

22 January 2016

Dear Councillor/Sir/Madam

You are invited to attend an **EXTRAORDINARY COUNCIL MEETING** of Ashfield Council, to be held on Level 6, Civic Centre, 260 Liverpool Road, Ashfield on **WEDNESDAY 27 JANUARY 2016 at 7:30 PM.**

SEE ATTACHED

AGENDA

EXTRAORDINARY COUNCIL MEETING - 27 JANUARY 2016

AGENDA

Members of the public are advised that meetings of Council are audio recorded to assist with ensuring an accurate record of the meeting is provided for the formal minutes of the meeting. In terms of the Privacy and Personal Information Protection Act 1998 this may involve the recording of personal information provided at the meeting. The provision of any information that is recorded is voluntary, however if any person does not wish to be recorded they should not address or request to address the meeting.

By remaining in this meeting you consent to the recording of the meeting.

You are not permitted to record this meeting with any recording device unless you have the express authorization of Ashfield Council.

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Subject	MERGER PROPOSAL - CONSIDERATIONS
File Ref	SC1065
Prepared by	Emma Lannan - Executive Policy Officer
Reasons	A merger proposal for Ashfield, Leichardt and Marrickville Councils is being examined by a Delegate of the Office of Local Government, prior to review by the Boundaries Commission
Objective	To brief Council on the process to date and seek Council's views on key factors for inclusion in a submission to the Public Inquiry

Overview of Report

This report updates Council on developments that have occurred during December 2015 and January 2016 in relation to Council mergers.

While the Council has been in recess, the Minister for Local Government has referred a proposal to merge Ashfield, Leichardt and Marrickville Councils to the Chief Executive of the Office of Local Government. The proposal is currently being examined by a Delegate of the Office of Local Government.

Council and interested members of the community have an opportunity to make a submission in relation to the proposal prior to 28 February 2016; and to attend and speak at a public inquiry meeting to be held on Tuesday 2 February 2016.

This report also outlines the basis of Council's proposed submission on the merger proposal for input by the Council.

The Minister is expected to make a final decision on the whether or not to proceed with the merger in mid 2016.

Update – December 2015 to present

The Minister for Local Government, Hon. Paul Toole, and NSW Premier, Hon. Mike Baird, released IPART's assessments of all NSW Councils in October 2015 and provided Councils with a further 30 days to submit merger proposals for consideration. On 10 November 2015, Council clearly indicated that, notwithstanding our community's preference to 'stand alone', in light of the State Government's 'Fit for the Future' process, a merger of Ashfield, Leichardt and Marrickville Councils was preferred to the proposed six Council merger of Burwood, Strathfield, Canada Bay, Ashfield Leichardt and Marrickville (Inner West option) or any other proposal.

On 18 December 2015, the Minister for Local Government and Premier announced their proposals for new local government boundaries, bringing the number of Sydney Councils from 43 to 25, with 15 new Councils created by merging 33. This includes a merger of Ashfield, Leichardt and Marrickville Councils.

Merger Proposal - Considerations

Merger Proposal, Public Inquiry and Boundaries Commission Processes

On 6 January 2016, the Minister for Local Government formally referred the merger proposals to the Chief Executive of the Office of Local Government (OLG), for review under Division 2B of the *Local Government Act 1993* (NSW). The Chief Executive of OLG has delegated the examination of the proposals to 18 Delegates. The Delegate responsible for examining our Merger Proposal is Ms. Cheryl Thomas. More information about the Delegates is available at:

www.councilboundaryreview.nsw.gov.au/#delegates

The role of the Delegate is to examine the proposals and any evidence or information presented through a Public Inquiry and submissions process. It is important to note that the Delegate is only required to consider the ten factors identified under section 263 of the Act. Once the Delegate has completed their report, it is referred to the Minister and the Boundaries Commission for comment.

Public Inquiry and community consultation

The community consultation process is being conducted from 7 January 2016 to 28 February 2016.

The process involves the delegate:

- Meeting with the individual Councils - our meeting is scheduled immediately prior to this extraordinary meeting
- Conduct of a Public Inquiry meeting – to be held 2 February at West Ashfield Leagues Club. There are two sessions being held from 1pm to 5pm and 7pm to 10pm. Pre-registration is required and closes at 12noon, Friday 29 January 2016. Speaking time is likely to be limited to 6 minutes per person or 10 minutes per organisation.
- Written submissions will be received up to 28 February and can be submitted online or by mail

Council may make a presentation at only one of the two sessions with a time allocation of up to 15 minutes.

Individual Councillors are able to register to attend and speak at the public inquiry meeting via the online registration portal, available at:

<https://www.councilboundaryreview.nsw.gov.au/proposals/ashfield-leichhardt-municipal-and-marrickville-councils/>

Public Inquiry Criteria

As outlined above, the Delegate has commenced her examination of the Merger Proposal for Ashfield, Leichhardt and Marrickville Councils and is due to finish her report to the Boundaries Commission and the Minister for Local Government on 31 March 2016.

The Delegate is required to review the Merger Proposal against the factors set out in s263 of the *Local Government Act 1993*, as follows:

- The financial advantages or disadvantages (including the economies or diseconomies of scale) to residents/ratepayers;
- The community of interest and geographic cohesion in the existing areas and in any proposed new area;
- The existing historical and traditional values in the existing areas and the impact of change on them;

Merger Proposal - Considerations

- The attitude of the residents and ratepayers of the areas concerned;
- The requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as it considers relevant in relation to the past and future patterns of elected representation for that area;
- The impact on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities;
- The impact on the employment of staff by the councils of the areas concerned;
- The desirability (or otherwise) of dividing the resulting area or areas into wards;
- The need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented;
- Such other factors as considered relevant to the provision of efficient and effective local government in the existing and proposed new areas.

Merger Proposal

The Merger Proposal, prepared by the State Government, makes the case for amalgamation, based on the factors that must be considered when examining a proposal. Modeling produced by KPMG, commissioned by the State Government, identifies a net financial benefit of \$113million, over 20 years. This includes \$25million in one-off grant funding from the State Government for merged councils. A copy of the of the assumptions underpinning the KPMG modeling is provided at Attachment 1.

The Proposal cites the opportunities to reduce infrastructure backlogs, deliver transport infrastructure (cycle paths, road and footpath renewals) and simplified, consistent council regulations across a broader area, as the main benefits to the business and residential community.

A copy of the Merger Proposal for Ashfield, Leichhardt and Marrickville Councils is attached (Attachment 2).

Council's Submission to the Public Inquiry

The Mayor and senior Council officers attended an introductory meeting with the Delegate, Ms Cheryl Thomas, on 14 January 2016. She outlined the inquiry process and timelines as currently understood.

The Delegate advised that her report would evaluate the Merger Proposal against the criteria as set out in the Act and that she was taking an evidenced based approach to her report. She indicated that, while she would note any areas of overwhelming sentiment, Council and others making submissions should base their submissions, where possible, on evidence rather than opinion.

An outline of Council's proposed submission in relation to the factors is set out below.

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

- Reiterate Council's strong financial position as per previous FFF submissions
- Note that any proposed financial benefits are estimates only and are contingent on the financial policies, strategies and decisions of any future Council

Merger Proposal - Considerations

The community of interest and geographic cohesion in the existing areas and in any proposed new area

- Proposal cites several examples of the three councils working in partnership to address regional priorities. This is not a demonstration of communities of interest – it is a demonstration of the councils' existing strategic capacity to work together, where beneficial for their respective communities.
- There are some socio-economic similarities between the three councils, as identified in NIEIR 2013: average household income and wealth, dwelling types, household structure and religion.
- Ashfield, however, is more culturally and linguistically diverse. 44% of Ashfield's population was born overseas, with 38% born in non-English speaking countries. By comparison, 34% of Marrickville's population was born overseas, with 25% in non-English speaking countries. In Leichhardt, 29% were born overseas, with 14% in non-English speaking countries.
- Ashfield has a lower SEIFA score than our proposed merger partners and amalgamation would artificially raise the SEIFA score, due to Leichhardt's more advantaged socio-economic profile. This may lead to a homogenised approach to community services in the Inner West and failure to meet the needs of the Ashfield community and jeopardise the funding of services that are based on SEIFA scores.
- All three councils partner to support the GreenWay corridor programs, as it runs along the borders of the council areas. The diversity of activities that take place on the GreenWay (active transport, art, sustainability education, bushcare) are a result of different the priorities of the communities along the length of the corridor.
- Marrickville have a much higher proportion of same-sex couples than Ashfield and Leichhardt (7%, compared to less than 1%). All three local councils have demonstrated acceptance of same-sex couples through policies and other initiatives.
- All three councils have similar support and investment in local arts and culture economies (Marrickville and Liechhardt's annual Open Studio Trails, Ashfield's Artist in Residence program).
- The proposed council area covers two catchment areas (Cooks River and Parramatta River). Marrickville and Ashfield Councils currently fall across both catchment areas and work together, with many other Sydney councils on regional programs to improve water quality.
- The proposed council area will require the new Council to advocate for their community's best interests on several large, State Government infrastructure projects along key transport routes: Parramatta Rd and Bays Precinct projects, WesConnex-M4 extension, WestConnex St Peters-M5 extension, Bankstown-Sydenham train line upgrade. Due to their geography, these projects effect different communities to varying degrees. It may be difficult for a new, larger council to partner effectively with the State Government for the best outcomes for the community when these projects are underway concurrently, due to competing resources and interests within the new council area

The existing historical and traditional values in the existing areas and the impact of change on them

- History of stable local government and consistent boundaries since first gazetted in 1871
- Heritage and local history are highly valued by the community, as demonstrated by the streetscapes in our suburbs and the importance of the Haberfield Conservation Area to protect Australia's best example of a 'Garden Suburb'
- History of active participation by the community in decision-making, in part due to the high level of accessibility to elected councilors
- Conservation of built heritage is prioritized by our strategic planning and prudent selection of areas for gentrification and redevelopment

Merger Proposal - Considerations

- Ashfield Council's gender equity among elected representatives is unique in local government and a reflection of a history of active participation of community in local politics

The attitude of the residents and ratepayers of the areas concerned

- Consultation undertaken in April 2015 received 1727 feedback form, with residents and ratepayers indicating a stronger preference for Ashfield Council to stand alone (54%) than to merge with Marrickville and Leichhardt Councils (27%).
- When preferences were weighted, 46% preferred to remain a 'stand alone' Council and 36% preferred a merger with Leichhardt and Marrickville Councils.
- Comments received during this process identified a number of concerns related to a merger of any scale (28% of all comments):
 - o Loss of, access to and change in local representation (7.6%)
 - o Competition for resources and potential increases in distances to community facilities (5.9%)
 - o Preservation of heritage, poor planning and development decisions (4.6%)
 - o Loss of local identity (2.3%)
 - o Increase bureaucracy in a larger council (1.9%)
- Comments also identified a number of perceived benefits to a merger of any scale (20%):
 - o Economies of scale (9.4%)
 - o Change as opportunity, in general (5.3%)
 - o Reduced bureaucracy in a larger council (2.3%)
 - o Change in elected representation (1.7%)
 - o Better strategic planning and development at a regional level (1.3%)

The requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as it considers relevant in relation to the past and future patterns of elected representation for that area

- Significant reduction in local representation (from 3,708 residents per Councillor to 15,499 residents per Councillor)
- Merger likely to significantly reduce diversity of political representation (1/3 of Council's current Councillors are Independent and 50% are women. This is unlikely to continue in a larger merged area)
- Loss of familiarity with and direct access to local Councillors, who currently in such a small area are often known to residents through their personal presence and connections to their neighbourhood
- Reduced likelihood of residents receiving personal and direct attention and feedback from Councillors in response to correspondence on specific issues
- Ashfield Councillors through their long and strong connections to the area have very direct and detailed knowledge of the history of the area, Council organisation, development history and unique circumstances of the area

Council may wish to provide:

- Further input and examples in relation to representation and the relationship between elected officials and residents/ratepayers
- A recommendation on the number of Councilors in any new Council, noting the maximum number under the Act is presently 15 and this is not currently signaled to change. The Merger Proposal currently suggests 12 Councillors.
- A recommendation as to whether the proposed new Council area is divided into wards.

