continue the assessment of priority planning and building certificates: <ul style="list-style-type: none">• For scenario one and scenario two councils, include wording on the certificate to note that it has been issued by the new council• For scenario two councils, develop service level agreements with adjoining councils to ensure accurate information to issue the certificate.
Review templates for planning and building certificates	Within the first week of the new council the templates for planning and building certificates should be updated. This will allow those councils with automated systems to recommence the issue of certificates within the first 8 working days of the new council.
Incorporate planning and building certificate functions into the work to harmonise systems	As part of the work to harmonise application processes and planning controls councils should include the processes and procedures for the issue of planning and building certificates.

3.5 Local planning controls

Local planning controls contained in Local Environmental Plans (LEPs) and Development Control Plans (DCPs) are the primary tool used to control development and set out how land is to be used.

It's important for councils to continue to deliver seamless customer service through the issuing of certificates such as planning certificates, building certificates and any outstanding orders. New councils are also expected to continue to operate principal controls and progress amendments consistent with local, regional and State strategic planning. New councils will also be required to continue to receive and assess amendments to planning controls that have strategic merit in accordance with the Gateway process.

For new planning proposals the Department will continue to use the Gateway process to also authorise the Council's use of its delegation. Until elected councils are in place the Department won't be authorising council delegations unless the planning proposal is for:

- Minor mapping alterations, errors or anomalies;
- Changes to heritage sites already supported by Office of Environment and Heritage;
- Rezoning consistent with an endorsed strategy of the (pre-merger) council; or
- Other matters of local significance as identified by the Department of Planning and Environment.

The harmonisation of local planning controls, integrated with updated community strategic plans and community engagement will be important longer term actions for new councils. This process provides an opportunity for greater use of e-Planning systems, the simplification of planning controls, and to implement updated strategic planning priorities.

Table 9 shows the implementation focus of local planning controls for councils as they implement a merger.

Table 9 Local planning controls implementation actions	
Issue	Action
Understand planning proposals in progress	New councils should identify and document the status of any major planning proposals in progress, including any proposals that are under assessment, on exhibition, or have been on exhibition.
Continue to receive and assess and obtain Gateway approvals for new planning proposals	<p>New councils are expected to receive and assess planning proposals that have strategic merit from the very first day of their establishment. New applications will be assessed consistent with the established strategic and community vision of the former councils.</p> <p>Issues that will need examination to ensure seamless service delivery in the assessment of new planning proposals include:</p> <ul style="list-style-type: none"> • The process chain for the assessment of planning proposals including a consistent approach to pre-lodgement meetings, lodgement requirements, application fees, and consultation and notification requirements, and • Access to data and information on land details, zoning, planning controls, and the ability to produce up to date mapping.

Table 9 Local planning controls implementation actions

Issue	Action
Establishing who has delegation to finalise LEPs	<p>The proclamation establishing new councils confirms existing delegations to finalise LEPs can still be exercised, as will the authorisations already issued to councils to finalise planning proposals. It is however important to understand and update the delegations within councils on who can use the delegations to finalise plans. Council also must advise the Department of any change to council delegates.</p>
Analyse differences in local planning controls	<p>New councils should analyse the differences in planning rules and outcomes that exist between amalgamated areas, looking for inconsistencies and opportunities to harmonise controls. This is especially necessary where in a specific land use zone one LEP (pre-amalgamation) permits the identical use.</p> <p>Councils are also required to consider the current classifications of community land and ensure that the transfer processes from old to new correctly identify council land as either community or operational.</p>
Prepare planning proposal to harmonise LEPs	<p>After the September 2017 elections councils will need to be ready to present planning proposals to the newly elected council to harmonise comprehensive local environmental plans. This will not necessarily need to involve a new comprehensive LEP as an existing LEP can be expanded to become the principal instrument for the area. Things to consider when harmonising LEPs include:</p> <ul style="list-style-type: none"> • There is no need to amend LEPs immediately if no inconsistencies exist as planning controls can continue to operate under existing statutory arrangements; • The creation of new council wide local environmental plans is not required until a newly elected council is in place to work with the community; • There is an opportunity in Sydney to use the harmonisation of planning controls to implement District Plans.
Prepare new DCP	<p>In the longer term, new councils need to prepare an amalgamated development control plan that brings together the different DCPs from the individual councils. A new DCP must be developed so that only one plan applies to any site in the council area.</p> <p>This provides an opportunity for a new council to simplify and develop controls that can be used in an e-Planning environment so that clauses:</p> <ul style="list-style-type: none"> • Define the spatial area they apply to; or • Define the types of development they apply to. <p>This approach allows systems to be developed where users can ask what planning controls are applicable based on where they propose development and what type of development it is.</p>

