



Planning &
Infrastructure

local development performance monitoring 2011-2012



LOCAL DEVELOPMENT PERFORMANCE MONITORING: 2011-12

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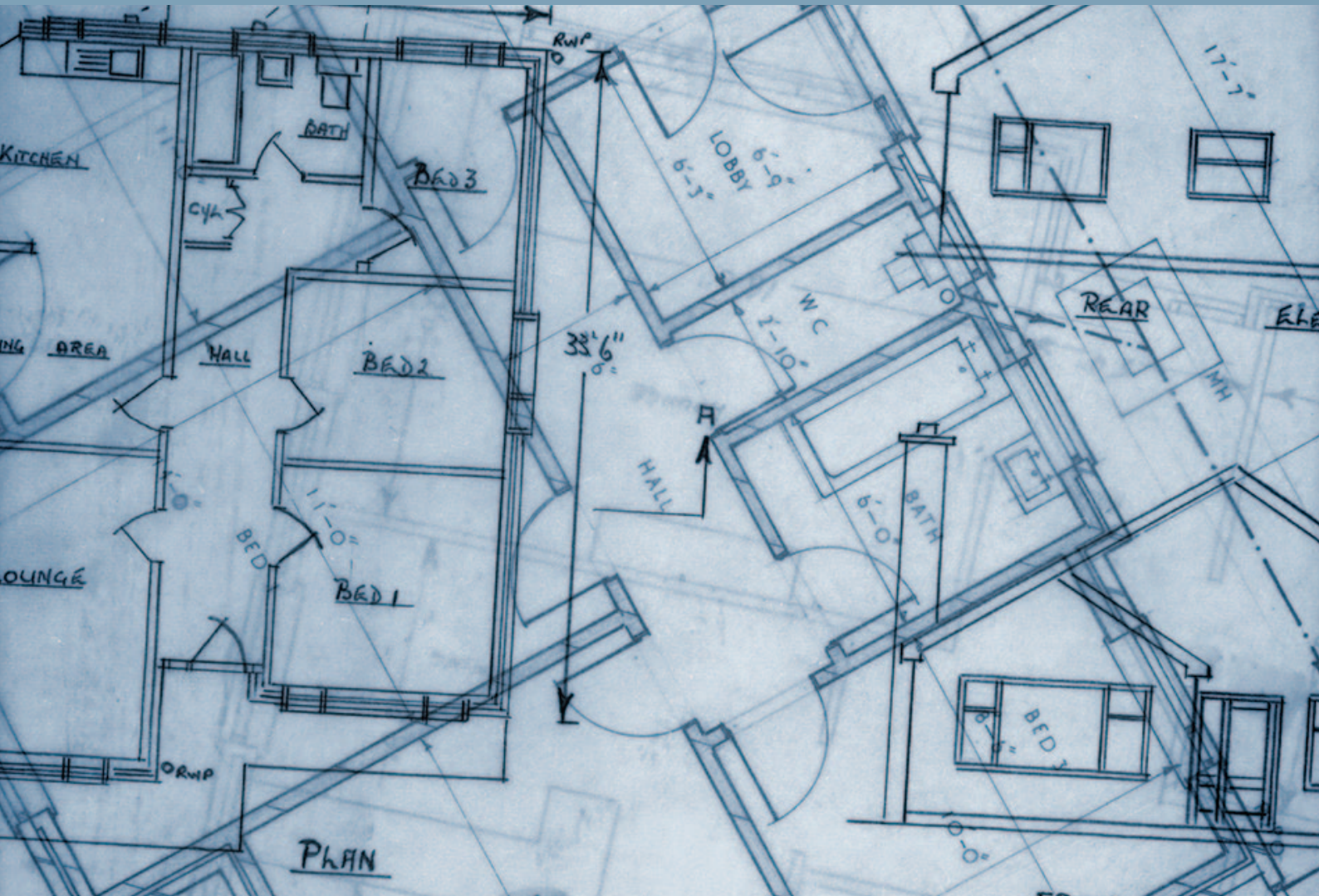
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Overview for 2011-12

2011-2012		change from 2010-11	2010-2011
Assessment Activity			
58,975	Development applications (DAs) determined by local councils	-13%	68,025
13,996	Section 96 modifications determined by local councils	-7%	15,051
17,128	Complying development certificates (CDCs) determined by councils or private certifiers. This is 22.5% of all DA and CDC determinations in 2011-12	14%	15,085
90,099	DAs, s96 modifications and CDCs determined	-8%	98,161
2.7	% of all DAs determined that were refused	-0.2%	2.8
1	% of all DAs rejected	0.1%	0.9
Development Activity			
57,403	DAs approved by local councils	-13.2%	66,109
17,077	CDCs approved by councils or private certifiers	14%	15,038
74,480	DAs and CDCs approved	-8%	81,147
Value			
19.88	Billion dollars worth of DAs approved under the NSW local development assessment system	10%	18.04
2.24	Billion dollars worth of CDCs approved under the NSW local development assessment system	23%	1.83
22.12	Billion dollars worth of DAs and CDCs approved under the NSW local development assessment system	11%	19.87
Time			
71	Days on average taken to process a DA across all councils, including stop-the-clock and referrals to state agencies	4%	68
18	Days on average taken by councils to process CDCs	24%	14
58	Councils with an average gross determination time for DAs of 50 days or less	2%	57
15	Councils with an average of more than 100 days to process a DA	88%	8
Applicants and Referral Bodies			
37.4	% of DAs sent to applicants for further information ('stop-the-clock'); the average time for stop-the-clock was 57 days (2011-12)	0.8%	36.7
11.7	% of DAs referred to external agencies; the average time for referrals was 50 days (2011-12)	0.5%	11.2
50	Days on average taken by external agencies to comment on a referred DA	8%	47
Determination Bodies			
3.9	% of DAs on average determined by elected representatives	0.2%	3.7
45	Councils with more than 98% of their DA determinations made under delegation to professional staff	-2%	46



Executive Summary

Executive Summary

Overview

The 2011-12 Local Development Performance Monitoring report provides an overview of the performance of the NSW planning system and information on local and regional development determined by councils, private certifiers and joint regional planning panels.

This year's report is the seventh in the series. As in previous years, it provides detailed information on council development assessment including the number of council decisions and determination times. It also provides information on the use of statewide codes for residential, commercial and industrial development; performance of state government referral agencies; and an analysis of the operations of the joint regional planning panels which determine regionally significant developments.

In 2011-12, the total number of development approvals was the lowest since detailed local development performance monitoring data collection began in 2006-07. Although development activity fell by 8% compared with 2010-11, the total value of approved development increased by 11% (\$2.25 billion). Mixed development and new multi-unit residential development recorded the highest increases in total value of approved development applications (DAs) and complying development certificates (CDCs) compared with 2010-11, a 47% and 38% increase in value respectively.

While key indicators of performance, such as the statewide average determination time, were similar to 2010-11, there were increased numbers of councils with high average determination times in 2011-12.

Given the additional range of developments covered by the State Environmental Planning Policy (Exempt and Complying Development Codes), referred to as the Codes SEPP, the number of complying development certificates (CDCs) increased by 14% compared with 2010-11.

The use of council planning instruments has been increasingly replaced with the Codes SEPP for exempt and complying development. As such, 88% of CDCs were determined under the Codes SEPP compared with 67% in 2010-11.

Another notable trend was the increase in private certifier determinations by 20% from 2010-11. The proportion of development determined by council staff continues to be the highest (80.5%), though it has been falling since 2008-09 (91%).

The information in this report was compiled by analysing detailed records from all 152 NSW councils. The data used is as reported by councils. It was supplemented by information from state government referral agencies and records of the joint regional planning panels.

Structure of the Report

Background information is included in Chapter 1 including the reform context for local development. The major findings from the 2011-12 data collection period are summarised in Chapters 2 to 7.

Each chapter in this report provides a snapshot of the data. Analysis of statewide trends is followed by regional and/or local trends.

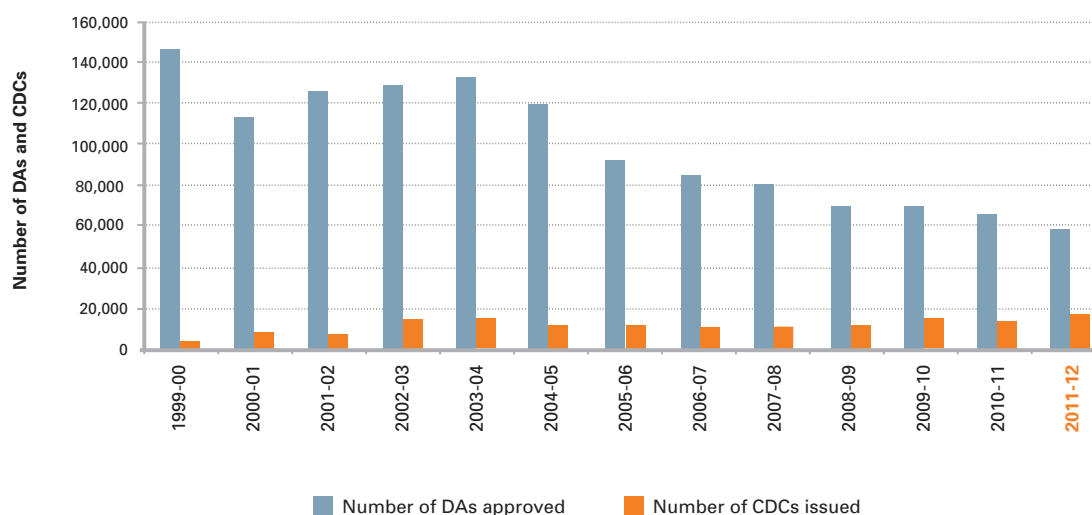
Source data is provided at the back of this publication, listing the extended reference data for each individual council from which the analysis of this report was made. As in previous years, data for each council area is placed on the department's website to allow independent analysis of the information.

The appendices provide detailed explanatory information on issues such as calculation methodology and terminology used in this report.