Merger Proposal - Considerations

The impact of any relevant proposal on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities

- Proposed merger creates a high level of uncertainty for ongoing service delivery and key strategic projects. Even though current OLG Guidelines recommend business as usual during the merger proposal period, there is no guarantee that any new Council responsible for a larger geographical area will have the same strategic and local priorities
- There is no certainty for the residents and ratepayers that the resources of any new larger Council will be distributed in an equitable manner and in accordance with the current priorities of the Ashfield community
- In the last three years, Council has strategically planned and engaged with the Ashfield community on long term infrastructure needs and service levels, culminating in special rate variation and 10 year program of asset renewal. Council is currently in year 1 of the 10 year program and the community has no certainty that the program will continue as planned into the future

The impact of any relevant proposal on the employment of the staff by the councils of the areas concerned

- Council has one senior staff member under the Act whose contract would be terminated (likely when the new Council comes into effect)
- Council currently has an Executive Team made up of 75% women, which is almost unheard of in the local government sector where women remain poorly represented in senior management. This is unlikely to be the case in a new Council.
- All non-contracted Council staff are afforded the protection of their employment and conditions under the Local Government Act for three years (Chapter 11, Part 6, s354B-I)
- Impacts of change and disruption on culture, morale and performance

The impact of any relevant proposal on rural communities in the areas concerned

- Not applicable

In the case of a proposal for the amalgamation of two or more areas, the desirability (or otherwise) of dividing the resulting area or areas into wards

- Council's views are sought in relation to wards. It is expected that any Proclamation of a merged Council would indicate the ward structure (if any) to apply at least initially.
- Council in its submission to the Delegate has the opportunity to clearly outline its preference for the new Council to be divided into wards, or not. Failure to indicate a preference may leave the final decision on wards to the State Government or the new Council without the benefit of the current Council's recommendations.
- For the purpose of formulating a response, Council should be aware of the provisions of the Local Government Act in relation to wards in considering its submission. Relevant provisions are contained in Chapter 9, Part 1, Division 1 of the Local Government Act 1993.
- Relevant considerations for Council include:

Merger Proposal - Considerations

- If Council favours wards, the wards for the new merged area will need to comprise similar numbers of electors, as the maximum allowable variation between wards under the Act is 10%
 - Any revised ward system will need to consider how many Councillors the new Council has and how many Councillors each ward will return
 - Wards, if favoured, need to ensure that the level of representation of the various diverse communities in the new Council area will not result in one community or other being disadvantaged
 - The new Council can vary the proposed wards at a later time via the mechanisms set out in the Act
- Retaining a ward system may be one way of trying to mitigate the impacts of loss of local representation and to some extent political diversity in a much larger Council area

In the case of a proposal for the amalgamation of two or more areas, the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented

- Representation will be drastically reduced for the Ashfield community, from 12 councillors to about three, assuming there are 15 councillors in a new council and wards are drawn based on population size.
- This reduces the accessibility of the elected representatives and is likely to reduce the gender, cultural and age diversity that currently exists on Ashfield's Council.
- A third of Ashfield's elected representatives are Independents. The ability for minor parties and independents to be elected may be reduced with a larger population. This may lead to reduced diversity of representation among elected officials and reduced representation of community views that are not aligned to the positions of dominant political parties.
- Ashfield is more linguistically diverse than our proposed merger partners, with 44% of the community speaking a language other than English (compared to 15% in Leichhardt and 31% in Marrickville). A reduction in the total number of elected representatives for the Ashfield community and in the cultural and linguistic diversity of those elected may reduce the ability for our community to actively participate in decision that effect them

Such other factors as it considers relevant to the provision of efficient and effective local government in the existing and proposed new areas

- Significant resources were invested in 2010-2012 in the development of the Community Plan *Ashfield 2023*, and the resourcing strategies in order to achieve the community's priorities and aspirations. We are half way through the current plan cycle. A merger puts the continuity of the Ashfield community's priorities and Council's service offerings at risk and potentially wastes the work and investment undertaken to date.
- Significant resources have been invested in the development of Ashfield's LEP. A merger may result in detrimental changes to the LEP, resulting in the risk of inappropriate development and loss of heritage that is highly valued by the community, and the time and resources in developing the current LEP will have been wasted.
- Ashfield's waste services are contracted out as an efficient service delivery model. Our potential merger partners have a mix of contracted and in-house waste service delivery models. A merger jeopardises the cost-savings and efficient service delivery enjoyed by our community currently.
- Due to the geography of the proposed new area, closing of services or moving of sites risks reduced access to essential services, such as libraries, community centres, aquatic centres

Merger Proposal - Considerations

and council administration buildings for our community. This is an impact that will be acutely felt by older and less able members of the community.

- There are differences in service offerings and funding mechanisms between Ashfield and our proposed merger partners. For example, to deliver key community services, Ashfield leverages partnerships with many organisations, some of which may be placed at risk through a merger.
- Harmonisation of IT and corporate infrastructure has been estimated at 2% of a newly merged council's budget by KPMG. This is for a short term 'vener' solution that underestimates the true cost of the systems needed to run a larger organization effectively.
- The costs associated with rebranding a new organisation (signage in public places, documents, web platform, uniforms, etc) would not be an efficient use of our (or the Leichhardt and Marrickville) community's resources.

The issues covered under each factor above represent some suggestions for Council's submission. Council's endorsement of these points and further input would be appreciated to enable Council officers to prepare the draft submission for consideration at a Council meeting in February 2016.

Council may also wish to turn its attention to any potential transition arrangements should the Minister decide that the merger will proceed as this is very likely Council's last opportunity to have a say on issues of importance prior to any final decision being made.

Feedback from Council is particularly sought in relation to the following:

- Historical and traditional values of Ashfield
- Impacts on services
- Issues of representation
- Number of Councillors
- Ward structure (if any)
- Election of Mayor
- Suggestions for name of the new Council
- Temporary governance structure from date of proclamation of new Council until the next election (expected to be in March 2017)
- Transition arrangements of importance to the Council
- Any other factors.

Implications of the proposed LG Act changes to a new council

The State Government has released the first phase of proposed changes to the Local Government Act. More detail about the changes will be reported to Council in February 2016. The proposed changes may have some impact on a new council, especially in the areas of:

Elected representatives

- Number of councillors required to be an odd number, to reduce deadlocks and the use of casting votes
- No change is currently proposed to the minimum (5) and maximum (15) number of councillors
- Mayors elected by councillors may hold office for minimum of two years, with the option of electing to office for four years.

The merger proposal prepared by the State Government assumes that the number of councillors in the new entity will mirror the highest number of councillors currently exist in any of the councils participating in the merger, i.e. 12. As this is an even number, the case should be made for the

Merger Proposal - Considerations

number of councillors to increase to 15, the maximum number allowed, compatible with the proposed change and maximising opportunities for representation for the population. (This increase would not have a material impact on the financial business case put forward by KPMG, on behalf of the State Government.)

Council structure

- Council shall determine the organisational structure, on advice of General Manager, to the level of roles and relationships reporting directly to General Manager and designated senior staff
- General Manager shall determine the balance of organisational structure, in consultation with Council

This proposed change removes ambiguity in the Act that has previously led to conflict in some councils.

Other

- Integrated planning must reflect regional priorities
- Where an administrator is appointed, they are to exercise the role and responsibility of the mayor and a councillors, as proposed under the Act

The requirement for IP&R documents to reflect regional priorities may place a new council in a difficult position. For example, where a regional priority may not benefit or may have detrimental impacts on some or all of the new council's community, supporting that priority in a Community Strategic Plan may cause conflict in the use of council's resources to advocate and support the best interests of their community.

While the State Government is soliciting feedback on the Act through a separate process, submissions to the Delegate in response to the merger proposal provide an opportunity for Council to make recommendations for a potential new council that serve the interests of the Ashfield community and align with the proposed changes.

Contingency Planning

By commencing this formal public inquiry on the merger proposal, the Minister for Local Government has signaled his serious intention to proceed with the amalgamation of councils. The Minister has indicated that he would make a final decision and any new councils would commence in mid 2016.

With the prospect of a merger of the three councils looming by mid 2016, it is important for the General Managers of the three current councils to initiate contingent transition planning in the event that a merger does proceed. It is imperative that preliminary transition planning starts immediately to ensure service continuity for residents and ratepayers in the event that the merger proceeds.

Financial Implications

That Council allocate a preliminary budget of \$50,000 to be utilised as required by the General Manager for transition planning activities.

Public Consultation

Merger Proposal - Considerations

The Local Government Act provides for community consultation for council areas under merger proposals through the Public Inquiry process and Public Hearing. The Public Inquiry has called for written submissions from members of the community, by 5pm, Sunday 28 February 2016.

The Public Hearing shall hold two sessions on Tuesday 2 February (1pm to 5pm and 7pm to 10pm) at Wests Ashfield Leagues Club. To attend, members of the public must register by Friday 29 January and indicate if they wish to speak at the time of registration.

The NSW Office of Local Government has advertised the dates of the Public Hearings and the closing date for written submissions. This information has also been placed on Council's website and displayed in Customer Service points in Council's Civic Centre, Ashfield and Haberfield Library and the Aquatic Centre.

Conclusion

Reform of the local government sector is moving ahead at pace, with significant developments occurring during the December/January recess period. The Minister has signaled a serious intention to proceed with council mergers by referring 35 merger proposals to the Chief Executive of the Office of Local Government for review, one of which is the proposed merger of Ashfield, Leichhardt and Marrickville Councils.

Council and the community has one final opportunity to let their views be heard by the State Government while the merger proposal is being examined by the Delegate and the public hearing are being conducted.

Now is the time for Council to make its final submission on the merger proposal, addressing the factors set out in section 263(3) of the Act, and to provide its views on any potential transition arrangements.

ATTACHMENTS

Attachment 1	KPMG Financial Modelling Assumptions for Local Government Merger Proposals 19 January 2016	10 Pages
Attachment 2	Ashfield - Leichhardt - Marrickville Merger Proposal January 2016	20 Pages

Merger Proposal - Considerations

RECOMMENDATION

- 1/3 That the report be received and noted.**
- 2/3 That Council endorse the contents of Council’s submission to the Delegate as outlined in the report and provide any further input, including to transition arrangements, such as:**
- **Historical and traditional values of Ashfield**
 - **Impacts on services**
 - **Issues of representation**
 - **number of Councillors**
 - **ward structure (if any)**
 - **election of Mayor**
 - **suggestions for name of the new Council**
 - **temporary governance structure from date of proclamation of new Council until the next election (expected to be in March 2017) ; and**
 - **transition arrangements of importance to the Council.**
- 3/3 That Council authorise the General Manager a budget of \$50,000 to commence contingent transition planning.**

VANESSA CHAN
General Manager



Outline of Financial Modelling Assumptions for Local Government Merger Proposals

TECHNICAL PAPER

Prepared for the
NSW Department of Premier and Cabinet

19 January 2016

This report is delivered subject to the agreed written terms of KPMG's engagement.

This report provides an outline of KPMG's financial modelling assumptions during the course of the work undertaken for the Department of Premier and Cabinet under the terms of the engagement contract dated 24 November 2015. The contents of this report do not represent our conclusive findings.

This report is provided solely for the benefit of the parties identified in the engagement contract and is not to be copied, quoted or referred to in whole or in part without KPMG's prior written consent. KPMG accepts no responsibility to anyone other than the parties identified in the engagement contract for the information contained in this report.