3.6 Contributions

Contributions processes provide an important source of revenue for councils to construct infrastructure that responds to the demands of new housing and employment. Councils need to devote time and effort to ensure both seamless service delivery of contributions processes as well as a comprehensive understanding of the financial and legal responsibilities of the new council.

The complexity of contributions processes already in place and the nature of the merger will define the new council's response to the management of contributions processes.

By collecting contributions, councils take on the legal and financial responsibility to properly account for the funds and to ensure they are spent on the infrastructure for which they were identified. Councils do have the flexibility to manage their contributions finances to best deliver infrastructure by borrowing from one contributions account to pay another account, or by using contributions to recoup the costs of infrastructure already delivered. Understanding the nature of the contributions processes, both the plans and agreements in place, as well as the council's accounts will be an important first step for newly merged councils.

Table 10 shows the implementation focus for merged councils.

Table 10 Contributions implementation actions	
Issue	Action
Due diligence of contributions plans	Determine the different contributions plans in place to understand the nature and extent of contributions.
Financial accounts of contributions plans identified and audited	Understand the infrastructure commitments identified in the contributions plans (found in the works schedules) Audit the current funds held in the contributions plan accounts to determine the amounts held, the amounts being spent and the future obligations on the accounts
Determine Borrowing and pooling of contributions Funds	Determine any pooling of funds or the recoupment of infrastructure costs already provided. Similarly, understand the funding commitments from other sources (such as the council's consolidated fund).
Timeframes for infrastructure delivery using contributions plans	Understanding the contributions plans, works schedules, financial accounts and borrowing/recoupment allows the expected delivery schedule to be understood. This will be important when preparing the council's forward expenditure and coming years budget.
Continue to deliver infrastructure works	Focus on the delivery of infrastructure identified in the works schedules of contributions plans. This infrastructure provides much needed services to areas where development is occurring, as well as enabling economic activity.
Continue to assess planning agreements	Continue to assess planning agreement proposals along with planning proposals and development applications. The proclamation will enable councils to reply on previous procedural steps such as consultation.
Harmonisation of contributions plans	In the medium term councils should be looking to review and refresh their contributions plans to align to new strategic plans (such as regional, district or local plans) as well as new Community Strategic Plans.

Scenario two councils, where council areas are being re-distributed and also amalgamated, will have additional matters to consider when it comes to dealing with contributions issues, particularly where contributions plans may be split by boundary changes or infrastructure crosses council boundaries. Under the *Local Government (City of Parramatta and Cumberland) Proclamation 2016* an existing condition of development consent that requires a monetary contribution to the new council is taken to be a condition under section 94C (1) of the *Environmental Planning and Assessment Act 1979* and can be apportioned in accordance with an agreement between the relevant councils.

Managing the ongoing financial commitments, as well as community expectations of infrastructure, will require the new councils to work closely together. A forum should be created to discuss how the flow of funds and infrastructure commitments from contributions plans should be managed. The Department will be able to assist in mediating and resolving any disputes.

Table 11 below shows the additional contributions implementation focus for scenario two councils.

Councils should be taking care to ensure their actions on contributions are based on legal and financial advice. This will ensure any changes to contributions plans, infrastructure spending or budget allocations is consistent with both statutory and financial obligations.