Key Findings

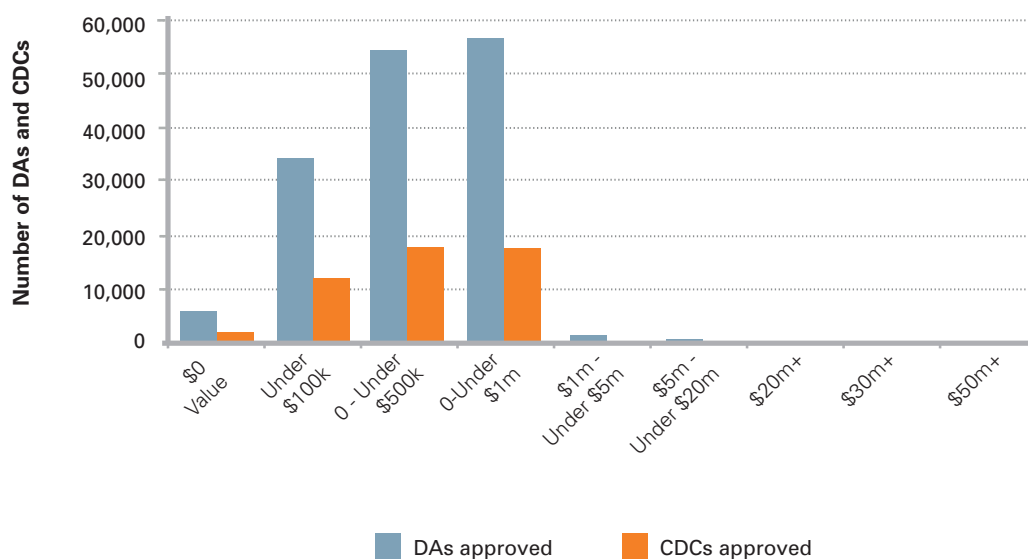
Development activity (Chapter 2)

Total approved DAs and CDCs in NSW 1999-00 to 2011-12



- Development approvals fell by 8% compared with 2010-11. A total of 74,480 local development approvals (DAs and complying development certificates) were reported for 2011-12. This was 5% lower than 2008-09 when development activity reached an historic low.
- Complying development continued to increase. CDCs comprised 23% of all development approvals in 2011-12 (17,077 CDCs) compared with 18.5% in 2010-11 (15,038 CDCs).
- The total number of approved DAs fell from 66,109 in 2010-11 to 57,403 in 2011-12.
- Despite the decline in activity, the total value of development increased by 11.3% from \$19.9 billion in 2010-11 to \$22.1 billion in 2011-12.
- As in previous years, the majority of developments were valued under \$1 million: 97% of DAs and 99% of CDCs in 2011-12.

Total DAs and CDCs approved by value range

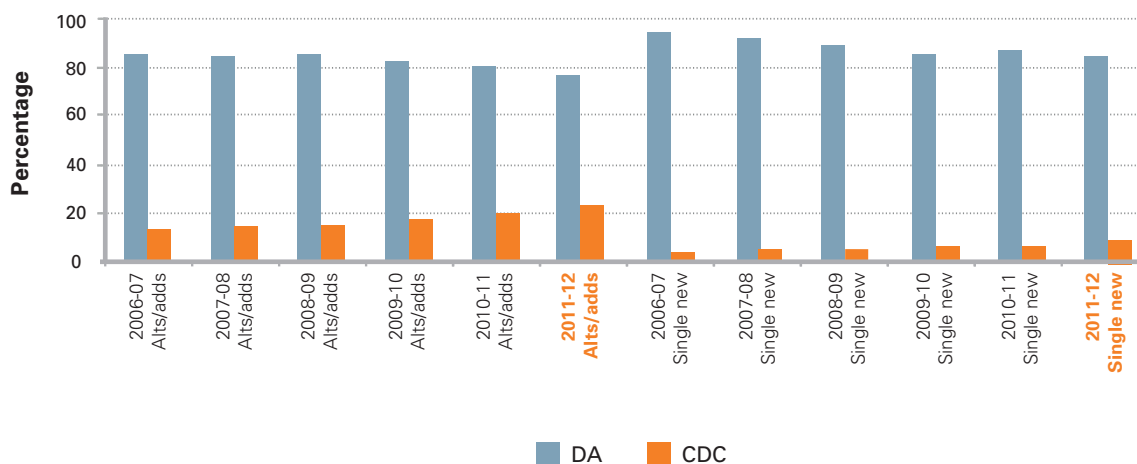


- Residential development still comprises the majority of development. Since 2006-07 residential development determinations have increased slightly as a proportion of all development from 68% in 2006-07 to 70% in 2011-12.
- Residential alterations and additions comprised 39% of all approved development in 2011-12, very similar to 2010-11. The total number of approved residential alterations was the lowest since 2006-07.
- The proportion of new residential development types in 2011-12 was similar to 2010-11. Single new dwellings comprised 82% of new residential development approvals in 2011-12 compared with 84% in 2010-11. New second occupancies (dual occupancies and “granny flats”) comprised 12% of all new residential development approvals in 2011-12 compared to 11% in 2010-11. New multi-unit residential developments (includes residential flat buildings and townhouses and villas) comprised 6% of all new residential development approvals in 2011-12 compared to 5% in 2010-11.
- The total number of approvals for new second occupancies increased by 12%, from 2,159 in 2010-11 to 2,411 in 2011-12. Similarly, the total number of approvals for new multi units increased by 9% from 1,002 in 2010-11 to 1,089 in 2011-12.
- All types of DAs determined (excludes other and non-standard category) in 2011-12 decreased by up to 19% from 2010-11, except for new multi-unit residential development which recorded an increase of 3%. While almost all types of CDCs determined (excludes other and non-standard category) in 2011-12 increased at various rates, mixed development increased more than three times and new second occupancy more than doubled from 2010-11. The exceptions were commercial / retail / office and community facility development which fell 6% and 41% respectively compared with 2010-11.
- 2.7% of DAs were refused in 2011-12, almost the same percentage as reported each year since 2006-07.
- 53% of all approved developments in NSW were for the Sydney region. The total value of developments approved in the Sydney region was \$15.9 billion, \$2.5 billion higher than 2010-11. 13% and 9% of statewide approvals were issued in the Hunter and Southern regions respectively.
- The councils with the most approvals (DAs and CDCs) for 2011-12 were City of Sydney, Blacktown City Council, Lake Macquarie City Council, Warringah Council and The Hills Shire Council.
- The councils with the highest numbers of CDC approvals for 2011-12 were City of Sydney, Sutherland Shire Council, Blacktown City Council, Penrith Council and Ku-rin-gai Council.

Assessment activity (Chapter 2)

- In 2011-12, merit assessment comprised 77% of all determinations compared with 82% in 2010-11. Complying development was 23% of DA and CDC determinations in 2011-12 compared with 18% in 2010-11.
- Councils determined a total of 13,996 modifications to DAs under section 96 of the Environmental Planning and Assessment Act 1979 (EP&A Act) in 2011-12, a 7% decrease from 2010-11.
- There was an increase in the proportion of single new dwellings determined as complying development: 16% in 2011-12 compared with 10% in 2010-11. This compares with 5% in 2006-07.
- In 2011-12, 24% of residential alterations and additions were determined as complying development compared with 20% in 2010-11 and 18% in 2009-10.
- The proportion of mixed development CDCs increased from 8% in 2010-11 to 26% in 2011-12 of all CDCs determined. New second occupancy CDCs determinations increased from 11% in 2010-11 to 22% in 2011-12. New residential multi-unit CDC determinations increased from 9% to 15% of all determination.

Assessment path for single new dwellings and residential alterations and additions



- Two-thirds (65%) of all commercial / retail / office development underwent merit assessment in 2011-12 while one-third (35%) was determined as complying development. These figures were similar to 2010-11 with 67% and 33% respectively.
- Councils with a high number of CDCs determined included City of Sydney (1,105), Sutherland Shire (583), Blacktown City Council (569), Penrith City (540) and Ku-ring-gai Council (526).



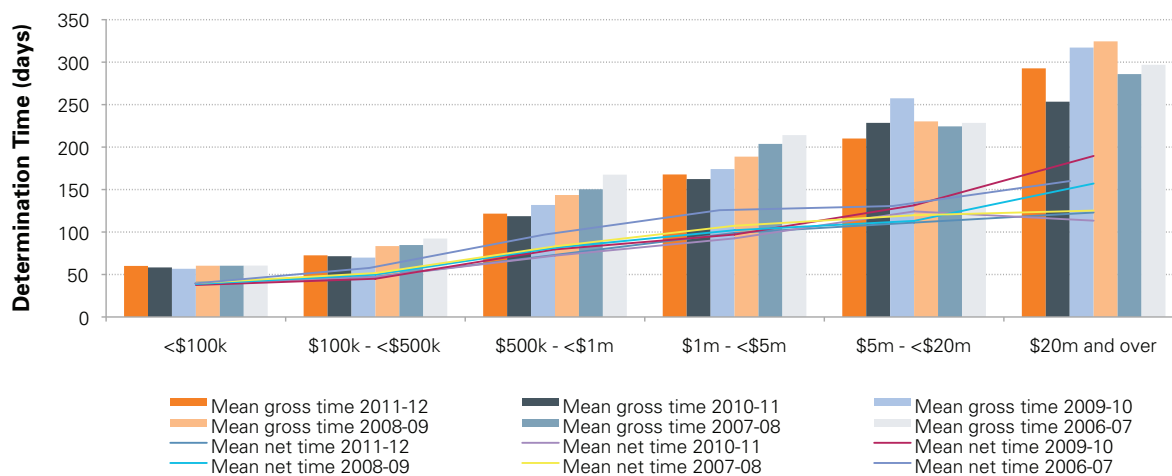
Determination times (Chapter 3)

- On average, development applications took 71 days to determine in 2011-12 compared with 68 in 2010-11, 67 in 2009-10 and 74 days in 2008-09.¹ Most DAs were processed in far less time – the median gross determination time was 45 days for 2011-12 (44 days in 2010-11).
- The mean gross time for urban councils was 81 days compared with 65 days for regional councils, 76 days for fringe councils and 56 days for agricultural councils.
- As in 2010-11, more than half of all NSW councils (57%) had a median gross processing time for DAs of 40 days or less in 2011-12; and 81% of councils achieved median net determination times of 40 days or less in 2011-12.
- Fifteen councils (10% of all councils) had mean gross determination times for DAs over 100 days in 2011-12. This compares with eight councils (5% of all councils) in 2010-11. This is the first year since 2006 that the number of councils with mean gross DA processing times over 100 days has increased.
- The mean gross determination times for all developments up to \$5 million were slightly higher than 2010-11. The mean gross time for developments \$500,000 to \$1 million rose from 119 days in 2010-11 to 122 days in 2011-12; development in the \$1-\$5 million group rose from 162 days to 168 days.
- Mean gross determination times for DAs increased with the value of development. Determination times continued to be high for the higher value developments, although mean gross determination times were lower in 2011-12 for development in the \$5-\$20 million group. Mean gross determination times for development valued at \$5-\$20 million fell from 229 days (2010-11) to 210 days in 2011-12; mean gross times for developments valued \$20 million and over increased from 253 days in 2010-11 to 293 days in 2011-12.

1

Mean gross determination time is the average time for the full length of the development assessment process from application lodgement to determination.