Financial modelling assumptions

KPMG was engaged by the NSW Department of Premier and Cabinet to prepare independent modelling of the potential financial impacts of selected council mergers. The financial modelling undertaken relied on publically available council data and a financial model developed by KPMG. The financial model drew on a series of assumptions to estimate the potential savings, costs and overall financial impacts of council mergers.

This paper provides an outline of the assumptions underpinning KPMG’s financial model. The components of the benefits and costs included in the financial analysis are provided in the following tables, including the key data sources used in this analysis. Other parameters, such as the applied discount rate and time period of net financial impacts are also provided in this paper.

Table 1 Outline of merger benefit streams

	Approach	Data source(s)
1. Merger benefit components		
Savings from materials and contracts expenditure	<p>Description: Starting in the first year of a merger, and growing gradually over three years, an annual cost saving is applied to a council’s budgeted materials and contracts expenditure.</p> <p>Assumptions</p> <ul style="list-style-type: none"> • The assumed value of efficiency savings was up to 3 per cent of a council’s expenditure on materials and contracts as reported in long term financial plans. • This assumption was capped at 2 per cent for regional councils – reflecting the wider geographic dispersion and smaller scale may mean procurement and consolidation of contracts may be more difficult to achieve in some areas. • For all councils, it was assumed that only 80 per cent of items reported under ‘materials and contracts’ are subject to scale efficiencies. • These efficiency savings are achieved on a scaled basis. For example, it is assumed that the efficiencies achieved in Year 1 of the merger are one-third of total possible efficiencies (i.e. one-third of the 3 per cent savings potential for metropolitan councils). This assumption remains the same in Year Two, increasing to two-thirds of total possible efficiencies in Year Three and then fully realised by Year Four. 	Council long term financial plans (from 2013-14; general fund where available).
Savings from councillor expenditure	<p>Description: Councillor fees are reduced as a result of the mergers (fewer councillors will exist following merger implementation). This will be, in part, offset by potential increases in annual fees paid to councillors.</p> <p>Assumptions</p> <ul style="list-style-type: none"> • The number of councillors for a new merged entity will mirror the highest number of councillors that currently 	OLG Annual Data Return (2013-14).



	<p>exist in any one of the councils participating in the merger.</p> <ul style="list-style-type: none"> The dollar value of savings is sourced from actual 2013-14 reported data on councillor fees by council. This figure is grown at a standard wage growth rate of 2.3 per cent over the period. This savings are offset by the assumption that all newly elected councillors (metro and regional) will receive a fee of \$30,000 per annum. This fee is greater than the top remuneration level currently received by councillors (with the exception of the City of Sydney). 	
<p>Savings from reduced salary and wage expenditure</p>	<p>Description</p> <p>Staffing reductions are assumed to occur gradually with a modest level of voluntary attrition in the first three years of amalgamation.</p> <p>After the three year employment protection period, savings are generated by reducing duplication of back office, administration and corporate support staff functions. This approach assumed council mergers would not directly impact staffing allocations for council frontline service delivery roles.</p> <p>Assumptions – Metropolitan Councils</p> <ul style="list-style-type: none"> Overall staffing efficiencies were estimated at 7.4 per cent for metropolitan mergers. Reductions in the cost of Tier 4 (General Manager (GM)) salaries (due to the reduced number of GMs in a post-merger environment) using historical salary data reported to the Office of Local Government. Reductions in the costs of Tier 3 (Directors) salaries are also assumed on the basis that Tier 3 salaries are equivalent to approximately 75 per cent of the Tier 4 (GM) reported salary. For metropolitan councils it is assumed that a merger leads to a loss of four (4) Tier 3 positions per council. It is assumed that 1 General Manager and 4 Directors continue to operate post-merger. <p>Assumptions – Regional Councils</p> <ul style="list-style-type: none"> No net staffing reductions were assumed for regional councils. However, efficiencies are generated by a merger that allows a regional council to re-allocate duplicated back-office, administration and corporate support roles to frontline service positions. These efficiencies are assumed to be equivalent to between 3.7 to 5 per cent of a council's employee salary and wage costs (with larger regional councils having a 	<p>Council long term financial plans (from 2013-14; general fund where available).</p> <p>OLG Annual Data Return (2013-14)</p> <p>Comparator and jurisdictional analysis / merger business cases</p>



	<p>greater capacity to achieve a higher staffing efficiency).</p> <ul style="list-style-type: none"> • Reductions in Tier 4 (GM) salaries (due to the reduced number of GMs in a post-merger environment) uses historical salary data reported to the Office of Local Government. • Reductions in Tier 3 (Directors) salaries are also assumed on the basis that Tier 3 employee salaries are equivalent to approximately to 75 per cent of the General Manager’s reported salary. • For regional councils it is assumed that a merger leads to a loss of two (2) Tier 3 positions per council. • It is assumed that 1 GM and 2 Directors continue to operate post-merger. 	
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Source: KPMG

Table 2 Outline of merger costs streams

	Approach	Data source(s)
2. Merger cost components		
ICT Costs	<p>Description</p> <p>To ensure a merged entity can be operational and functional from launch, a number of minimum information and communications technology (ICT) investments and common applications are required:</p> <ul style="list-style-type: none"> • email systems so that each employer of the merged entity has access to, and uses, a single common email address and server; • business applications to enable basic reporting requirements; • website overlay to create a single online portal for the merged entity; and • limited data migration so that, for example, current financial year data for the merged entity can be accessed from a single ICT system. <p>The immediate ICT requirements will therefore be focused on enhancing existing ICT systems that will continue to operate in the background. The following tables provide a summary of the expected costs from establishing this 'vener' solution for each merged entity.</p> <p>Assumptions</p> <p>Introduce ICT 'vener' solution, based on:</p> <ul style="list-style-type: none"> • Small Regional Cluster = \$2.26m • Medium Regional Cluster = \$2.80m • Metropolitan Cluster = \$3.35m <p>In addition, a +30 per cent contingency component is added to the above costs as appropriate in early planning of ICT projects.</p> <p>These assumptions have been based on input from:</p> <ul style="list-style-type: none"> • a selected number of industry representatives consulted by DPC drawing on recent experience in planning and implementing ICT solutions for council entities; and • analysis undertaken by KPMG based on advisory services to Queensland local councils involved in de-amalgamations. 	<p>Selected industry consultations undertaken by DPC.</p> <p>Previous KPMG analysis undertaken for Queensland councils involved in de-amalgamations.</p>



<p>Costs from transition</p>	<p>Description</p> <p>Additional one-off costs, including office relocation, staff training and general transition-related expenditures are calculated as a percentage of operating expenditure based on case study examples from regional and metropolitan amalgamations.</p> <p>Assumption</p> <p>Transition costs are estimated to be 2 per cent of a merged entity operating expenditure in the first year of operation.</p>	<p>Council long term financial plans (from 2013-14; general fund where available).</p>
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Table 3 Outline of treatment of merging councils that are split

	Approach	Data source(s)
3. Treatment of councils that are split in a merger		
	<p>Description</p> <p>A council that is split has its financial statements (operating revenue / expenditure) split on a per capita basis and apportioned accordingly to each new council.*</p> <p>*Note that Jerilderie Shire Council had its financial statements split on a 50:50 basis rather than a per capita basis.</p> <p>Treatment of merger benefits (for split councils).</p> <p>For metropolitan councils the assumptions for savings from staff reductions are half (or 3.7 per cent) of those savings achieved in a normal 'whole' merger scenario. This reflects the reduced levels of duplication from merging only part of a council and, consequently, more limited scope for staffing reductions.</p> <p>The treatment of other merger savings (such as materials and contracts) are the same as those outlined in Section 1.</p> <p>Treatment of merger costs (for split councils)</p> <p>The same merger costs outlined in Section 2 above are also applied to mergers involving split councils.</p> <p>Other notes</p> <p>Councils that are part of a merger but lose a portion of its area to another merger cluster (e.g. Hornsby or The Hills), will have its financial statement adjusted to reflect the reduced revenue / expenditure profile. These adjustments are generally made on a per capita basis.</p> <p>The asset base and infrastructure backlog of split councils has been apportioned by land area (sq km) rather than a per capita basis. This reflects the fixed and built nature of these assets (such as roads and footpaths).</p>	<p>ABS Statistical Area 1 (SA1) population data</p>

Source: KPMG

Table 4 Outline of other key financial modelling assumptions

	Approach	Data source(s)
4. Other		
Financial Year Data	<p>To provide a consistent basis for collating and comparing council financial statements, individual council income statements and long term financial plans for the 2013-14 financial year were used for input to the financial analysis.</p> <p>It is important to note:</p> <ul style="list-style-type: none"> • These financial statements were accessed from publically available sources. • Where available, income statements for a council's 'general fund' were the preferred data source. • While some councils have since updated financial statements – to ensure consistency of approach financial statements released by councils have not been relied upon. • Some councils' financial statements were either incomplete (did not provide full 10 year projections), or included errors in calculations. Where appropriate, trend data has been used to estimate missing / incorrect data. 	
Asset Base estimation	<p>The asset base referred to in council merger proposals is related to the written down value (WDV) of <i>infrastructure assets</i> only, e.g. buildings and other structures, roads, bridges, water, sewerage and recreational facilities. It is subject to data reported in OLG annual data returns and, in some cases, may differ slightly from other measures of asset bases reported by councils.</p>	OLG Annual Data Return 2013-14
Infrastructure Backlog estimation	<p>The infrastructure backlog is based on each council's <i>estimated cost to bring to a satisfactory standard</i> reported in 2013-14 financial statements. The infrastructure backlog ratio is calculated by dividing the backlog figure by the infrastructure asset base (WDV) noted above. The ratio may differ slightly from council-reported ratios due to the inclusion of depreciable land and other specialised asset classes that may not have been captured in the OLG data return template.</p>	OLG Annual Data Return 2013-14
Other assumptions	<p><u>Inflation</u></p> <p>A simple rate of 2.5 per cent was used over the time period to be consistent with the RBA target band of between 2 and 3 per cent.</p> <p><u>Discount rate and time period</u></p> <p>A 9.5 per cent nominal discount rate was used to maintain consistency with the NSW Treasury Guidelines for Government Business Cases. Present value figures are represented in 1 July 2015 dollars. The financial analysis is conducted over a twenty (20) year time period from 2015-16.</p>	<p>RBA (2014), Inflation Target</p> <p>NSW Treasury (2007), <i>NSW Government Guidelines for Economic Appraisal</i></p>

Source: KPMG

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Merger Proposal:

Ashfield Council Leichhardt Municipal Council Marrickville Council

JANUARY 2016

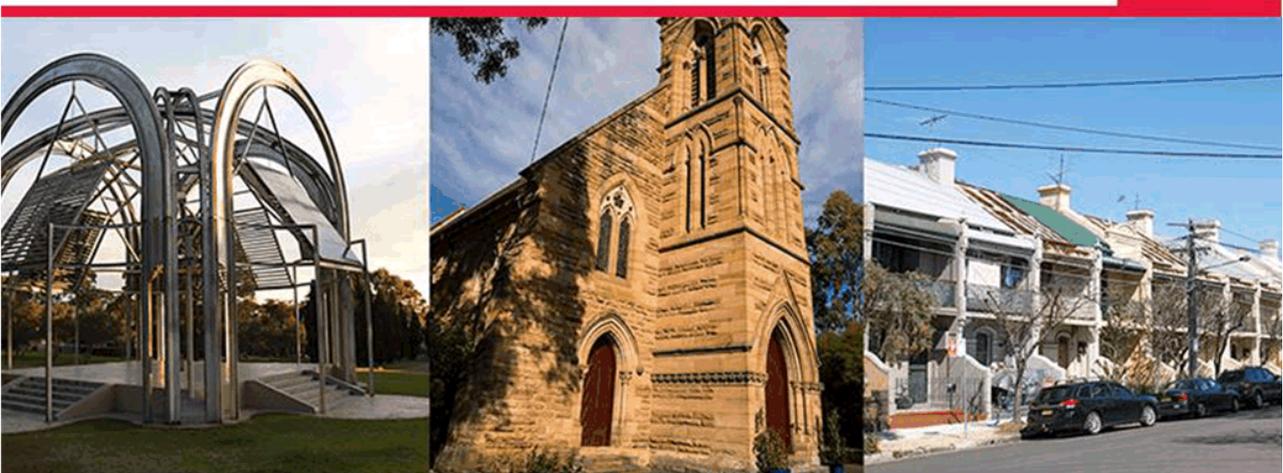
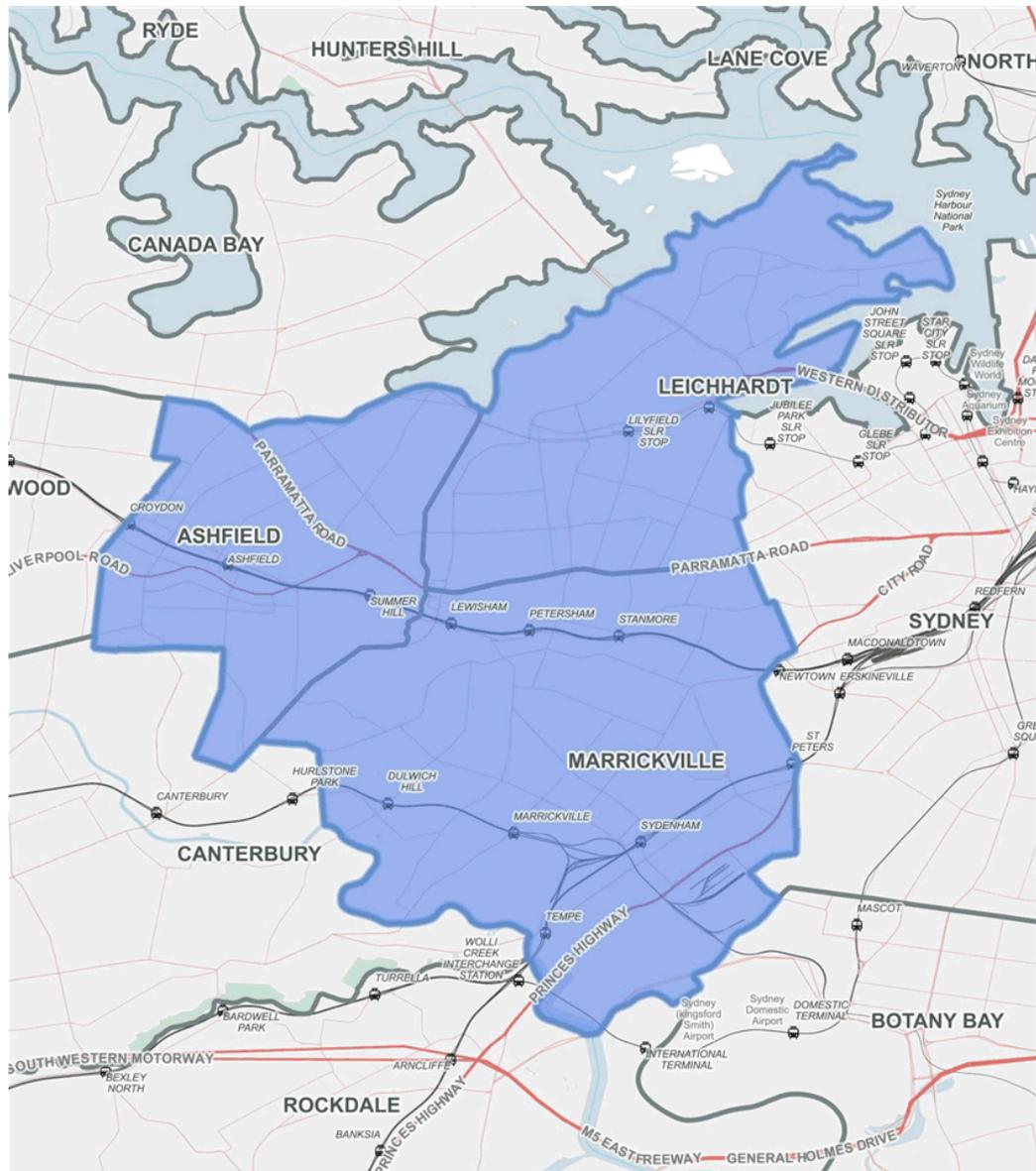


Figure 1: Proposed new local government area



Proposed merger: Ashfield, Leichhardt and Marrickville

Data sources: Land and Property Information
Datum and Projection: GDA94



- Proposal Area
- Current LGA Boundaries
- Suburbs
- Waterbodies
- Open space
- Roads
- Rivers
- Rail

MINISTER'S FOREWORD

Four years of extensive consultation, research and analysis have demonstrated that change is needed in local government to strengthen local communities.

Independent experts have concluded that NSW cannot sustain 152 councils – twice as many as Queensland and Victoria.

After considering the clear need for change, the Independent Local Government Review Panel (ILGRP) research and recommendations, the assessment of councils by the Independent Pricing and Regulatory Tribunal (IPART), council merger preferences, community views and the unique needs and characteristics of each area, I am putting forward the proposal to merge the local government areas of Ashfield, Leichhardt and Marrickville.

The proposed merger will create a council better able to meet the needs of the community into the future and will provide significant benefits for the community.

This document details the benefits the merger will provide to communities, including:

- a total financial benefit of \$113 million over a 20 year period that can be reinvested in better services and more infrastructure;
- a projected 61 per cent improvement in annual operating results;
- potentially reducing the reliance on rate increases through Special Rate Variations (SRVs) to fund local infrastructure;
- reducing the reliance on rate increases through Special Rate Variations to fund local infrastructure;
- greater capacity to effectively manage and reduce the infrastructure backlog across the three councils;
- improved strategic planning and economic development to better respond to the changing needs of the community;
- effective representation by a council with the required scale and capacity to meet the future needs of the community; and
- providing a more effective voice for the area's interests and better able to deliver on priorities in partnership with the NSW and Australian governments.

With the merger savings, the NSW Government funding of \$25 million – and a stronger voice – the new council will be better able to provide the services and infrastructure that matter to the community, projects like:

- improving local roads;
- investing and maintaining parks and open spaces to meet the recreation needs of residents; and
- completing the missing links in the area's bike network with the aim of creating direct and safe pedestrian and cycling environment with improved signage.

The savings, combined with the NSW Government's policy to freeze existing rate paths for four years, will ensure that ratepayers get a better deal.

A suitably qualified delegate of the Chief Executive of the Office of Local Government will consider this proposal against criteria set out in the *Local Government Act (1993)*, and undertake public consultation to seek community views.

I look forward to receiving the report on the proposal and the comments from the independent Boundaries Commission.



Minister Paul Toole
January 2016

EXECUTIVE SUMMARY

The communities of Ashfield, Leichhardt and Marrickville share many common characteristics and connections, including strong cultural diversity, and will benefit by up to \$113 million from a merged council with a stronger capability to deliver on community priorities and meet the future needs of its residents.



Introduction

This is a proposal by the Minister for Local Government under section 218E(1) of the *Local Government Act (1993)* for the merger of the Ashfield, Leichhardt Municipal and Marrickville local government areas.¹ This merger proposal sets out the impacts, benefits and opportunities of creating a new council.

The creation of this new council will bring together communities with similar expectations in terms of demands for services, infrastructure and facilities.

The proposal has been informed by four years of extensive council and community consultation and is supported by independent analysis and modelling by KPMG.

In 2015, the Independent Pricing and Regulatory Tribunal (IPART) assessed that each of these three councils is 'not fit' to remain as a standalone entity.

IPART determined that Ashfield, Leichhardt Municipal and Marrickville councils each satisfy key financial performance benchmarks. However, IPART assessed that operating individually, each council has limited scale and capacity to effectively deliver on behalf of residents and meet future community needs.

The new council for the new local government area will not only oversee an economy that shares many similar residential, workforce and industry characteristics, but will have enhanced scale and capacity to help it deliver on local infrastructure priorities such as planning for affordable housing

¹ The end result if the proposal is implemented is that a new local government area will be created. For simplicity throughout this document, we have referred to a new council rather than a new local government area.

and seniors housing, and building a sustainable urban region.

Impacts, Benefits and Opportunities

A range of benefits and opportunities have been identified from the proposed merger, including a stronger balance sheet to meet local community needs and priorities.

Analysis by KPMG shows the new council has the potential to generate net savings to council operations. The merger is expected to lead to around \$88 million in net financial savings over 20 years.

Council performance will also be improved with a projected 61 per cent increase in annual operating results achieved within 10 years.² This means that there will be a payback period of three years after which the merger benefits will exceed the expected merger costs.

The analysis also shows the proposed merger is expected to generate, on average, around \$7 million in savings every year from 2020 onwards. Savings will primarily be from the removal of duplicate back office and administrative functions; streamlining of senior management roles; efficiencies from increased purchasing power of materials and contracts; and reduced expenditure on councillor fees.³

The NSW Government has announced a funding package to support merging councils which would

² Operating results refer to the net financial position after subtracting total expenditure from total revenue in a given financial year.

³ NSW Government (2015), Local Government Reform: Merger Impacts and Analysis, December.

result in \$25 million being made available should the proposed merger proceed.

These savings may enable the new council to reduce its reliance on rate increases to fund new and improved community infrastructure.

Two of the three councils have recently received approval for Special Rate Variations (SRVs) from IPART. For example:

- Marrickville Council has an approved SRV of 3.0 per cent for a one-year period in 2015–16; and
- Ashfield Council has an approved cumulative SRV of 26.6 per cent over a four-year period from 2015–16.

The proposed merger is also expected to result in simplified council regulations for residents and businesses in the Ashfield, Leichhardt Municipal and Marrickville council areas given each council is currently responsible for separate and potentially inconsistent regulatory environments. Regulatory benefits include consistency in approaches to development approvals, health and safety, building maintenance, traffic management and waste management.

The proposed merger will provide significant opportunities to strengthen the role and strategic capacity of the new council to partner with the NSW and Australian governments on major infrastructure projects, addressing urban socio-economic challenges, delivery of services and focus on regional priorities.

This could assist in:

- reducing the existing \$65 million infrastructure backlog across the Ashfield, Leichhardt and Marrickville area;
- delivering urban priorities such as transport links across the area;
- stimulating small business start-ups and contributing to lower unemployment; and
- supporting economic growth and urban development while enhancing the standard of living and lifestyle that local residents value.

While a merged council will increase the current ratio of residents to elected councillors, the new ratio is likely to be comparable with levels in other communities across Sydney.

Next Steps

This merger proposal will be referred for examination and report under the *Local Government Act (1993)*.

Local communities have an important role to play in helping ensure the new council meets their current and future needs for services and infrastructure and will have an opportunity to provide input on how the new council should be structured.

Local communities will have an opportunity to attend the public inquiry that will be held for this merger proposal and an opportunity to provide written submissions. For details please visit www.councilboundaryreview.nsw.gov.au

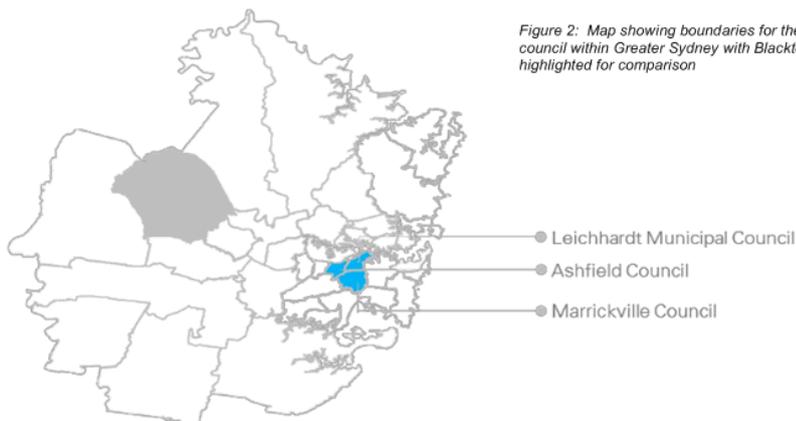


Figure 2: Map showing boundaries for the proposed new council within Greater Sydney with Blacktown City Council highlighted for comparison

INTRODUCTION

This merger proposal has been informed by an extensive four-year consultation and review process.