Table 11 Additional contributions implementation actions for scenario two councils	
Issue	Action
Development consents and contributions	Councils can continue to grant development consents subject to conditions imposing contributions in accordance with plans that include items of infrastructure that are (following the proclamation) located in a different LGA. For example, those plans might be treated as cross boundary plans under section 94C of the EP&A Act and accordingly, a condition of development consent requiring a contribution should provide for apportionment between the relevant councils.
Audit contributions accounts	<p>An immediate priority will be to ensure contributions accounts are audited to identify:</p> <ul style="list-style-type: none"> • Funds collected to date; • Outstanding contributions; • Any pooling, borrowing or recoupment; and • Expected infrastructure delivery. <p>This is the opportunity to ensure there are clear accounts for each plan, allowing understanding of the specific balances for infrastructure. This audit should also provide the commitments and contributions from planning agreements.</p> <p>The audit will allow the new councils to understand their respective contributions balances and commitments, while laying a platform for the negotiation of cross-boundary contributions.</p>
Receipt of development contributions	<p>Councils can collect contributions in accordance with conditions of consents granted by a former council (or accredited certifier). Where there are disputes over the receipt and allocation of the contributions, the Department is able to assist in negotiations.</p> <p>Councils should be creating separate accounts to receipt funds for infrastructure that has a cross-boundary component to assist the negotiation of cross-boundary contributions.</p>
Understand infrastructure delivery program	Former councils will have factored in certain assumptions about borrowings, expected recovery of contributions and the like when preparing their 10 year Asset Management Plan as part of their Integrated Planning and Reporting process. While reprioritisation of the program of infrastructure delivery is best done by an elected council, a new council may need to reprioritise short term infrastructure spending if the amalgamation of areas has created altered priorities.
Continued consideration of planning agreements	Draft planning agreements may have been prepared by a former council and be ready for consideration following public exhibition. Understanding the commitments and obligations created by the execution of the agreement should also include consideration of any cross boundary infrastructure. Again, this will require liaison between the new and altered councils before any decision on a draft agreement is finalised.

Matrix of priority actions



Issue	Day 1	Week 1	Month 1	Month 3	Month 3+
Housing					
Progress planning proposals, gateway applications and planning agreements	•	•	•	•	•
Ongoing assessment of major development applications	•	•	•	•	•
High quality service levels	•	•	•	•	•
Strategic planning and engagement					
Ongoing engagement	•	•	•	•	•
Stocktake strategic planning work			•	•	
Broader strategic environment			•	•	•
Harmonise strategic planning efforts				•	•
e-Planning					
Opportunities for integration with NSW Planning Portal				•	•
Council e-Planning systems	•	•		•	•
Data quality	•	•	•	•	
Software systems	•	•	•	•	•
IT hardware	•	•	•	•	•
Development application systems and processes					
Understand applications in progress	•	•			
Continue to assess applications	•	•	•	•	•
Receiving new applications	•	•	•	•	•
Establishing who has delegation to determine applications	•	•			
Membership of panels and committees		•			
Consider establishing an Independent Hearing and Assessment Panel				•	•
Managing information and databases	•	•	•		
Harmonising assessment systems			•	•	•
Looking for Best Practice assessment			•	•	•

Issue	Day 1	Week 1	Month 1	Month 3	Month 3+
Certification Processes					
Access to databases and information	•	•	•		
Understand applications and inspections in progress	•	•			
Appropriate accreditations			•		
Harmonisation of certification processes			•	•	•
Enforcement, appeals and legal action					
Understand the enforcement or legal action underway	•	•			
Ensure council commitments to actions are clear		•	•		
Local planning controls					
Understand planning proposals in progress	•				
Continue to receive, assess and obtain Gateway approvals for new planning proposals	•	•	•	•	•
Establishing who has delegation to finalise LEPs		•	•		
Analyse differences in local planning controls				•	•
Prepare planning proposal to harmonise LEPs					•
Prepare new DCP					•
Contributions					
Due diligence of contributions plans	•	•			
Financial accounts of contributions plans identified and audited		•	•		
Determine borrowing and pooling of contributions Funds			•	•	
Timeframes for infrastructure delivery using contributions plans				•	•
Continue to deliver infrastructure works	•	•	•	•	•
Continued to assess planning agreements	•	•	•	•	•
Harmonisation of contributions plans				•	•
Development consents and contributions	•	•	•	•	•
Audit contributions accounts	•	•	•		
Receipt of development contributions	•	•	•	•	•
Understand infrastructure delivery program			•	•	•
Continued consideration of planning agreements	•	•	•	•	•



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*For more information about local planning matters visit:
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