DA Determination times by value 2006-07 to 2011-12



- On average, councils took 18 days to determine CDCs (median determination time was 8 days).
- The five NSW councils with the lowest mean gross determination time for DAs up to \$1 million in 2011-12 were (refer Table 3-29):
 - Jerilderie
 - Warren
 - Urana
 - Hay
 - Conargo
- The councils for each DLG group that made the greatest percentage reductions in mean gross determination time for DAs from 2010-11 included (refer Table 3-23):
 - Leichhardt
 - Canterbury
 - Bega
 - Tweed
 - Camden
 - Blue Mountains
 - Jerilderie
 - Weddin
 - Gwydir
 - Tumut
- Sydney region councils that reduced their mean gross determination time for DAs significantly since 2010-11 included some councils that reported some of the highest mean gross determination times in 2010-11. These included:
 - Leichhardt
 - Blue Mountains
 - Canterbury
 - Manly
 - Kogarah

Overview of activity by determination body (Chapter 4)

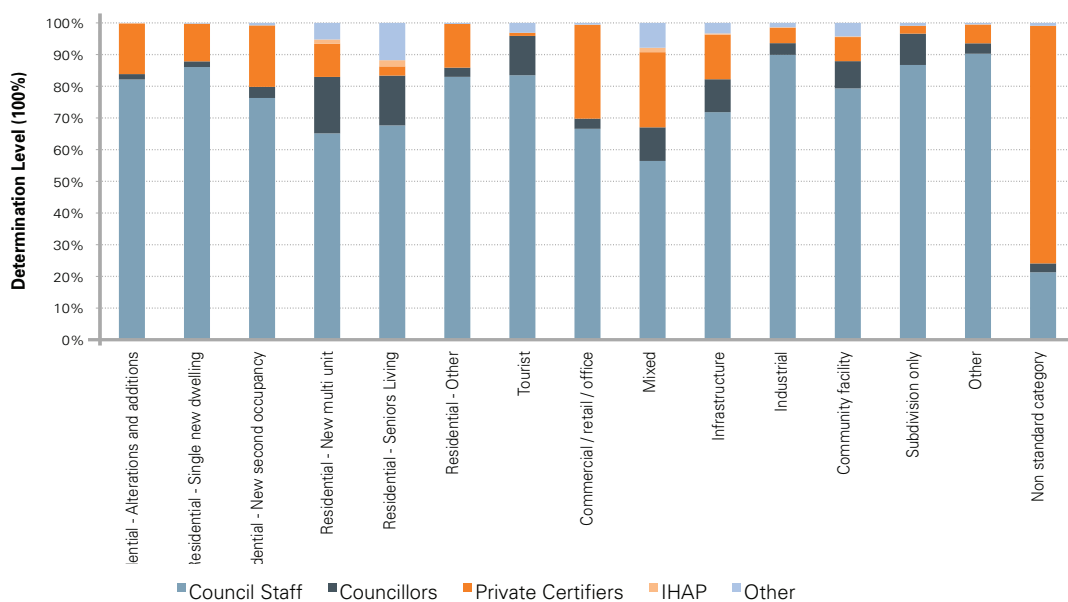
Summary Table - Determination bodies and time (for DAs and CDCs with valid times)						
Determination level	Determinations 2011-12	% of total	Mean gross determination time 2011-12	Determinations 2010-11	% of total	Mean gross determination time 2010-11
Council staff	61,259	80.5	62	70,105	84.4	60
Councillors	2,309	3	170	2,534	3	172
Private certifiers	11,989	15.8		9,958	12	
IHAP or independent panel	156	0.2	148	74	0.1	162
Other	390	0.5	223	439	0.5	196
Total	76,103	100	67	83,110	100	65

Note: Joint regional planning panels are included in 'Other' in the table above.

- In 2011-12, most determinations were made by council staff (80.5%). This was lower than in 2010-11 and 2009-10, when council staff determined 84.4% and 87% of developments respectively.
- This decrease appears to be due to the increasing amount of complying development determined by private certifiers (5% of determinations in 2008-09; 9.7% in 2009-10; 12% in 2010-11 and 15.8% in 2011-12).
- Determinations by councillors remained static at 3% for 2010-11 and 2011-12.
- In 2011-12, council staff determined \$12.3 billion worth of development; councillors determined \$2.4 billion; and private certifiers determined approximately \$1.7 billion.
- Less typical developments such as seniors living, multi-unit flats, infrastructure and tourist developments were more likely to be determined by councillors. Private certifier CDCs dominated in the development categories of commercial / retail / office, residential alterations/additions and new second occupancy. This is due to the increasing use of complying development for these developments, enabled by the Codes SEPP and the Affordable Rental Housing SEPP.



Category of development by Determination Level for determined DAs and CDCs



- Councillors and independent panels were more likely to refuse development consent than other determination bodies. Independent Hearing Assessment Panels (IHAPs) refused 12.2% of developments. However, only 156 DAs were reported as being determined by an IHAP in 2011-12.
- Regional panels refused 12% of the 305 developments they determined during the year.
- Councillors refused 10.3% of the 2,309 DAs they determined in 2011-12.

Determination time by council staff and councillors (Chapter 4)

- Council staff took an average of 66 days to determine developments in 2011-12 (DAs only). This is still significantly lower than the determination time of other groups or bodies such as councillors and independent panels.
- For DAs determined by councillors, both mean and median determination times were significantly higher than for DAs determined by council staff, though councillors' mean gross determination times have decreased marginally over time: from 172 days in 2010-11 to 171 days in 2011-12. Councillors determined 3.9% of DAs statewide while council staff determined 95.2% in 2011-12.

Joint regional planning panels (Chapter 4)

- Regional panels commenced operations in July 2009.
- Regional panels determined a total of 305 DAs during 2011-12, similar to 2010-11, it represented less than 0.5% of all DA determinations in NSW.
- The value of DAs approved by the regional panels was \$6.026 billion, about 30% of the total approval value of all DAs in NSW, and an increase of 60% (\$3.77 billion) from 2010-11.
- The overall average assessment time for DAs determined by the regional panels was 222 days. The average time for DAs over \$20 million was 241 days. In 2008-09, the last year before the commencement of the regional panels, the statewide average for council determinations of DAs \$20 million and over was 324 days.

Private certifiers (Chapter 4)

- The proportion of development determined by accredited (private) certifiers (comprising complying development) has been steadily increasing as the criteria for complying development was expanded.
- Private certifiers are required to send councils detailed information of the complying development applications they determine. However, insufficient information has been provided / recorded to allow an analysis of private certifier performance on achieving the 10 day approval required by the Codes SEPP.

Quality of applications (Chapter 4)

- A very low proportion of DAs (1%) were reported as being rejected because they were illegible, unclear or incomplete. This may be under reported as councils usually do not record DAs that were rejected immediately.
- More than one third of DAs (37%) had their assessment suspended due to incomplete information from the applicant (stop-the-clock), the same proportion as in 2010-11.
- Applicants took an average of 58 days in 2011-12 to provide the extra information required, compared with 56 days in 2010-11.

Referral bodies (Chapter 4)

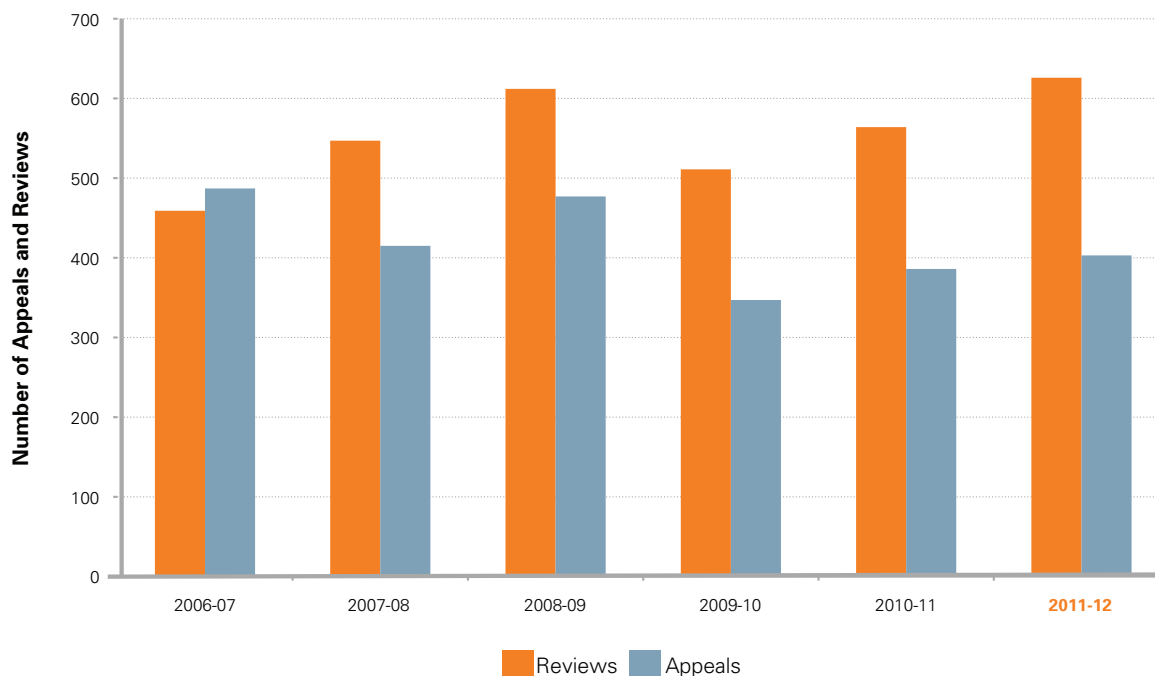
- The proportion of DAs which were referred to a state government agency for advice or approval has increased slightly to 12%, up from 11.2% in 2010-11. However, the number of DAs reported as being referred fell from 7,597 in 2010-11 to 6,881 in 2011-12 (not including s96 modifications).
- Based on council records, the average time for referrals per referred development application increased from 47 days in 2010-11 to 50 days in 2011-12. The median time also increased – from 27 to 28 days.
- The average net time that each agency took to process a referral was 19.3 days (excluding stop-the-clock). Different data sets and referrals to more than one agency on the same DA may account for some of the difference between council and agency figures. The department is continuing to work with agencies and councils on consistent ways of recording referral information to improve future monitoring and to identify areas for improvement.
- Based on the state agency data, the Rural Fire Service and the Mine Subsidence Board processed the most concurrences or referrals in the period (note: not all of these would have been determined by the council in the period) – 65% of all referrals reported by agencies for the year.

Council staffing (Chapter 5)

- On average across the state 56 DAs were determined for each equivalent full time (EFT) development assessment position for 2011-12 compared with 62 DAs per EFT in 2010-11.
- The councils with the highest average number of DAs determined per EFT in 2011-12 included Narrabri (214 DAs per EFT), Port Macquarie-Hastings (158 DAs per EFT), Corowa (155 DAs per EFT), Cabonne (146 DAs per EFT) and Port Stephens (139 DAs per EFT).
- The number of EFT positions in development assessment across NSW decreased from 1,105 in 2010-11 to 1,059 in 2011-12.