The NSW Government has been working with local councils and communities since 2011 to strengthen council performance and ensure local government is well placed to meet future community needs.

A first key step in that process was the Independent Local Government Review Panel's (ILGRP) comprehensive review of local government and subsequent recommendations for wide-ranging structural reform and improvements to the system. In response, the NSW Government initiated the *Fit for the Future* reforms that required each local council to self-assess against key performance indicators and submit proposals demonstrating how they would meet future community needs.

The NSW Government appointed IPART in 2015 to assess each council's submission. IPART has now completed its assessment of 139 proposals (received from 144 councils) and concluded 60 per cent of councils are 'not fit' for the future. Many of these councils did not meet the elements of the 'scale and capacity' criterion (refer Box 1 below).

Ashfield, Leichhardt and Marrickville councils each submitted *Fit for the Future* proposals to remain as standalone councils. In assessing each council's submission, IPART determined that all three councils are 'not fit' to stand alone and that a merger is needed to achieve the required scale and capacity to meet the needs of residents now and in the future. This proposal aligns with the merger preferences submitted by all three councils following the IPART assessment process.

Box 1 Overview of scale and capacity

Key elements of 'scale and capacity'

Scale and capacity is a minimum requirement as it is the best indicator of a council's ability to govern effectively and provide a strong voice for its community. At a practical level, this includes being able to:

- undertake regional planning and strategic delivery of projects;
- address challenges and opportunities, particularly infrastructure backlogs and improving financial sustainability;
- be an effective partner for the NSW and Australian governments on delivering infrastructure projects and other cross-government initiatives; and
- function as a modern organisation with:
 - staffing capacity and expertise at a level that is currently not practical or economically possible for small councils;
 - innovative and creative approaches to service delivery; and
 - the resources to deliver better training and attract professionals into leadership and specialist roles.

A NEW COUNCIL FOR THE ASHFIELD, LEICHHARDT AND MARRICKVILLE AREA

The proposed new council will be responsible for infrastructure and service delivery to around 185,000 residents across Ashfield, Leichhardt and Marrickville area of Sydney.

The creation of a new council provides the opportunity to bring together the communities from across the local government areas of Ashfield, Leichhardt and Marrickville. These communities have key similarities in their occupations, lifestyles and socio-economic profiles as residents of the Inner West region of Sydney.

The new council will be responsible for infrastructure and service delivery to more than 223,000 residents by 2031. This reflects the expected population growth across the area of 1.0 per cent per annum.⁴

The proposed merger aligns with the approach of the NSW Government's Sydney Metropolitan Plan (known as *A Plan for Growing Sydney*). The Plan also identifies the importance of adopting a coordinated approach to managing the expected population growth across the Ashfield, Leichhardt and Marrickville area and the need to plan for, and respond to, the changing service and infrastructure needs of these communities. The NSW Government has identified a number of regional priorities that are directly relevant to the proposed new council. For example:

- delivering the Bays Precinct urban renewal program;
- delivering WestConnex, linking Sydney's west and south-west with the CBD, Sydney Airport and Port Botany;
- planning for major urban renewal in communities along the Parramatta Road corridor;
- planning for urban renewal along the length of the Inner West Light Rail extension; and
- protecting the natural environment, the visual amenity of the harbour foreshore, and the health of waterways such as Sydney Harbour and the Cooks River.

A new council with appropriate scale and capacity will be better able to partner with the NSW Government on the implementation of these urban priorities.

The establishment of a new council will also provide an opportunity to generate savings and efficiencies and reduce the current duplication of back-office functions, senior executive positions and potentially the many layers of current regulations. Any savings generated by a merger of these three councils could be redirected to improving local community infrastructure, lowering residential rates and/or enhancing service delivery. An overview of the current performance of the three existing councils and the projected performance of the new proposed entity is provided in Figure 3.

In addition, while IPART found each of the three councils satisfy financial performance criteria, it also found that each council's ability to effectively advocate for community priorities is affected by a lack of scale and capacity. A merged council will improve this, with an enhanced scale and capacity to better plan and coordinate investment in critical infrastructure and services. This should also put the new council in a better position to advocate to the NSW and Australian governments for the regional investments that will be needed for the future.

⁴ NSW Department of Planning & Environment (2014), NSW Projections (Population, Household and Dwellings).

Figure 3: Council profiles

	Ashfield Council	Leichhardt Municipal Council	Marrickville Council	New Council
				
Population (2014)	44,498	58,136	83,356	185,990
Area	8 sq km	11 sq km	17 sq km	35 sq km
IPART Rating	NOT FIT	NOT FIT	NOT FIT	This merger proposal is broadly consistent with the findings of the ILGRP (2013) and IPART's Fit for the Future assessments (2015). The new council will likely have enhanced scale and capacity to better meet the future service and infrastructure needs of the community.
Operating Revenue (2013-14)	\$36.5m	\$87.4m	\$98.2m	\$263.6m (projected 2019-20)
Operating Result (2013-14)	\$0.6m	\$13.0m	\$3.7m	+\$11.1m projected improvement to 2019-20 operating results
Asset Base	\$206.9m	\$486.1m	\$572.1m	\$1.3bn
Infrastructure Backlog	12 per cent	7 per cent	1 per cent	5 per cent

Sources: Australian Bureau of Statistics, Department of Planning and Environment, Office of Local Government, Council Long Term Financial Plans, Fit for the Future submissions to IPART and IPART Assessment of Council Fit for the Future Proposals.

Note: Totals may not sum due to rounding. Estimates of the new council's operating performance and financial position is based on an aggregation of each existing council's projected position as stated in respective Long Term Financial Plans (2013-14). In addition, it is assumed efficiency savings are generated from a merger, and this is reflected in the projected 2019-20 operating result for the new council. Further details are available in NSW Government (2015), Local Government Reform: Merger Impacts and Analysis, December.

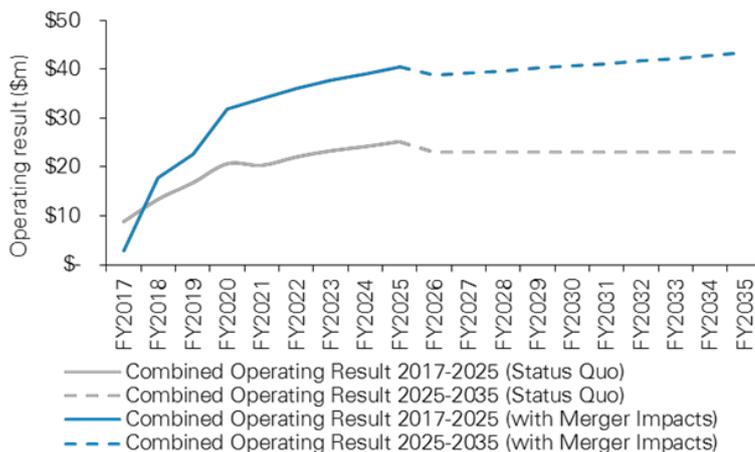
BENEFITS, OPPORTUNITIES AND IMPACTS

The proposed merger has the potential to provide a \$113 million benefit to communities over 20 years which could be support invested in critical local infrastructure and services and/or be utilised to address rate pressures.

Financial Benefits of the Proposed Merger

Analysis by KPMG in 2015 shows the proposed merger has the potential to generate a net financial savings of \$88 million to the new council over 20 years. Council performance will also be improved with a projected 61 per cent increase in annual operating results achieved within 10 years. The proposed merger is also expected to generate, on average, around \$7 million in savings every year from 2020 onwards.⁵ Consequently, the merged council will have a balance sheet that is stronger and in a better position to meet local community needs and priorities. Figure 4 illustrates how the proposed merger will lead to growing improvements in the operating performance of the new council compared to the current projected operating performance of each of the three councils.

Figure 4: Projected operating results of the Ashfield, Leichhardt Municipal and Marrickville councils, with and without a merger



Note: Operating results refers to the net financial position and is calculated as operating revenue less operating costs. It excludes revenue associated with capital grants and expenditure on capital items.

Source: Council Long Term Financial Projections (2013–14).

Gross savings over 20 years are modelled to be due to:

- removal of duplicate back office and administrative functions and streamlining senior management roles (\$84 million);
- efficiencies generated through increased purchasing power of materials and contracts (\$11 million); and
- a reduction in the overall number of elected officials that will in turn reduce expenditure on councillor fees (estimated at \$4 million).⁶

In addition, the NSW Government has announced a funding package to support merging councils which would result in \$25 million being made available should the proposed merger proceed. The implementation costs associated with the proposed merger (for example, information and communication technology, office relocation, workforce training, signage, and legal costs) are expected to be surpassed by the accumulated

⁵ NSW Government (2015), Local Government Reform: Merger Impacts and Analysis, December.

⁶ NSW Government (2015), Local Government Reform: Merger Impacts and Analysis, December.

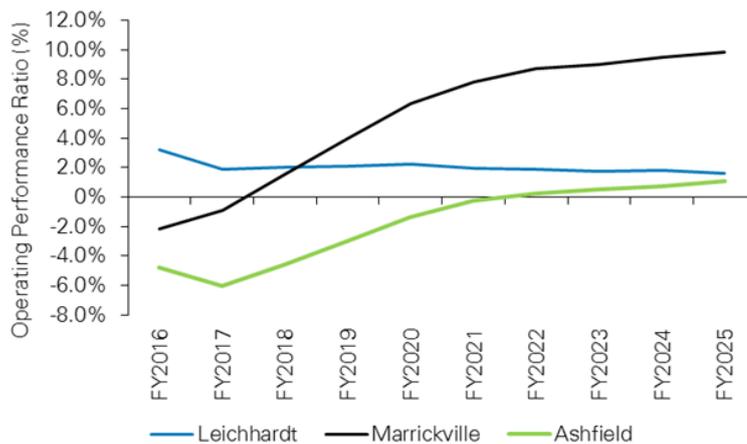
net savings generated by the merger within a three year payback period. The Local Government Act contains protections for three years for all council employees below senior staff level.

Merger benefits could be reinvested to:

- improve infrastructure – annual savings could be redeployed towards infrastructure renewal or capital works, including projects such as improving local roads and cycleways. Redeployment of savings could lead to cumulative additional infrastructure expenditure of almost \$88 million over 20 years;
- enhance service delivery – removal of duplicate back office and administration functions could provide the basis for employing an additional 66 staff for frontline services. This could include services such as library services and waste management services; and/or
- reduce rate pressures – annual savings could be used to reduce the existing dependency on SRVs to fund community infrastructure and/or avoid future rate increases.

The expected operating performance ratio of each council over the next 10 years is illustrated in Figure 5.⁷

Figure 5: Projected operating performance ratio by council (2016–2025)



Note: Operating performance ratio measures a council's ability to contain operating expenditure within operating income.

Source: Council Long Term Financial Plans (2013–14).