Reviews and appeals (Chapter 6)

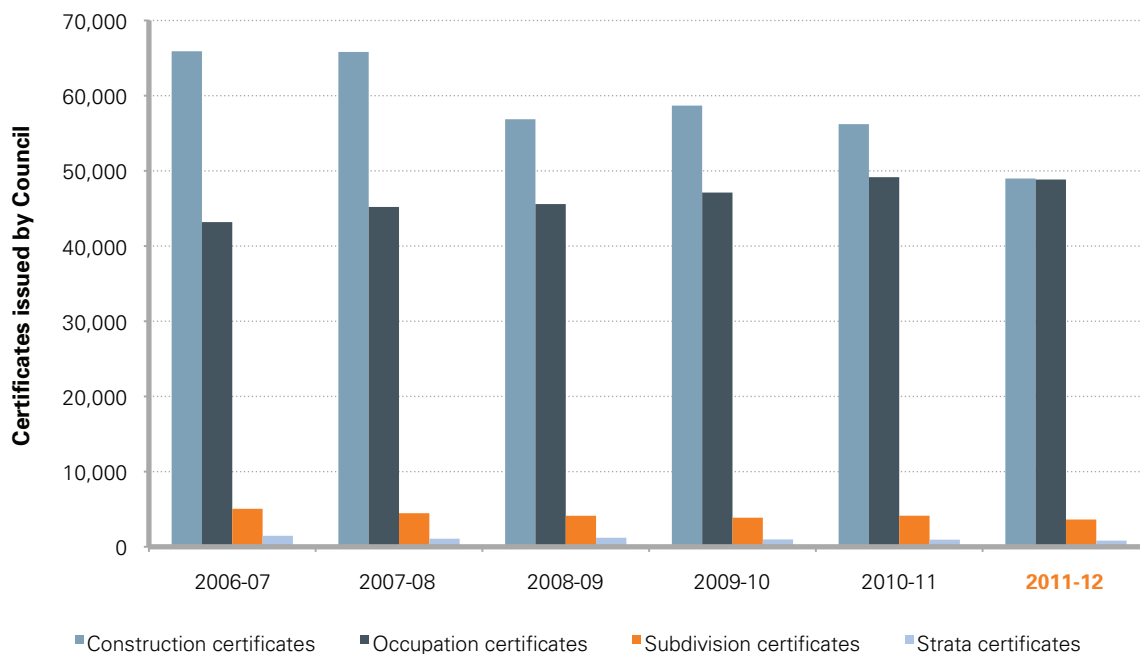
Number of Reviews compared with Class 1 Legal Appeals 2006-07 to 2011-12



- The numbers of section 82A council reviews and Class 1 appeals for 2011-12 increased 11% and 4.4% respectively, compared to 2010-11.
- 626 s82A reviews were reported as being determined in 2011-12 compared with 564 in 2010-11. S82 reviews generally apply when an applicant requests the council to review a decision concerning a DA or s96 application.
- 403 Class 1 appeals were determined in 2011-12 compared with 386 in 2010-11. Class 1 appeals are generally appeals against a council planning decision and are determined on the merits of the development proposal, rather than on legal issues, by the Land and Environment Court.
- 37% of Class 1 appeals brought by developers against a council decision were dismissed in favour of the council. This was only a small decrease compared with 2010-11 when 42% of appeals were not in favour of the developer.
- While 47% percent of appeals by developers were approved by the court, only 28% of the appeals were upheld in favour of the developer without any changes to the proposed development. 19% of appeals upheld in favour of the developer were upheld after the original development was amended to address the issues raised by the council. In addition, 17% of appeals resulted in consent being issued by agreement by the parties.
- The councils with the highest number of Class 1 legal appeals in 2011-12 were City of Sydney, Ku-ring-gai, Waverley and Leichhardt councils.

Other certificates (Chapter 7)

Total number of certificates issued by councils and private certifiers 2006-07 to 2011-12



- The total numbers of construction, occupation, subdivision and strata certificates issued by councils and private certifiers generally declined in 2011-12 compared with 2010-11. However, there was a marginal increase in subdivision and strata certificates issued by private certifiers.
- A total of 48,981 construction certificates were reported as being issued in 2011-12 compared with 56,213 in 2010-11.
- Since 2009-10, Blacktown, City of Sydney and Lake Macquarie council areas had the highest number of construction certificates (2,020, 1,966 and 1,704 in 2011/12 respectively).
- A total of 48,848 occupation certificates were reported as being issued in 2011-12, compared with 49,161 in 2010-11.



chapter 1

introduction

The 2011-12 Local Development Performance Monitoring report provides an overview of development trends in NSW for 2011-12. It includes information on council performance in assessing local development and indications of the overall performance of the NSW planning system. The report also examines the activities of state government referral agencies, joint regional planning panels, and accredited (private) certifiers.

To produce this report, information was compiled from all 152 NSW councils on development applications (DAs), section 96 (s96) modifications, complying development certificates (CDCs) and post-development consent certificates (building and subdivision) determined during 2011-12.

The data provided in this report are as reported by councils and State Government referral agencies.

The report includes information on:

- Local and regional development determined by councils, private certifiers and regional panels (this represents more than 90% of development determinations statewide);
- DAs by number and as a proportion of all applications;
- S96 modification applications to change aspects of an approved DA;
- CDCs by number and as a proportion of all applications;
- Total value of and estimated construction value of DAs;
- Number of DAs determined by value;
- Total (gross) determination times and net determination times for DAs by value
- Gross determination times for s96 modifications;
- Determination times for CDCs;
- Stop-the-clock and referral times;
- Types of development by number and processing time;
- The most commonly occurring development types across the state;
- Land and Environment Court cases and council reviews;
- Staff involved in DA processing;
- Determination bodies and determination outcomes; and
- Number of post-development consent certificates.

The data in this report excludes:

- Major development including development determined under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) (reported in the Department of Planning & Infrastructure's Annual Report).
- State significant development (SSD) and infrastructure (SSI) determined under the EP&A Act.
- Development determined under the *Nation Building and Jobs Plan (State Infrastructure Delivery Act) 2009* by the Infrastructure Co-ordinator General.
- Local and regional development determined by consent authority other than councils, private certifiers and joint regional planning panels. This includes (but is not limited to) the Minister, the Department of Planning & Infrastructure (DP&I), the Planning Assessment Commission (PAC) and public authorities, such as the Roads and Maritime Services (RMS) and the Sydney Olympic Park Authority (SOPA).
- Exempt development (exempt from planning consent).

Information is presented on a statewide, regional, and council basis.



In most cases, the data collected for 2011-12 have been compared with the data from previous years in order to indicate statewide development trends.

Data from previous years are available on the department's website in spreadsheet format; this includes additional information which is not published in the annual local development reports. Spreadsheet data from this year's collection period will also be made available on the department's website.

This publication does not assess the performance of councils or accredited (private) certifiers in assessing post-development approvals, ie. applications for construction and occupation certificates or inspections during and post construction.

The publication focuses on quantitative data rather than qualitative information.

1.1 Data Collection and Analysis

Since 2006-07, councils have supplied the Department of Planning & Infrastructure with detailed information on each DA and s96 modification determined by council, and on each CDC determined by council or private certifiers.

For 2011-12, there were 25 mandatory fields and seven optional data fields that applied to each determined application (not all fields are relevant to all applications).

This was supplemented by information from state government referral agencies and joint regional planning panels. However, the vast majority of the data continues to come from councils.

The department issued councils with a template for the data and explanatory material including data definitions.

Councils generally extract their information from DA tracking databases or, for smaller country councils, DA registers.

Data analysis was undertaken by the department using standard calculations (see Appendix 2 for information on calculation methodology). New analysis is included in this year's report to cover monitoring of recent planning reforms.

Because of the large volume of data, wherever possible, data quality checking is automated. The department has an online database with inbuilt validation rules. This system allows councils to submit their data over the internet and receive virtually instantaneous feedback. The validation rules allow all data to be quickly scanned for basic errors – typographic (such as mis-typed dates), missing information, and mis-entered data (such as a legal appeal against a complying development certificate). The feedback summarises the data, lists any errors and guides councils on actions required to complete or "cleanse" the data.

The database allows the data to be centrally housed, facilitating data analysis and reporting. The data is compiled into tables for reporting purposes through computer "queries" which extract data from the database based on specific data fields and criteria. The queries operate automatically. The accuracy of the queries is spot checked by semi-automated comparisons with the original data submissions from councils.

Department of Planning & Infrastructure staff also manually scan the results for any problems such as omitted data, and convert council terms to department terms (such as development category description).

Data quality improves each year for regular data fields. Councils have made significant efforts to adapt to the process of providing data in the standard format and to collect and review their data.

The data are summarised in a series of standardised tables to help to discern overall patterns and trends for statewide development activity.

1.2 Planning Reform

Major planning reforms affecting local development in 2011-12 are summarised below.

Affordable Rental Housing SEPP

State Environmental Planning Policy (Affordable Rental Housing) 2009 came into effect on 31 July 2009. The policy includes planning-based tools and incentives to encourage home owners, social housing providers and developers to invest and create new affordable rental housing. Housing types under the SEPP include dual occupancies, secondary dwellings (known as “granny flats”), villas and townhouses, boarding houses and residential flat buildings.

After a review of the SEPP, including a publicly exhibited discussion paper, the SEPP was amended in late May 2011. The amendments revised requirements for villa, townhouse and residential flats developed by the private sector so that, in low-density areas, the local land use zones apply along with stricter requirements for public transport access, density, scale and parking.

From May 2011, stricter standards also applied for boarding house developments to ensure compatibility with the local area.

An Affordable Housing Taskforce has been formed to develop and implement a new Affordable Housing Choice SEPP and work with local councils to develop Local Affordable Housing Choice Strategies.

Information on uptake of the Affordable Rental Housing SEPP during 2011-12 is covered in this year’s Local Development Performance Monitoring report.

Exempt and Complying Development Codes

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) commenced in February 2009.

The Codes SEPP allows specific development with minimal or low impacts to be exempt from planning approval or to go through a streamlined (10-day) approval (so called complying development), subject to compliance with appropriate development standards.

The Codes SEPP has continued to be expanded and modified to introduce new forms of exempt and complying developments, change the land based exclusions, clarify definitions and make amendments to existing development standards to accommodate new lot sizes and development types, and so forth.

As such, it now includes General Housing Code, Housing Alterations Code, Rural Housing Code, General Development Code, General Commercial and Industrial Code, Subdivisions Code and Demolition Code. (Other State Environmental Planning Instruments (SEPPs) that contain complying development are the Infrastructure SEPP, Western Employment Area SEPP, etc.).

During 2011-12, applicants could still choose between the local council’s LEP or DCP or the Codes SEPP if their development was covered by both, as the SEPP was amended to allow the Council’s LEP or DCP to remain in-force.

Joint regional planning panels

Joint regional planning panels provide independent merit-based decision making on regional development. The regional panels also provide advice to the Minister for Planning and Infrastructure on regionally significant development proposals.

Applications for regional development are notified and assessed by the local council and then determined by the relevant regional panel. Six panels operate throughout NSW: Northern, Western, Hunter and Central Coast, Southern, Sydney East and Sydney West. Each of the six regional panels is comprised of five

members, three appointed by the Minister and two appointed by the relevant local council. The Wagga Wagga Interim Joint Planning Panel which operated in 2009 was abolished in September 2011. The Wagga Wagga local government area now comes under the jurisdiction of the Southern regional panel.

This report covers the third year of operation of the regional panels. On 1 October 2011, as part of the government's reform of the NSW planning system, the *Environmental Planning and Assessment Act 1979* (the Act) was amended and certain classes of development previously determined by regional panels were returned to councils for determination.

The Capital Investment Value (CIV) threshold for the general development category was increased from \$10 million to \$20 million and a new provision in the Act allows for the referral by the applicant or council of a DA with a CIV of \$10-20 million where that DA is not determined by the council within 120 days.

Other major changes to regional development included the removal of some designated development, developments for smaller coastal subdivisions and other coastal development, applications lodged from 1 October 2011 for residential subdivisions of more than 250 lots, applications lodged from 1 October 2011 for general development with a capital investment value of between \$10 million and \$20 million. These changes come into effect part way through 2011-12 and will be covered in the next 2012-13 performance monitoring report.

Planning System Review

In July 2011, the Government announced a comprehensive review of the planning system to take place over 18 months. The review was led by an independent panel and involved an extensive public and stakeholder consultation process.

On Saturday 14 July 2012 the Minister released the Independent *Panel's Review Report, The Way Ahead for Planning in NSW* Volume 1 (Major Issues) and Volume 2 (Other Issues), together with the Government's initial response to the Review, *A New Planning System for NSW - Green Paper*. The release of these papers marks the end of the work by the Independent Panel.

A 'white paper' and draft legislation will be released by the Minister before a bill is submitted to the NSW Parliament. Details of timing will be available on the Department of Planning & Infrastructure website in due course.

Part 3A repealed

Major amendments were made on 1 October 2011 to repeal Part 3A of the *Environmental Planning and Assessment Act 1979* (EP & A Act) and to introduce a new system of State significant development (SSD) and State significant infrastructure (SSI).

The major changes included:

- Major amendments to the Major Development SEPP to remove all references to Part 3A of the EP & A Act;
- Changes to the EP & A Act enabling the Minister for Planning and Infrastructure to delegate functions to the PAC, regional panels and where appropriate senior officers of the department, other authorities and councils, and providing new and more transparent procedures for the PAC;
- A new State significant development SEPP to allow certain classes of development to be declared State significant development;
- EP & A Regulations amended to reflect the changes to the EP & A Act; and
- Changes to the Infrastructure SEPP.



chapter 2

local development assessment – volume and value

Development Activity Summary

IN 2011-12	Description	IN 2010-11
74,480	developments (DA + CDC) were approved	81,147
22.1	billion dollars value of developments (DA + CDC) were approved	19.9

Development Assessment Track Summary

IN 2011-12	Description	IN 2010-11
22.5	complying development as % of all development (DA+CDC)	18.2
16.4	% of single new dwellings determined as complying development	10.4
88.4	% of CDCs determined under Codes SEPP (of SEPP and CPI)	66.8
141	councils provided data where at least one CDC was determined	141
112	councils provided data where at least one CDC was determined under Codes SEPP	112

Note:

1. CPI = council planning instrument

2. Percentage of CDCs determined under Codes SEPP is only for CDCs recorded as being determined under the Codes SEPP or a council planning instrument; CDCs determined under other SEPPs or unknown planning instrument are not included.



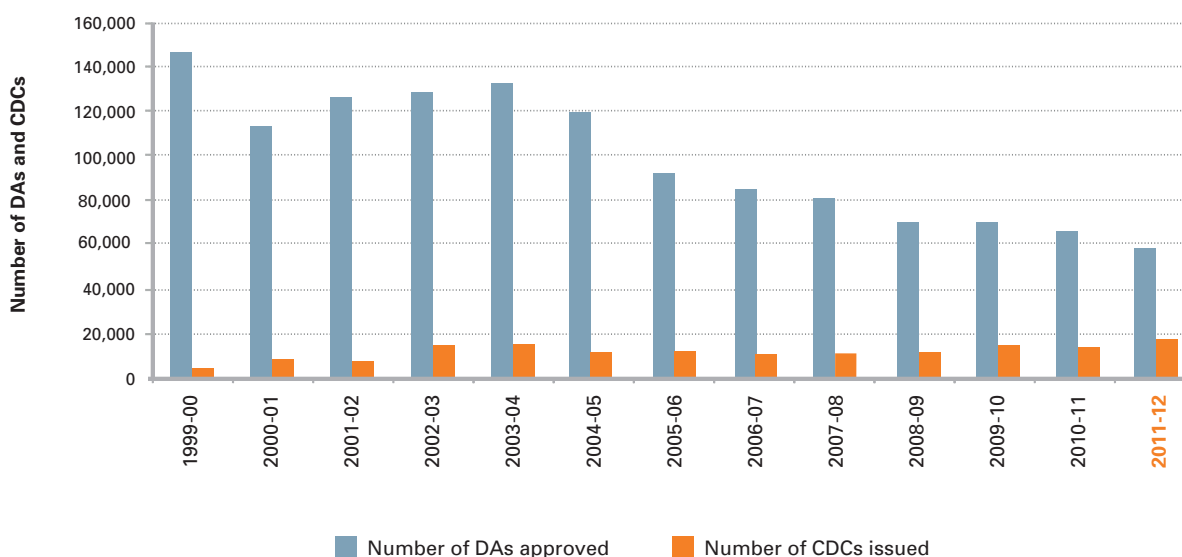
2.1 Statewide Trends

Development Activity

Development activity refers to the amount of development approved under NSW legislation from 1 July 2011 to 30 June 2012. It includes DAs and CDCs, and excludes modifications to DAs (under section 96 of the EP&A Act). Although s96 modifications can take the same time and even longer than the original approval to determine, they are still considered to be essentially the same development. Development activity is a measure of how much proposed development activity is occurring (that is development approval) and how much building activity may occur (DAs need a subsequent building approval; complying development includes building approval). Refused developments are excluded.

Number of approvals

Figure 1: Total approved DAs and CDCs in NSW 1999-00 to 2011-12



Notes:

1. The complying development certificate system was introduced in 1998.
2. Complying development certificates issued in 2001-2002 were underestimated because those issued by private certifiers were not recorded.
3. Source 1999-2000 to 2004-2005: Department of Local Government Comparative Information
Source 2005-2006 to 2010-2011: Department of Planning's Local Development Performance Monitoring report.
4. 2005-2006 figures for DAs also include s96 modification applications.
5. 2006-07 data on CDCs was under-reported as some councils did not report CDCs issued by private certifiers.

The data for 2011-12 have shown evidence of further slowing of development activity since 2010-11, with development activity falling below the 2007-08 level. At 74,480 approvals, the total number of approvals in 2011-12 was 8% lower than 2010-11 and 5% lower than 2008-09 when development activity reached an historic low.

It should be noted that these figures do not include developments which are exempt from planning approval. Nor do these figures include major developments determined by the Minister for Planning and Infrastructure.

Value of approvals

	2011-12	2010-11	2009-10	2008-09	2007-08	2006-07
Total value of DAs approved	\$19.9b	\$18b	\$15.7b	\$18.5b	\$21b	\$20.4b
Total value of CDCs approved	\$2.2b	\$1.8b	\$3b	\$853.2m	\$897.2m	\$799.3m
Total value of CDCs and DAs approved	\$22.1b	\$19.9b	\$18.6b	\$19.4b	\$21.9b	\$21.2b

Note: There is some under-reporting of CDC value where records were missing.

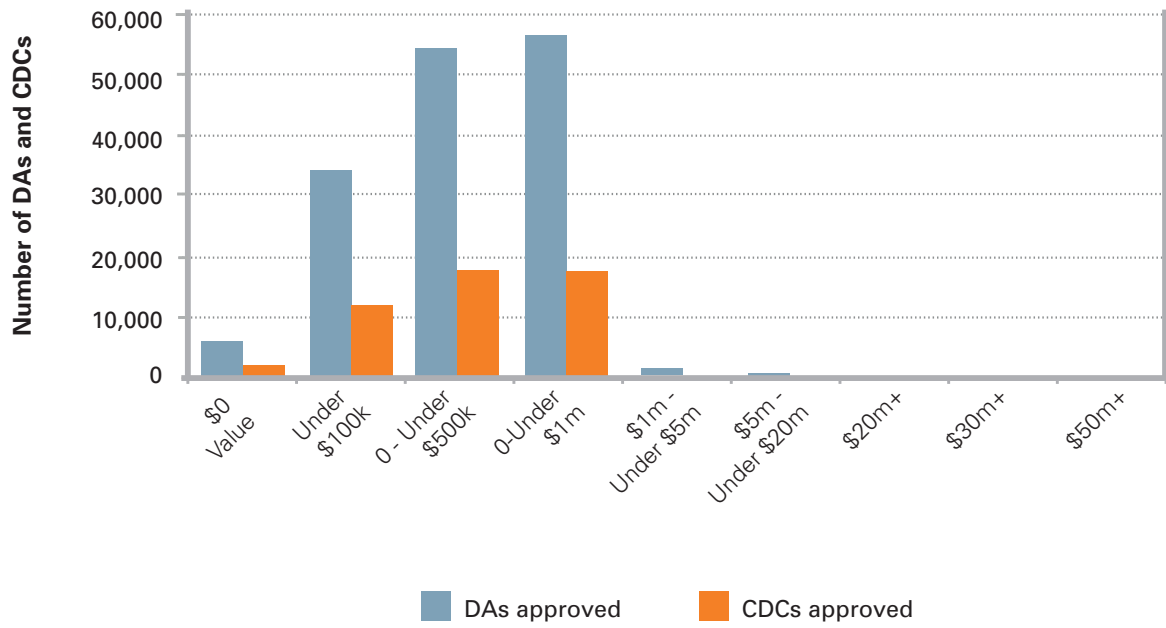
Despite the decline in activity, the total value of development increased \$2.2 billion by 11.1% from \$19.9 billion in 2010-11 to \$22.1 billion in 2011-12 (**Table 2-1**). This was mostly due to an increase in the value of approved DAs (from \$18.0 billion in 2010-11 to \$19.9 billion in 2011-12). The value of CDCs rose from \$1.8 billion in 2010-11 to \$2.2 billion in 2011-12.

The median value of DAs increased from \$46,500 to \$50,000; the median value of CDCs also rose from \$27,000 to \$40,000 reflecting that due to legislative changes, more commercial fit-outs can now be determined as CDCs. (**see Table 2-2**).

	CDC value 2011/12	CDC value 2010/11	DA value 2011/12	DA value 2010/11
Mean	131,951	121,844	348,267	274,592
Median	40,000	27,000	50,000	46,500

The value ranges for approvals are shown in **Figure 2**. As in previous years, most developments were valued under \$1 million, 97% of DAs and 99% of CDCs in 2011-12.

Figure 2: Total DAs and CDCs approved by value range



Notes: DAs with no construction value are not necessarily simple or straightforward developments. Refer to Appendix 2 for further explanation.



Refusals

The proportion of refusals has remained stable since 2006-07 at just under 3% of DAs.

Only 0.3% of CDCs were refused (this is likely to be under reported as records of CDCs determined by private certifiers are incomplete).

Development types

Further analysis of development shows that despite the overall decline in development activity, there have been some small shifts in the profile of development over time, reflecting both government policy and limited consumer alternatives (**Figure 3**).

Residential development still comprises the majority of approved development (DAs and CDCs). Since 2006-07 residential development has increased slightly as a proportion of all development from 68% in 2006-07 to 70% in 2011-12.

Residential alterations and additions comprised 39% of all approved development in 2011-12. In line with the decline in overall development activity, the total number of approved residential alterations was the lowest since 2006-07 (when detailed information collection began), falling by 12.6% between 2010-11 and 2011-12 (**Figure 3**).