Both Marrickville and Ashfield show improving ratios, which is partly driven by increases in rate income as a result of the councils' approved SRVs. This merger proposal will provide the new council with the opportunity to strengthen its balance sheet and provide a more consistent level of financial performance. Overall, the proposed merger is expected to enhance the financial sustainability of the new council through:

- net financial savings of \$88 million to the new council over 20 years;
- a forecast 61 per cent increase in the operating result of the merged entity within 10 years;
- achieving efficiencies across council operations through, for example, the removal of duplicated back office roles and functions and streamlining senior management;
- establishing a larger entity with a broad operating revenue that is expected to exceed \$303 million per year by 2025;
- an asset base of approximately \$1.3 billion to be managed by the merged council; and
- greater capacity to effectively manage and reduce the infrastructure backlog across the area by maintaining and upgrading community assets and improving services.

⁷ Calculation of a council's operating performance ratio excludes any grants received from the council's reported operating revenue. This enables comparison of council operating performance based on own-source revenue.

Opportunities for Improved Services and Infrastructure

The efficiencies and savings generated by the merger will allow the new council to invest in improved service levels and/or a greater range of services and address the current infrastructure backlog across the three councils. Examples of local infrastructure priorities that could be funded by merger-generated savings include projects like:

- improving local roads;
- investing and maintaining parks and open spaces to meet the recreation needs of residents; and
- completing the missing links in the area's bike network with the aim of creating direct and safe pedestrian and cycling environment with improved signage.

The councils are currently focusing their operational budget spend on improvements to recreational facilities and transportation. A merged council could continue this prioritisation and would have greater capacity to better coordinate projects and related community initiatives.

Regulatory Benefits

There are currently 152 separate regulatory and compliance regimes applied across local council boundaries in NSW. These many layers of regulations are making it hard for people to do business, build homes and access services they need. NSW businesses rated local councils as second to only the Australian Tax Office as the most frequently used regulatory body, and highest for complexity in dealings.⁸

It can be expected that the proposed merger will result in simplified council regulations for many Ashfield, Leichhardt and Marrickville residents and businesses. Ashfield, Leichhardt Municipal and Marrickville councils are each responsible for separate and potentially inconsistent regulatory environments. A merged council provides an opportunity to streamline and harmonise regulations.

Adopting best practice regulatory activities will generate efficiencies for a merged council and benefit local residents and businesses. For example:

- a small business owner with outlets across the Ashfield, Leichhardt and Marrickville area will have just a single local council regulatory framework to understand and comply with;
- the compliance burden for a retail outlet owner with multiple outlets across neighbouring suburbs (currently in different local council areas) will be reduced and simplified; and
- residents can have greater confidence that development applications will be subject to a more uniform process than the existing variations in regulations that can add to the cost and complexity of home renovations and building approvals.

Impact on Rates

Two of the three councils have recently received approval for SRVs from IPART to fund community infrastructure:

- Marrickville Council has an approved SRV of 3.0 per cent for a one-year period in 2015–16; and
- Ashfield Council has an approved cumulative SRV of 26.6 per cent over a four-year period from 2015–16.

The savings generated by a merger may enable the new council to reduce reliance on rate increases to fund community infrastructure.

In addition, the proposed merger will bring together a range of residential and business premises across the area, providing the new council with a large rate base on which to set ratings policies and improve the sustainability of council revenue. Table 1 outlines the mix of business and residential rating assessments that underpin current rate revenue across the area.

⁸ NSW Business Chamber (2012), Red Tape Survey.

Table 1: Comparison of rateable businesses and residential properties (total and percentage share)

Council	Business rating assessments		Residential rating assessments	
Ashfield Council	834	5%	15,141	95%
Leichhardt Municipal Council	1,833	8%	22,347	92%
Marrickville Council	3,238	10%	30,217	90%
Merged council	5,905	8%	67,705	92%

Source: NSW Office of Local Government, Council Annual Data Returns (2013–14).

Local Representation

The ratio of residents to elected councillors in each of the three councils is markedly different. This reflects the wide variation in resident populations. While the proposed merger will increase the ratio of residents to elected councillors, the ratio, based on councillor numbers in the existing councils, is likely to be similar to those currently experienced in other Sydney councils, including the more populous Blacktown City Council (Table 2). For the purpose of analysis of merger benefits, this proposal has assumed that the new Council will have the same number of councillors as each of the current councils do. The Government welcomes feedback through the consultation process on the appropriate number of councillors for the new council.

Some councils in NSW have wards where each ward electorate elects an equal number of councillors to make up the whole council. Community views on the desirability of wards for a new council will be sought through the consultation process.

Table 2: Changes to local representation in Ashfield, Leichhardt and Marrickville

Council	Number of councillors	Number of residents (2014)	Residents per councillor
Ashfield City Council	12	44,498	3,708
Leichhardt Municipal Council	12	58,136	4,845
Marrickville Council	12	83,356	6,946
Merged council	12*	185,990	15,499
Blacktown City Council	15	325,139	21,676

* Ashfield, Leichhardt and Marrickville communities will have an opportunity to shape how a new merged council will be structured, including the appropriate number of elected councillors. Fifteen elected councillors is the maximum number currently permitted under the NSW Local Government Act (1993).

Source: Australian Bureau of Statistics, Estimated Resident Population 2013; and NSW Office of Local Government, Council Annual Data Returns (2013–14).

The new council will be in a position to use its larger scale and capacity to more effectively advocate for the needs of the Ashfield, Leichhardt and Marrickville communities. As the new council will represent a more significant share of Sydney's population, and have a substantial economic base, it will be able to negotiate more effectively on behalf of its residents. It will also be able to develop improved strategic capacity to partner with the NSW and Australian governments, including on major infrastructure initiatives, community services and urban planning and development.

The many ways communities currently engage with these councils will continue, including through public forums, committees, surveys and strategic planning. Councillors will continue to represent local community interests and will have the opportunity to take a more regional approach to economic development and strategic planning.

THE LOCAL COMMUNITY

The Inner West communities of Ashfield, Leichhardt and Marrickville share common characteristics and connections. The proposed new council will have enhanced scale and capacity and be better placed to shape and deliver the economic development, community services, and infrastructure that underpin the lifestyle of these communities.

Geography and Environment

Located within Sydney's Inner West region, Ashfield, Leichhardt and Marrickville local government areas are all situated within ten kilometres of the centre of Sydney's CBD. These inner-city areas contain important heritage and cultural sites and also feature significant urban development to accommodate high-density populations. Gentrification of some of the areas within the Ashfield, Leichhardt and Marrickville councils, particularly those closer to the city, has seen a shift in the demographic profiles of those areas and highlights the need for effective land use planning.

The proposed council would be able to plan for communities and coordinate growth and the delivery of infrastructure along both sides of the eastern section Parramatta Road (rather than three separate councils). The new council would also be able to plan for and deliver urban renewal and local infrastructure along areas of the Inner West Light Rail Line that were previously planned for three local government areas.

Local Economy

The local government areas of Ashfield, Leichhardt and Marrickville contribute nearly \$10 billion to the NSW economy, equivalent to two per cent of the Gross State Product.⁹ Characteristics of the local economy include:

- an average household income close to or above the metropolitan average of \$89,210: Ashfield (\$88,349), Marrickville (\$96,043), Leichhardt (\$118,669);
- lower rates of unemployment compared to the metropolitan average of 5.4 per cent in Ashfield (4.7 per cent) and Leichhardt (3.5 per cent), but higher in Marrickville (7.4 per cent);
- employment growth which varies in comparison with the metropolitan average of 1.6 per cent: Leichhardt (0.9 per cent), Ashfield (1.5 per cent) and Marrickville (2.0 per cent); and
- educational attainment rates (the proportion of residents holding a post-school qualification) above the metropolitan average of 59 per cent: Marrickville (66 per cent), Ashfield (68 per cent) and Leichhardt (74 per cent).

Table 3 provides a snapshot of the local business profile of each council. More than 18,000 local businesses across the area contribute more than 92,000 jobs to the local economy. The area has strong employment in the Health Care and Social Assistance sector -- the largest sector within the Ashfield local government area. The largest employment sector in the proposed council will be Professional, Scientific and Technical Services, which provides a strong economic foundation for the new council.

The NSW Government's Household Travel Survey highlighted similar travel patterns across the three existing council areas. Approximately 30 per cent of residents across the area travel for social and recreation purposes and 18 per cent for commuting to work.¹⁰ Specifically, around 35 per cent of Leichhardt and Marrickville residents commute to the Sydney CBD for work compared to about 20 per cent of Ashfield residents.

While residents typically commute to a workplace outside their council area, the area is relatively self-contained and well-connected in relation to:

⁹ Regional Development Australia, Sydney Metropolitan Region economic Baseline Assessment – Update, August 2015; and Australian Bureau of Statistics (2014), Australian National Accounts: State Accounts 2013–14, Canberra.

¹⁰ Transport for NSW, Bureau of Transport Statistics, Household Travel Survey Data 2012–13, released November 2014.

- health services, especially through the Royal Prince Alfred Hospital, Sydney Private Hospital and the Macquarie University outpatient clinic and research centre in Summer Hill;
- extensive retail services, through the Marrickville Metro Shopping Centre, Norton Plaza and Ashfield Mall; and
- transport infrastructure connecting the three councils to the Sydney CBD.

Table 3: Local business and employment profile

Council	Number of businesses	Local jobs	Largest sector
Ashfield Council	3,736	20,618	Health Care & Social Assistance
Leichhardt Municipal Council	7,112	30,003	Professional, Scientific & Technical Services
Marrickville Council	7,674	41,876	Professional, Scientific & Technical Services
Merged council	18,522	92,497	Professional, Scientific & Technical Services

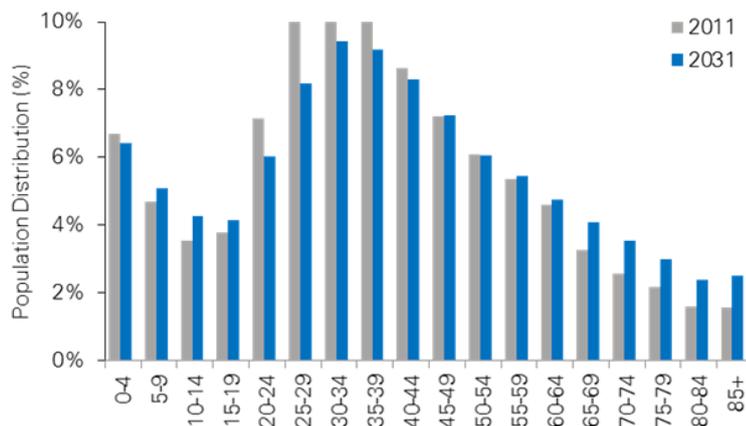
Source: Australian Bureau of Statistics, Business Counts and Employment by Industry (2014).

The business profile across the area and the corresponding workforce will require relatively similar services and infrastructure, particularly in relation to maintaining and upgrading transport links to the Sydney CBD. A merged council will be better placed to deliver these services and infrastructure in a coordinated manner.

Population and Housing

The new council will be responsible for infrastructure and service delivery to more than 223,000 residents by 2031. The Ashfield, Leichhardt and Marrickville area is culturally diverse with a relatively low ratio of children to adults of parenting age, and a low proportion of elderly people, reflecting the areas' proximity to Sydney's CBD (Figure 6). This population distribution is expected to shift over time with an increase in the proportion of the population aged over 65 years.

Figure 6: Change in population distribution, by age cohort (2011 v 2031)



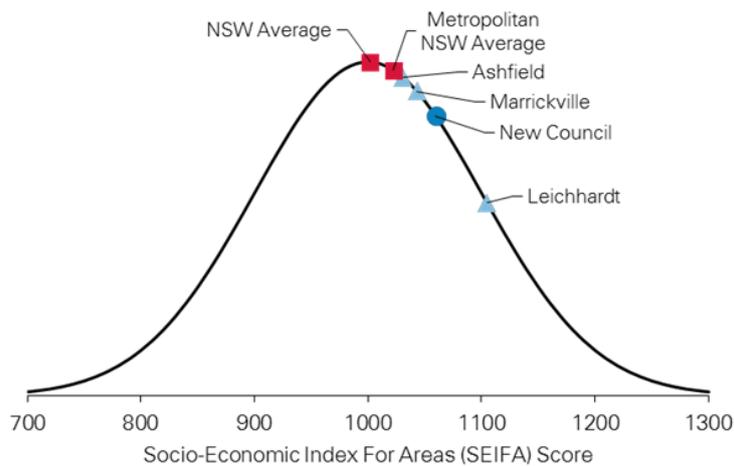
Source: NSW Department of Planning & Environment, 2014 NSW Projections (Population, Household and Dwellings).