Of the new residential developments in 2011-12, the highest proportion were single new dwellings (82%) (**Figure 4**).

The number of new second occupancy approvals remained relatively stable at 3.3% of all development types, compared to 2.7% in 2010-11, and was the category of residential development to have increased the most in total number (from 2,159 in 2010-11 to 2,411 in 2011-12; an increase of 12%). New multi-unit residential developments increased by 9% from 2010-11 to 2011-12 (from 1,002 to 1,089).

New second occupancies comprised 12% of all new residential development approvals in 2011-12 (excluding "other residential" which includes boarding houses and group homes) (see **Figure 4**), compared with 11% of all new residential development approvals in 2010-11. Second occupancies include both dual occupancies and "granny flats" (that is, a secondary dwelling to a principal dwelling). The councils with the highest number of secondary occupancy developments in 2011-12 included Bankstown, Parramatta, Fairfield, Holroyd and Penrith. These councils (except Parramatta) had fewer than two new single dwelling developments for each new second occupancy approval in 2011-12.

At least 858 new secondary dwellings (granny flats) DAs and CDCs were approved under the State Environmental Planning Policy (Affordable Rental Housing) 2009.¹ This was about 4.3% of all new residential approvals in 2011-12 and 36% of all new second occupancies in 2011-12. Bankstown, Fairfield, Penrith, Gosford and Blacktown reported the highest number of new secondary dwellings determined under the SEPP.

The Affordable Rental Housing SEPP was revised with stricter guidelines in terms of neighbourhood compatibility and revised standards for Boarding Houses which commenced on the 20th May 2011. The changes did not impact on the opportunities for secondary dwelling developments to occur. "Granny flat" developments under the SEPP are on the same property title as the principal dwelling and they are small-scale developments compatible with existing development.

New multi-unit developments increased slightly as a proportion of all development from 1.2% in 2010-11 to 1.5% in 2011-12. These developments include residential flat buildings and townhouses and villas. As with 2011-12, new multi-unit developments comprised 6% of all residential developments, compared with 5% in 2010-11. Blacktown, Woollahra, Hornsby, Campbelltown and Shellharbour reported the highest number of approved new residential multi-unit developments for 2011-12.

¹ "New second occupancies" under Local Development Performance Monitoring include developments not included as "secondary dwellings" under the Affordable Rental Housing SEPP.

Figure 3: Residential development types - number and % approved (DAs and CDCs)

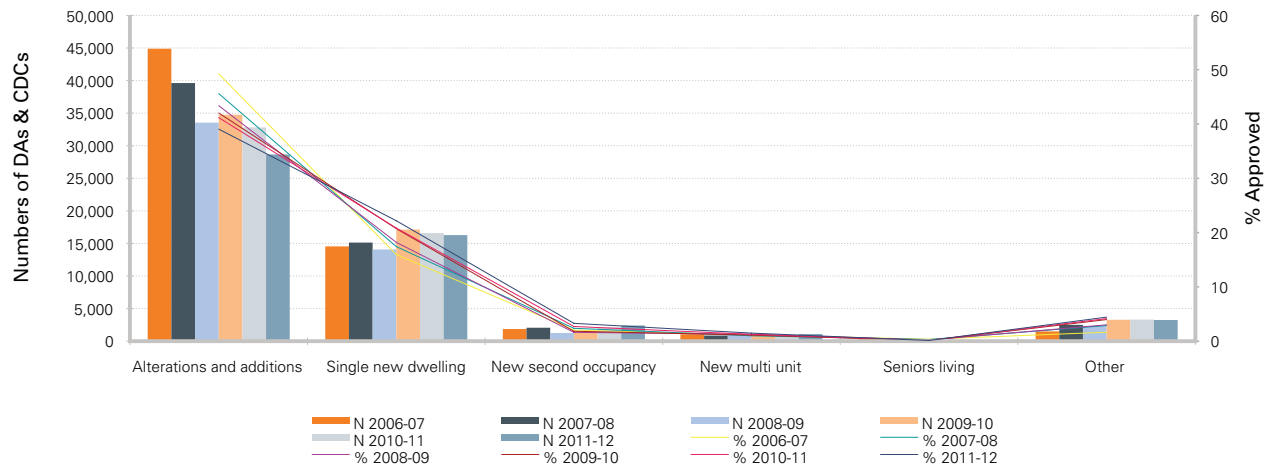
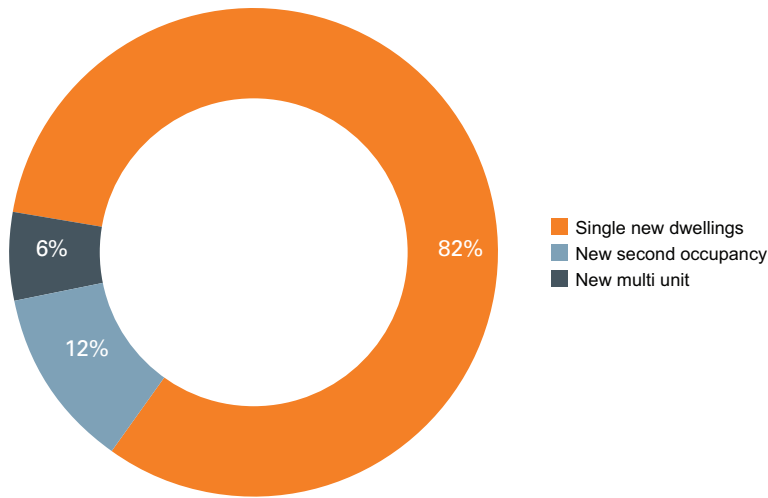
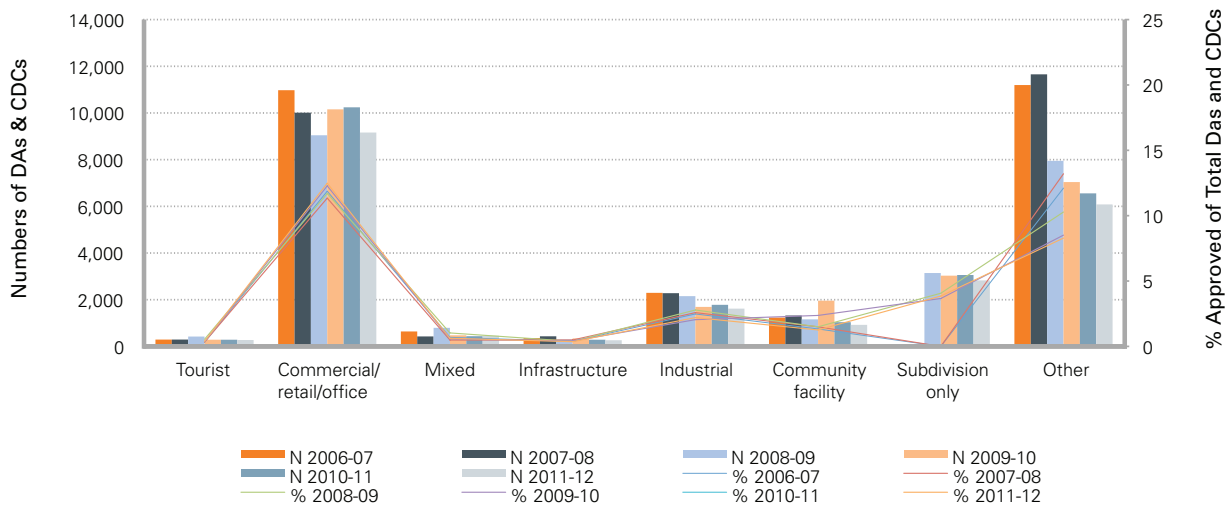


Figure 4: New residential development types as % of all residential development



Note: Does not include new Seniors' Living SEPP developments, residential - other or residential alterations and additions.

Figure 5: Non-residential development types - number and % approved (DAs and CDCs)

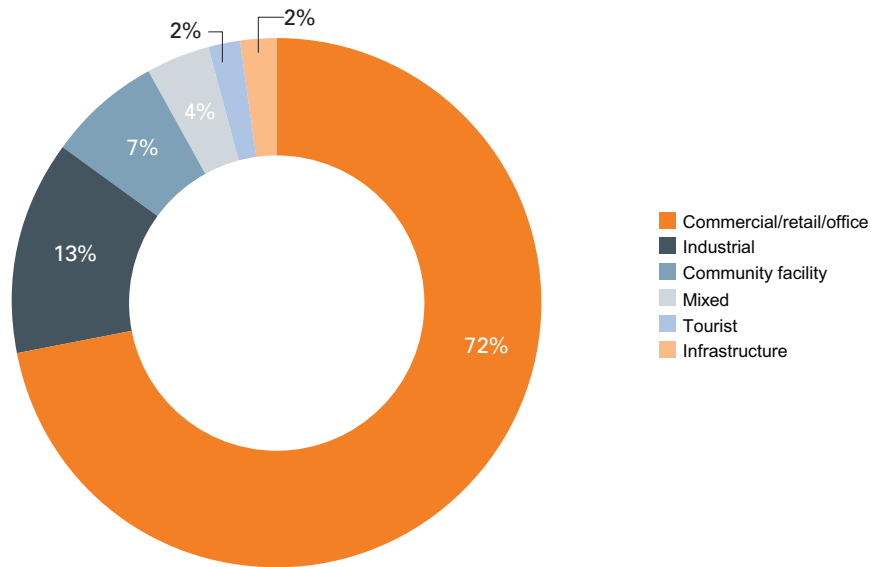


Note: The 'subdivision only' development category was introduced into the data collection from 2008-09. 'Subdivision only' would have been classified with 'other' in 2006-07.

Similar to 2010-11, commercial / retail / office development activity comprised 12% of all development. There was a decrease in this form of development between 2010-11 and 2011-12, from 10,242 approvals to 9,162 approvals.

In 2011-12, there was an 11% decrease in the number of approved community facilities developments compared with 2010-11. The development of community facilities peaked during 2009-10 (1,959 approvals) due to the federal government funding stimulus. (Figure 5).

Figure 6: Non-residential development approvals as % of all non-residential development



Note: Includes alterations and additions to existing non-residential development. Excludes subdivision and other non-residential development.

Assessment Activity

Assessment activity refers to determined developments and measures development processing. It includes both approved and refused development. It is particularly relevant for examining how development is being processed (e.g. merit assessment or complying development assessment) and determination time (see Chapter 3).

Table 2-3: Assessment path - numbers of determinations

	2011-12	2010-11	2009-10	2008-09	2007-08	2006-07
Merit assessment (DA)	58,975	68,025	71,550	71,638	82,404	86,287
DA as % of (DA+CDC)	77	82	83	89	89	88
Modification DA (s96)	13,996	15,051	15,003	14,975	15,313	14,387
Complying (CDC)	17,128	15,085	14,315	9,194	10,619	11,241
CDC as % of (DA+CDC)	23	18	17	11	11	12
Total determinations	90,099	98,161	100,868	95,807	108,336	111,915

Overall, determinations declined by 8.2%, from 98,161 in 2010-11 to 90,099 in 2011-12.

Table 2-3 shows that the proportion of determinations that were assessed on their merits continued to gradually decline whereas the proportion which comply with a set code has steadily increased. This is to be expected as the range of development able to be classified as either exempt or complying development is expanded. Merit assessment is still required for any development which requires assessment of its environmental impact.

In 2011-12, merit assessment determinations comprised 77% of total (DA & CDC) determinations, compared with 82% in 2010-11, while complying development determinations were 23% in 2011-12, compared with 18% in 2010-11. 88% (see notes with Table 2-7) of CDCs were determined under the Codes SEPP in 2011-12.

Effective from February 2011, more forms of low impact developments qualified as complying development (maximum 10-day determination time requirement) under the Codes SEPP. The changes increased opportunities to utilise the Codes SEPP and simplified some of the existing development standards.

Table 2-4: Total number of DAs determined in NSW by type 2011-12 compared to 2010-11				
Development Type	Number of DAs Determined 2011-12	2011-12 % of total DAs determined	Number of DAs Determined in 2010-11	2010-11 % of total DAs determined
Residential - Alterations and additions	22,131	37.5	26,765	39.3
Residential - Single new dwelling	13,762	23.3	15,048	22.1
Residential - New second occupancy	1,975	3.3	2,038	3
Residential - New multi unit	1,044	1.8	1,009	1.5
Residential - Seniors Living	96	0.2	109	0.2
Residential - Other	2,355	4	2,524	3.7
Tourist	283	0.5	304	0.4
Commercial / retail / office	6,108	10.4	7,016	10.3
Mixed	370	0.6	437	0.6
Infrastructure	217	0.4	269	0.4
Industrial	1,558	2.6	1,770	2.6
Community facility	863	1.5	892	1.3
Subdivision only	2,838	4.8	3,135	4.6
Other	5,214	8.8	6,054	8.9
Non standard category	161	0.3	655	1

Notes: Non standard category means not enough information was supplied to identify the correct development category (including where there was no development description). Non standard category is different from 'other'. 'Other' means a development type apart from the department's six residential development types and seven non residential development types e.g. 'demolition only' falls into 'other', whereas 'dwelling' is counted in the non standard category.

Table 2-5: CDCs determined in NSW by development type 2011-12 and 2010-11

Development Type	Number of CDCs determined in 2011-12	2011-12 As % of total CDCs determined	Number of CDCs determined in 2010-11	2011-12 As % of total CDCs determined
Residential - Alterations and additions	6,971	40.7	6,602	43.8
Residential - Single new dwelling	2,702	15.8	1,746	11.6
Residential - New second occupancy	551	3.2	248	1.6
Residential - New multi unit	179	1	98	0.6
Residential - Seniors Living	6	0	4	0
Residential - Other	956	5.6	867	5.7
Tourist	7	0	4	0
Commercial / retail / office	3,295	19.2	3,501	23.2
Mixed	128	0.7	37	0.2
Infrastructure	53	0.3	36	0.2
Industrial	112	0.7	90	0.6
Community facility	100	0.6	170	1.1
Subdivision only	99	0.6	95	0.6
Other	1,025	6	714	4.7
Non standard category	944	5.5	873	5.8

Notes: For explanation of 'other' and 'non standard category', see notes with Table 2-4.

Determinations are divided into two distinct assessment paths, merit assessment and complying development. **Tables 2-4 and 2-5** show the types of developments determined under merit assessment and complying development.

In 2011-12, merit assessment applied to more than three-quarters of all residential development (78%); and complying development assessment applied to 22% of residential development ². This was much the same in 2010-11: 83% of all residential development underwent merit assessment and 17% was complying development.

Figure 7 shows the proportion of residential alterations and single new dwellings that underwent merit assessment compared with complying development assessment. 76% of residential alterations and additions were determined as DAs in 2011-12 compared with 80% in 2010-11. 24% were determined as CDCs in 2011-12 compared with 20% in 2010-11. 84% of single new dwellings were determined as DAs in 2011-12 compared with 90% in 2010-11; 16% of single new dwellings were determined as CDCs in 2011-12 compared with 10% in 2010-11.

About two-thirds (65%) of all commercial / retail / office development underwent merit assessment in 2011-12 and one-third (35%) underwent complying development assessment (**Table 2-6**). This was similar to 2010-11 (67% and 33% respectively). And nearly one-fifth of all CDCs were issued for commercial / retail / office development in 2011-12 (Table 2-5). 88% (see notes with **Table 2-7**) of all CDCs for commercial / retail / office development were determined under the Codes SEPP.

² Excluding section 96 DA modifications. CDC modifications are included in CDC count.

Table 2-6: CDCs determined as percentage of all determinations (DA+CDC) by development type 2011-12 compared with 2010-11

Category of development	2011-12	2010-11
Residential - Alterations and additions	24	20
Residential - Single new dwelling	16	10
Residential - New second occupancy	22	11
Residential - New multi unit	15	9
Residential - Seniors Living	6	4
Residential - Other	29	26
Tourist	2	1
Commercial / retail / office	35	33
Mixed	26	8
Infrastructure	20	12
Industrial	7	5
Community facility	10	16
Subdivision only	3	3
Other	16	11
Non standard category	85	57

Notes:

- For explanation of 'other' and 'non standard category', see notes with Table 2-4.
- These are approximations of the development types under the Codes SEPP. The local development performance monitoring development categories of "residential alterations and additions", "residential single new dwelling", "commercial / retail / office" and "industrial" are broader than the development types to which the Codes SEPP applies.

As noted earlier, the number of new second occupancy CDCs increased. They doubled from 10.8% in 2010-11 to 21.8% of all new second occupancy determinations in 2011-12. New residential multi-unit CDCs determinations increased from 8.9% to 14.6% of all determinations for this development type.

Figure 7: Assessment path for single new dwellings and residential alterations and additions

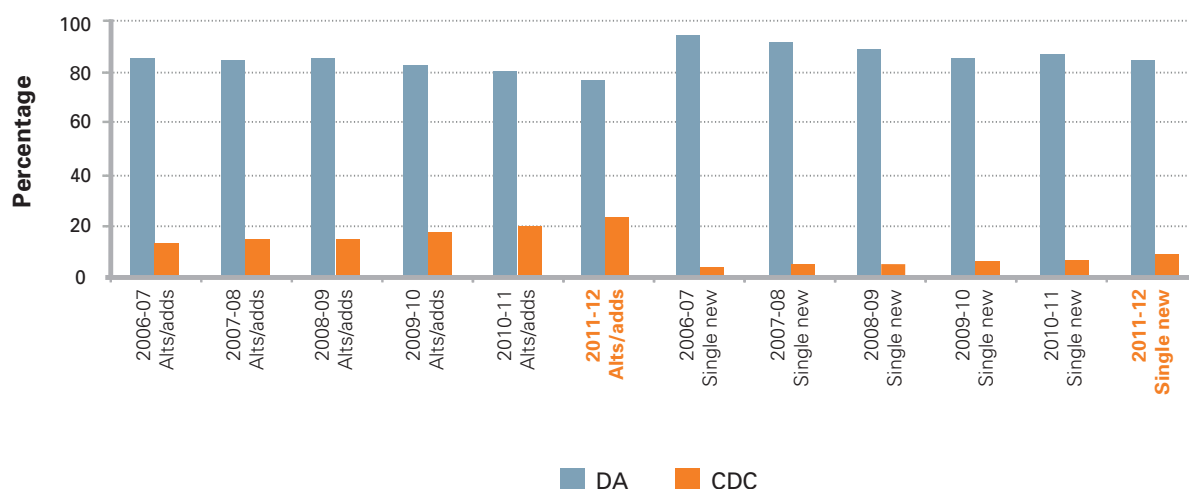


Table 2-7: CDC determinations by planning instrument

Level of determination	Number of CDCs	% SEPP	% Council planning instrument	Number of councils
Council staff	3,719	77	23	112
Councillors	4	100	0	3
Private certifier	9,384	93	7	89
	13,107	88	12	119

Notes:

- The number of CDCs in this table is *not* the total number of CDCs for 2011-12. It is only for councils that recorded at least one CDC that was determined under the Codes SEPP or council planning instrument.
- Percentages are only for CDCs recorded as being determined under the Codes SEPP or a council planning instrument (this should not include CDCs determined under other SEPPs e.g. Infrastructure SEPP).
- A total of twenty two councils were excluded from this analysis on this basis or because they provided partial information or estimates only of CDCs determined under Codes SEPP or council planning instrument. A decrease from 2010-11 when 25 councils were excluded.

Under the current Codes SEPP the applicant can choose to use the Codes SEPP or the council planning instrument (LEP or DCP). The provisions in council planning instruments will vary between council areas. The provision to use either the Codes SEPP or council planning instruments was considered to be a transitory measure which was to end in late 2011. On 25 November 2011, the transition period for turning off existing local complying development controls was extended until all councils have made their local environmental plan (LEP) using the Standard Instrument. The LEP Standard Instrument permits the use of the Codes SEPP in place of council planning instruments. As such, the use of the Codes SEPP continues to increase, with 88% of CDCs in 2011-12 determined under the Codes SEPP, compared with 67% in 2010-11.

The Codes SEPP was more widely used where private certifiers determined CDCs than when council certifiers determined CDCs. **Table 2-7** shows that 93% of CDCs determined by private certifiers were determined under the Codes SEPP. This compared with 75% in 2010-11.

Council staff use of the Codes SEPP increased compared with 2010-11. In 2010-11, half of CDCs (51%) issued by council staff were under the Codes SEPP. In 2011-12, more than three-quarters of CDCs (77%) issued by council staff were issued under the Codes SEPP.

Table 2-8: CDC determinations by category of development and planning instrument

Category of development	Number of CDCs	% SEPP	% Council planning instrument	Councils
Residential - Alterations and additions	5,915	88	12	105
Residential - Single new dwellings	2,224	88	12	101
Commercial/retail/office	1,976	88	12	79
Industrial	100	94	6	31
Other (not included above)	2,892	89	11	99
Total	13,107	88	12	119

Notes:

- See notes with Table 2-7 above.
- "Other" includes categories other than residential alterations and additions, single new dwellings, commercial / retail / office, industrial; and CDCs where the development category was not supplied or could not be classified because information was inadequate.

Table 2-8 shows the category of developments and the number of determinations which were determined as CDCs. **Table 2.8** also shows the percentage of each category of development determined either under the Codes SEPP or a Council Planning Instrument.

The majority of the CDCs for residential alterations and additions (88%) and single new dwellings (88%) were issued under the Codes SEPP in 2011-12.

88% of the CDCs for commercial / retail / office development were issued under the Codes SEPP compared with 81% in 2010-11.