A strong council with the appropriate scale and capacity is needed to respond and adapt to the changing service needs of the community. With the high proportion of professionals and managers living in the area, transport links are increasingly important for commuting residents. An ageing population is likely to increase

demand for community health services, creation and maintenance of accessible parks and leisure areas and community outreach services.

In comparison with the rest of Sydney, the Ashfield, Leichhardt and Marrickville communities are relatively advantaged from a socio-economic standpoint. The Socio-Economic Index for Areas (SEIFA), illustrated in Figure 7, measures a range of factors to rate an individual council's relative socio-economic advantage. The Ashfield and Marrickville councils have similar socio-economic profiles with SEIFA scores that are above the NSW and metropolitan averages, while Leichhardt has a socio-economic profile above the NSW and metropolitan averages. This reflects the characteristics across the Ashfield, Leichhardt and Marrickville communities in relation to, for example, household income, education, employment and occupation.

Figure 7: Comparison of councils' socio-economic profile



Source: Australian Bureau of Statistics, SEIFA 2011 by local government area.

Table 4 outlines the current mix of housing types across the area. A merged council provides an opportunity to apply a more regional and strategic focus to planning for the additional 15,800 households and associated amenities that are predicted to be required by 2031. This approach can also help to ensure any pressures and challenges associated with population growth and housing development are not unreasonably concentrated in particular neighbourhoods.

Table 4: Dwelling types in the Ashfield, Leichhardt and Marrickville area (total number and per cent)

Dwelling type	Ashfield Council		Leichhardt Municipal Council		Marrickville Council	
Separate house	6,390	37%	8,403	34%	11,179	32%
Medium density	5,481	32%	10,841	44%	15,283	44%
High density	5,207	30%	5,070	21%	7,441	22%
Other	149	1%	357	1%	588	2%
Total private dwellings	17,227		24,671		34,491	

Source: Australian Bureau of Statistics, Census (2011), Dwelling Structure by local government area.

Shared Community Values and Interests

These communities are bound by their sense of place as part of Sydney's Inner West. Box 2 below provides examples of the sense of place in the form of the community organisations, services and facilities that have a presence across the area, which indicate strong connections between the communities in the existing council areas.

Box 2: Examples of common community services and facilities

Shared regional services and facilities

Examples of community services which operate across the area include:

- the Inner West Courier, a print and online newspaper, is circulated throughout the area;
- the Leichhardt Marrickville Community Transport Group provides transport services for frail aged and younger people with disabilities, and their carers across all the two council areas;
- Ashfield and Leichhardt are part of the Inner West Home and Community Care area, which means that many community care services for the frail aged and respite services for carers are delivered across the council boundaries;
- the Inner West Youth Alliance is a network of youth service providers from across the area; and
- the Child and Family Interagency is a network of agencies that provide services for families and children under the age of eight in the Marrickville and Leichhardt local government areas.

The Ashfield, Leichhardt Municipal and Marrickville councils have already been collaborating in a number of ways:

- all participate in the Southern Sydney Regional Organisation of Councils (SSROC). The role of SSROC is to undertake projects that cross council boundaries, achieving results in procurement of goods and services as well as initiatives that will contribute to the sustainability of the member councils and their communities.¹¹ SSROC undertakes advocacy, training and practical projects;
- SSROC's Street Lighting Improvement Program seeks to address a number of issues such as compliance with the Public Lighting Code, improved pricing and pricing oversight, technology advancements, and securing grants and other funding;
- through SSROC the councils have undertaken shared telecommunications procurement to achieve cost savings, access broadband and to develop a best practice contract for the supply of telecommunications services;
- through SSROC the councils have been implementing shared library services, including standardising practices across the provision of library services, pooling of procurement and utilisation of external service providers;
- the three councils have benefited from SSROC's investigation of waste management practices and the drafting a set of target outcomes for the waste strategy across the region leading to the creation of the 2014-21 regional Waste Avoidance and Resource Recovery Strategy;
- Our Solar Future is a website run by the local councils to provide advisory services for residents regarding the purchase and installation of solar energy systems; and
- Marrickville and Leichhardt Municipal councils have resolved to collaborate to reinvigorate the live music scene, with a particular focus on Parramatta Road, this is part of a larger shared focus on making Parramatta Road more attractive to visitors and business owners.

The connections between the councils and communities are evident in the existing partnerships and collaborations. A new council will be better placed to deliver these services and projects into the future, without relying on voluntary collaboration with neighbouring areas.

¹¹ Southern Sydney Regional Organisation of Councils, <http://ssroc.nsw.gov.au/about-us/>, Accessed November 2015.

CONCLUSION

This proposal to create a merged council has the potential to provide a range of benefits to local communities, including:

- a \$113 million net financial benefit over a 20 year period that may be used to deliver better community services, enhance infrastructure and/or lower rates;
- a projected 61 per cent improvement in annual operating results that will strengthen the council's balance sheet and free up revenue for critical infrastructure;
- NSW Government funding of \$25 million to meet merger costs and provide a head start on investing in services and infrastructure that the savings from mergers will ultimately support;
- greater efficiencies through the removal of back office and administrative functions, increased purchasing power of materials and contracts, and reduced expenditure on councillor fees all of which are expected, on average, to generate savings of around \$7 million every year from 2020 onward;
- greater capacity to effectively manage and reduce the \$65 million infrastructure backlog across the three councils by maintaining and upgrading community assets;
- reducing the reliance on rate increases through SRVs to fund local community infrastructure projects and services;
- better integrating strategic planning and economic development to more efficiently respond to the changing needs of the community;
- building on the shared communities of interest and strong local identity across the area;
- providing effective representation through a council with the required scale and capacity to meet the future needs of the community; and
- being a more effective advocate for the area's interests and better able to deliver on priorities in partnership with the NSW and Australian governments.

NEXT STEPS

Every community will have an opportunity to help shape a new council for their area.

Community Engagement

This merger proposal will be referred to the Chief Executive of the Office of Local Government for examination and report under the *Local Government Act (1993)*. The Chief Executive proposes to delegate this function to a suitably qualified person. The delegate will consider this proposal as required under the Act, including against statutory criteria and hold a public inquiry. The delegate will also undertake public consultation to seek community views. The delegate is also required by the Act to provide the delegate's report to an independent Boundaries Commission for review and comment. The Minister for Local Government under the legislation may decide whether or not to recommend to the Governor that the merger proposal be implemented. For the factors a delegate must consider when examining a merger proposal (under Section 263 of the *Local Government Act (1993)*), please refer to the Appendix to this document.

Through the merger assessment process, there will be opportunities for communities and stakeholders to consider merger proposals and have their say. Each merger proposal will be the subject of a public inquiry where the community can hear about and discuss the proposal. Through the consultation process, the delegate will ensure that the opinions of each of the diverse communities of the resulting area or areas will be effectively represented.

Further information about the process is available on the Local Government Reform website at www.councilboundaryreview.nsw.gov.au, including:

- details about the proposed mergers;
- information about the delegate for your area;
- dates for public meetings; and
- a portal to provide a written submission.

Appendix

The following table outlines the factors that a delegate must consider under section 263 of the *Local Government Act (1993)* when examining a proposal. The section references outline where the criteria have been addressed in this merger proposal.

<i>Legislative criteria</i>	<i>Section reference</i>
(a) the financial advantages or disadvantages (including the economies or diseconomies of scale) of any relevant proposal to the residents and ratepayers of the areas concerned	Benefits, Opportunities and Impacts
(b) the community of interest and geographic cohesion in the existing areas and in any proposed new area	The Local Community
(c) the existing historical and traditional values in the existing areas and the impact of change on them	The Local Community
(d) the attitude of the residents and ratepayers of the areas concerned	There is a public consultation process which includes a public inquiry allowing for the views of residents and ratepayers to be considered.
(e) the requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as it considers relevant in relation to the past and future patterns of elected representation for that area	Local Representation
(e1) the impact of any relevant proposal on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities	Benefits, Opportunities and Impacts
(e2) the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned	Financial Benefits of the Proposed Merger
(e3) the impact of any relevant proposal on rural communities in the areas concerned	The Local Community
(e4) in the case of a proposal for the amalgamation of two or more areas, the desirability (or otherwise) of dividing the resulting area or areas into wards	Local Representation
(e5) in the case of a proposal for the amalgamation of two or more areas, the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented	Next Steps
(f) such other factors as it considers relevant to the provision of efficient and effective local government in the existing and proposed new areas	Benefits, Opportunities and Impacts



For more information visit:
www.councilboundaryreview.nsw.gov.au

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Subject	COUNCIL DECISION MAKING DURING MERGER PROPOSAL PERIODS
File Ref	SC275
Prepared by	Lisa Hopkin - Senior Governance Officer
Reasons	To inform Council of the Office of Local Government (OLG) Guidelines on decision making during merger proposal periods.

Overview of Report

The OLG Guidelines titled 'Council decision making during merger proposal periods' were issued under cover of OLG Circular 15-43 and released on 18 December 2015. These Guidelines apply to the merger proposal period for Ashfield, Leichhardt and Marrickville Councils. The proposed merger is currently under consideration by the Chief Executive of the Office of Local Government, the Boundaries Commission and the Minister for Local Government. The merger proposal period operates until activation of one of the following events: (i) the day after the Minister declines to recommend to the Governor the proposed merger to be implemented, or (ii) the date specified in the proclamation implementing the proposal.

Background

The OLG Guidelines [Attachment 1] have been prepared under section 23A of the Local Government Act 1993 (the Act). Pursuant to this provision a council is obligated to take the Guidelines into consideration before exercising any of its functions.

The overarching theme of the OLG Guidelines is Council is to continue to provide business as usual during the merger proposal period, as reiterated in a letter addressed to the General Manager from Tim Hurst, Acting Chief Executive, Office of Local Government dated 14 January 2016 [Attachment 2].

The OLG Guidelines operate to provide guidance to councils on the appropriate exercise of their functions during the merger proposal period. In doing so, the Guidelines highlight what councils should not do. Noting the instructions set out in the OLG Guidelines govern the merger proposal period, the salient points are:

- **Integrated planning and reporting**

Continue to implement and operate in alignment with the adopted Community Strategic Plan, Delivery Program, Operational Plan and Resourcing Strategy. A progress report on the Community Strategic Plan is to be presented at the final meeting of the outgoing council.

COUNCIL DECISION MAKING DURING MERGER PROPOSAL PERIODS

- Financial management

Monies only to be expended in accordance with the adopted budget. Deviation from the budget is to be approved by council at an open public meeting. Deviation of an amount equal to or greater than \$250,000 or 1% of council's revenue from rates in the preceding financial year (whichever is the greater) is to be placed on public exhibition.

Subject to some exceptions, Council is not to enter into contracts or undertakings of an amount equal to or greater than \$250,000 or 1% of council's revenue from rates in the preceding financial year (whichever is the greater). The exceptions include:

- procurement processes commenced prior to 6 January 2016;
- where the contract is reasonably necessary to meet Council's ongoing service delivery to the community; or
- where the contract is to implement an action already approved under the Council or Annual Plan.

- Workforce management

Restrictions placed on appointment and termination of the General Manager and senior staff. No organisational restructures to be undertaken. No forced redundancies of non-senior staff. Determinations made will not be binding on a new council.

- Regulatory functions

Regulatory functions including development applications and strategic land use planning decisions should not be exercised for the purposes of campaigning for or against a merger. Decisions need to be able to withstand legal challenge so as not to burden a new council.

- Merger-related information campaigns

Campaigns are to be objective, accurate and honest and only for community information purposes ('information campaigns'). Neither resources nor expenditure is to be disproportionate or excessive. Before incurring costs on a campaign, the campaign and budget is to be approved by Council in an open public meeting.

- Enforcement

OLG will be monitoring compliance with the OLG Guidelines. Breaches may result in the Minister for Local Government exercising the power to issue a performance improvement order under section 438A of the Local Government Act 1993 (the Act), and/or surcharging a council official (defined as a councillor (including the Mayor), a member of council staff or a delegate of a council) under section 435 of the Act.

Underpinning the OLG Guidelines is how councils can best serve their communities. Having a framework in place during the merger proposal period ensures councils continue to function appropriately, effectively and efficiently for the betterment of the community.

Financial Implications

N/A

Other Staff Comments

N/A

COUNCIL DECISION MAKING DURING MERGER PROPOSAL PERIODS

Public Consultation

N/A

Conclusion

That Council carries on business as usual during the merger proposal period and in exercising its functions does so in a manner consistent with the OLG Guidelines.

ATTACHMENTS

Attachment 1	OLG GUIDELINES	9 Pages
Attachment 2	OLG letter to GM	2 Pages

RECOMMENDATION

That the report be received and noted.

NELLETT KETTLE
Director Corporate & Community Services



Office of Local Government

**COUNCIL DECISION MAKING DURING
MERGER PROPOSAL PERIODS**

Strengthening local government



DECEMBER 2015

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PURPOSE

These Guidelines provide guidance to councils that are the subject of merger proposals on the appropriate exercise of their functions during the period in which a merger proposal is under consideration by the Chief Executive of the Office of Local Government, the Boundaries Commission and the Minister for Local Government under the Act.

It is important during any merger proposal period that councils continue to operate appropriately, effectively and efficiently to meet the needs of their communities. The Office of Local Government recognises that councils, councillors and council staff all share the desire to continue to serve their communities effectively during the merger proposal period and will have many questions about how to do this in a manner that is appropriate and permissible. These Guidelines seek to assist councils to do this and to provide clear guidance on what is and is not appropriate and permissible during the merger proposal period.

These Guidelines are issued under section 23A of the Act meaning that all councils must consider them when exercising their functions.

THE SCOPE OF THESE GUIDELINES

These Guidelines apply to decisions made by councils the subject of a merger proposal during a merger proposal period.

For the purposes of these Guidelines:

“**the Act**” – means the *Local Government Act 1993* (NSW).

“**a decision**” - includes the exercise by the council of any function (including the expenditure of monies and the use of resources) and includes functions exercised under delegation by council officials.

“**council officials**” – includes a councillor (including the Mayor), a member of council staff or a delegate of a council.

“**merger proposal**” – means a proposal for the amalgamation of two or more local government areas or the alteration of the boundaries of one or more local government areas initiated by the Minister for Local Government, a council affected by the proposal or an appropriate minimum number of electors under section 218E of the Act.

“**merger proposal period**” – means the period of time during which a council is affected by a merger proposal, commencing on the day a proposal is made with respect to the council's area under section 218E of the Act and concluding on:

- the day after the Minister decides to decline to recommend to the Governor that a proposal referred to the Boundaries Commission or the Chief Executive be implemented under section 218F(8), or
- the date specified in the proclamation implementing the proposal if the Minister

recommends to the Governor that the proposal be implemented.

“**new council**” – means a new council created as a result of a merger proposal.

COUNCIL DECISION MAKING DURING MERGER PROPOSAL PERIODS – GENERAL PRINCIPLES

During a merger proposal period, councils and council officials should be mindful of the need to act in the best interests of their community and for the purposes of meeting the needs of that community. Councils should not make decisions that needlessly impose avoidable costs on a new council.

In particular, councils and council officials should not make decisions during a merger proposal period for the following purposes:

- to prevent or disrupt the consideration of merger proposals by the Chief Executive of the Office of Local Government or his delegate, the Boundaries Commission or the Minister for Local Government other than through the legitimate exercise of legal rights of review or appeal
- to exercise their functions or use council resources to oppose or support a merger proposal for personal or political purposes (see below for more information on merger-related information campaigns)
- to seek to damage or impede the operational effectiveness of a new council including by (but not limited to):
 - making significant and/or ongoing financial commitments that will be binding on a new council
 - making other significant undertakings or commitments that will be binding on a new council
 - making decisions that are designed to limit the flexibility or discretion of a new council
 - deliberately and needlessly expending council resources to minimise the resources available to a new council on its commencement.

INTEGRATED PLANNING AND REPORTING

During a merger proposal period, councils should continue to implement and operate in accordance with their adopted Community Strategic Plan, Delivery Program, Operational Plan and Resourcing Strategy.

Annual reporting requirements continue in accordance with the Act, and a report on the progress on implementation of the Community Strategic Plan should be presented at the final meeting of each of the outgoing councils.

Preparation of Operational Plans

Should councils prepare Operational Plans during a merger proposal period, these should be prepared as a sub-plan of the council's adopted Delivery Program and should not depart from the council's adopted Delivery Program.

The Operational Plan should directly address the actions outlined in the council's adopted Delivery Program and identify projects, programs or activities that the council will undertake within the financial year towards addressing these actions.

The Operational Plan should include a detailed budget for the activities to be undertaken in that year.

FINANCIAL MANAGEMENT

Expenditure during merger proposal periods

During a merger proposal period, councils should only expend monies in accordance with the detailed budget adopted for the purposes of implementing their Operational Plans for the relevant year.

There should be clear and compelling grounds for any expenditure outside of a council's adopted budget. Expenditure outside of the adopted budget should be approved by the council at a meeting that is open to the public.

The council's resolution approving the expenditure should disclose the reasons why the expenditure is required and warranted.

Should such expenditure be outside of a council's adopted budget and be of an amount equal to or greater than \$250,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger), then such a variation shall be advertised and public comments invited.

Councils the subject of merger proposals should not make decisions that will impose a significant and/or ongoing financial commitment on a new council.

Entry into contracts and undertakings

Councils the subject of merger proposals should not enter into a contract or undertaking involving the expenditure or receipt by the council of an amount equal to or greater than \$250,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger), unless:

- the contract or undertaking is being entered into as a result of a decision made or procurement process commenced prior to the start of the merger proposal period; or
- entry into the contract or undertaking is reasonably necessary for the purposes of:
 - meeting the council's ongoing service delivery commitments to its community; or

- to implement an action previously approved under a council's Delivery Program or the Operational Plan for the relevant year

WORKFORCE MANAGEMENT

Appointment and termination of employment of general managers and senior staff

A council affected by a merger proposal should not during a merger proposal period appoint or reappoint a person as the council's general manager, other than:

- appointing a person to act as general manager under section 336(1) of the Act, or
- temporarily appointing a person as general manager under section 351(1) of the Act.

Councils affected by merger proposals should also avoid making appointments of senior staff other than temporary or "acting" appointments unless there are compelling operational reasons for doing so. Outside of these circumstances, where possible, councils should make temporary appointments to fill vacancies to senior staff positions during the merger proposal period.

There is no restriction on councils' ability to terminate the employment of general managers and other senior staff during a merger proposal period. However, in doing so, councils must comply with the standard contracts of employment for general managers and senior staff and the 'Guidelines for the Appointment & Oversight of General Manager' (July 2011).

Organisation restructures

Councils affected by merger proposals should not undertake organisation restructures unless there are compelling operational grounds for doing so.

No forced redundancies of non-senior staff

Councils affected by a merger proposal should not during a merger proposal period terminate the employment of non-senior staff on grounds of redundancy without their agreement (see section 354C).

Determination of employment terms and conditions for council staff

Determinations of the terms and conditions of employment of council staff members (including in an industrial agreement, in an employment contract or in an employment policy of the council) made during a merger proposal period will not be binding on a new council unless the determination has been approved by the Minister for Local Government (see section 354E).

The Minister's approval is not required for the following determinations:

- determinations authorised by an industrial instrument, or employment policy of the former council, made or approved before the merger proposal period
- determinations in, or authorised by, an award, enterprise agreement or other

industrial instrument made or approved by the Industrial Relations Commission or Fair Work Australia

- determinations that comprise the renewal of an employment contract (other than for the general manager) entered into before the proposal period.

As a general rule, the Minister will approve determinations unless he is satisfied that the determination arises from or is in anticipation of a merger proposal and would result in an unjustifiable increase or decrease in the obligations of the new council in relation to transferred staff members (see section 354E(3)).

REGULATORY FUNCTIONS

Councils and council officials should exercise their regulatory functions strictly in accordance with statutory requirements and the requirements of the *Model Code of Conduct for Local Councils in NSW* and solely on the basis of relevant considerations.

Councils should not exercise their regulatory functions (including in relation to development applications or strategic land use planning) for the purposes of campaigning for or against a merger proposal.

Councils should not make decisions that would not otherwise withstand legal challenge on the basis that the new council and not the outgoing one would need to defend any such challenge.

MERGER-RELATED INFORMATION CAMPAIGNS

Any public information campaigns conducted by councils with respect to merger proposals:

- should be conducted for the purposes of informing the local community about the merger proposal and should be proportionate to this purpose
- should not involve disproportionate or excessive expenditure or use of council resources
- should be conducted in an objective, accurate and honest manner and should not be deliberately misleading
- should not be used to endorse, support or promote councillors, individually or collectively, political parties, community groups or candidates or prospective candidates at any election, Local, State or Federal.

Merger-related information campaigns should be approved by councils at an open council meeting. Councils should also publicly approve a budget for the campaign at an open council meeting before incurring any expenditure on the campaign.

Any variations to the budget should also be publicly approved by the council at an open meeting.

Councils should account fully and publicly for the costs of merger-related information campaigns, including staff and contractor costs. This information should be accessible to the community on councils' websites.

ENFORCEMENT OF THESE GUIDELINES

These Guidelines are issued under section 23A of Act. Councils are required to consider the Guidelines in exercising their functions. The Office of Local Government will be monitoring compliance with these Guidelines.

Failure to comply with the Guidelines may result in the Minister for Local Government issuing a performance improvement order under section 438A of the Act against a council to compel them to comply with the Guidelines or to correct any non-compliance.

The Chief Executive of the Office of Local Government may also surcharge a council official under section 435 the amount of any deficiency or loss incurred by the council as a consequence of the negligence or misconduct of the council official.



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Ms Vanessa Chan
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14 January 2016

Dear Ms Chan

I am writing to you about the *Guidelines – Council Decision Making During Merger Proposal Periods*, which were released by the Office of Local Government on 18 December to assist councils during the proposal process.

It has come to my attention that some councils may be concerned that the Guidelines prevent them from making financial and operational decisions, including entering into contracts or financial agreements such as voluntary planning agreements.

This is not the case – the Guidelines provide a framework to assist those councils subject to a merger proposal to continue delivering quality services to their communities, without unreasonably impacting the future operations of any possible new council.

It is important that councils continue to provide business as usual to their communities during the merger proposal period.

In undertaking their functions, councils are encouraged to apply their professional judgement when making any financial or resource management decisions, informed by the Guidelines. The Guidelines are designed to support councils by setting out the considerations they should take into account when making such decisions.

Reporting arrangements relating to existing community strategic plans and other plans under the Integrated Planning and Reporting framework should proceed as normal.

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There have been a number of other questions raised by councils, both with the Department of Premier and Cabinet and with OLG relationship managers, including implications for senior staff contracts. These matters are under review and further advice will be provided shortly.

If you or your council have questions about applying the Guidelines, please contact your OLG Relationship Manager.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Tim Hurst', is positioned above the typed name.

Tim Hurst
Acting Chief Executive
Office of Local Government