2.2 Regional Trends

Region	Number 2011-12	Value 2011-12	Total value of approvals as % of State	Number s96 approved 2011-12	Number 2010-11	Value 2010-11
Sydney	39,815	\$15.9b	71.8	8,195	43,042	\$13.4b
Hunter	9,503	\$2.1b	9.6	1,396	10,058	\$1.6b
Southern	6,610	\$1.2b	5.4	1,478	7,495	\$1.6b
Western	6,659	\$1.1b	4.8	626	6,992	\$1.1b
Murray/ Murrumbidgee	6,092	\$992.6m	4.5	984	7,273	\$1.1b
North Coast	5,801	\$873m	3.9	900	6,287	\$1.1b
NSW Total	74,480	\$22.1b	100	13,579	81,147	\$19.9b

Table 2-9 shows the proportion of development activity (DA and CDC approvals) across the six regions of NSW. Sydney was clearly the region with the highest proportion of development approvals, with 71.8% of development approval value occurring in the region. The Hunter and Southern regions followed with 9.6% and 5.4% of statewide approval value respectively.

All regions showed a decrease in the number of approvals since 2010-11, the greatest decrease being the North Coast region (16%) and the smallest decrease being the Western region (5%).

Despite the overall decrease in development approval, the value of approvals increased from \$19.9b in 2010-11 to \$22.1b in 2011-12. The statewide increase in development value between 2010-11 and 2011-12 was due to the increased value of development in the Sydney (by \$2.5 billion or 19%) and Hunter regions (by \$0.5 billion or 33%). The value of development decreased in all the other regions, except for Western where it remained static.

It should be noted that major developments determined by the state government are not included in the above figures.

All DA and CDC determinations (approvals and refusals) for each region are shown in **Figures 8 and 9**.

Figure 8: Number of DAs determined by region

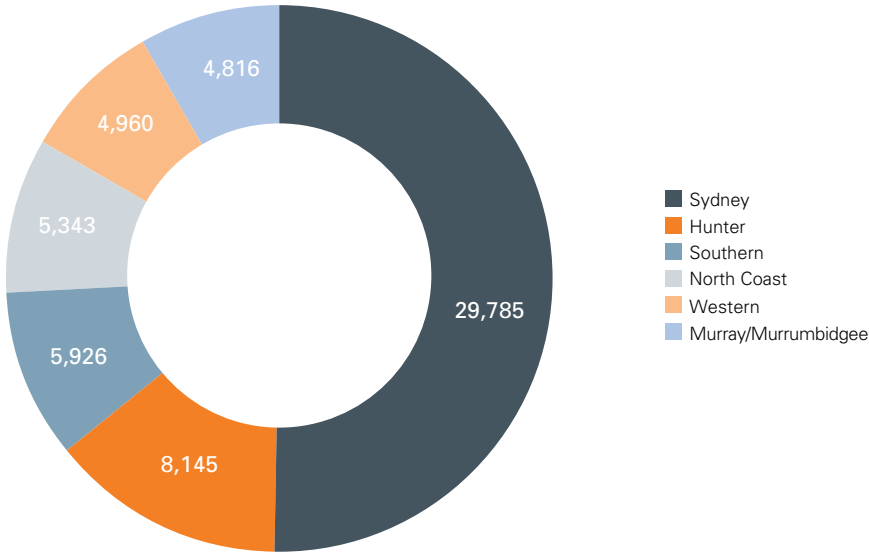
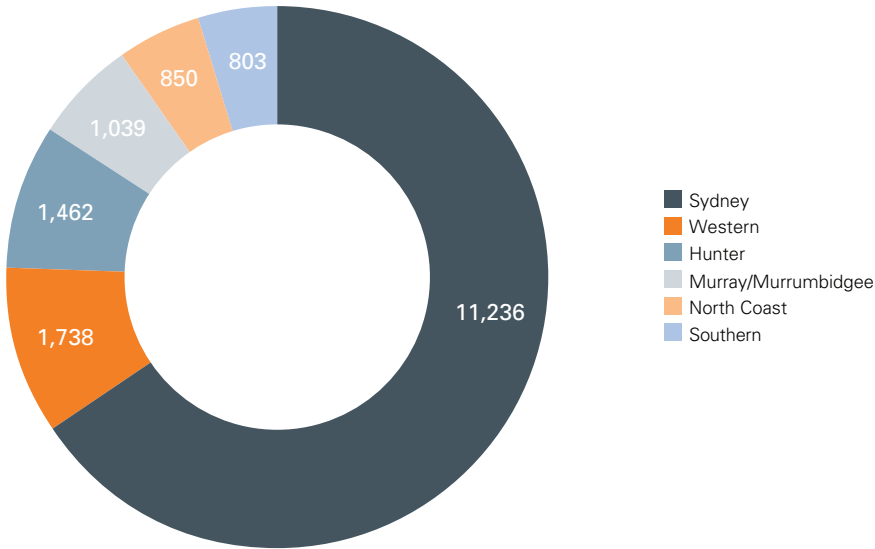


Figure 9: Number of CDCs determined by region

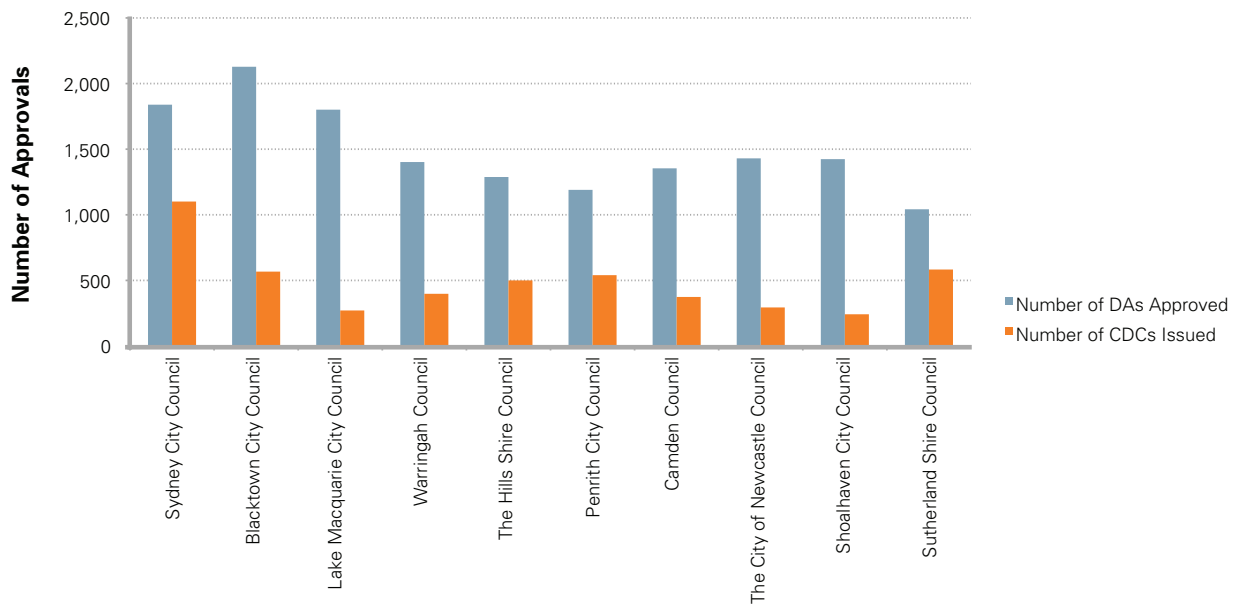


2.3 Council Trends

Development Activity

Figure 10 shows the ten council areas with the highest levels of development activity (approvals) in 2011-12. Major cities, regional centres and growth areas feature in the list, including City of Sydney, Blacktown City Council, Lake Macquarie City Council, Warringah Council and The Hills Shire Council.

Figure 10: Highest number of approvals (DAs and CDCs) by Local Government Area



City of Sydney also had the highest total value of approved development (\$3.19 billion) which was nearly four times that of The Hills Shire, the council with the second highest total value of approved development (\$869 million). This is a result of the Sydney Central Business District's continued position as the state's business centre.

Assessment Activity

In 2011-12, four councils had 50% or more of their determinations processed as complying development (Table 2-10). All of these councils are rural councils with a small number of total determinations.

Table 2-10: Local Government Areas with over 20% CDCs compared to DAs+CDCs			
Council	Number of DAs determined	Number of CDCs determined	CDCs as % of DAs+CDCs
Coonamble Shire Council	20	30	60
Coolamon Shire Council	36	45	56
Jerilderie Shire Council	17	20	54
Junea Shire Council	51	51	50
Ku-ring-gai Council	606	526	46
Bourke Shire Council	14	12	46
Uralla Shire Council	57	47	45
Ryde City Council	603	473	44
Tenterfield Shire Council	84	65	44
Strathfield Municipal Council	144	107	43
Parkes Shire Council	96	71	43
Deniliquin Council	58	41	41
Berrigan Shire Council	93	65	41
Shellharbour City Council	406	275	40
Lane Cove Council	223	145	39
Hornsby Shire Council	820	524	39
Weddin Shire Council	41	26	39
Botany Bay City Council	181	110	38
Orange City Council	434	261	38
Willoughby City Council	527	313	37
Parramatta City Council	735	436	37
Mid-Western Regional Council	347	205	37
Temora Shire Council	52	30	37
Sydney City Council	1,926	1,105	36
Forbes Shire Council	7	4	36
Bombala Council	16	9	36
Sutherland Shire Council	1,111	583	34
Holroyd City Council	535	280	34
Tamworth Regional Council	513	266	34
North Sydney Council	426	209	33
Griffith City Council	200	97	33
Canterbury City Council	495	239	33
Port Macquarie-Hastings Council	631	298	32
City of Canada Bay Council	488	229	32

Table 2-10: Local Government Areas with over 20% CDCs compared to DAs+CDCs

Council	Number of DAs determined	Number of CDCs determined	CDCs as % of DAs+CDCs
Burwood Council	185	83	31
Penrith City Council	1,208	540	31
Auburn City Council	350	155	31
Gwydir Shire Council	37	16	30
Greater Hume Shire Council	119	51	30
Glen Innes Severn Shire Council	119	49	29
Narrabri Shire Council	107	44	29
Inverell Shire Council	152	62	29
Gunnedah Shire Council	153	62	29
Armidale Dumaresq Council	193	78	29
Wyong Shire Council	1,015	404	28
Kempsey Shire Council	270	105	28
Cowra Shire Council	104	40	28
Lachlan Shire Council	63	24	28
The Hills Shire Council	1,318	502	28
Cobar Shire Council	39	14	26
Kogarah City Council	322	115	26
Rockdale City Council	369	128	26
Albury City Council	613	211	26
Bankstown City Council	1,023	349	25
Wagga Wagga City Council	558	190	25
Murrumbidgee Shire Council	27	9	25
Pittwater Council	387	129	25
Warrumbungle Shire Council	66	22	25
Wakool Shire Council	56	18	24
Gosford City Council	1,174	377	24
Greater Taree City Council	431	138	24
Hay Shire Council	19	6	24
Manly Council	335	104	24
Randwick City Council	833	257	24
Nambucca Shire Council	176	52	23
Ashfield Municipal Council	249	73	23
Walgett Shire Council	38	11	22
Liverpool City Council	1,151	333	22
Warringah Council	1,444	400	22
Guyra Shire Council	40	11	22
Camden Council	1,361	374	22
Cabonne Shire Council	146	40	22

Table 2-10: Local Government Areas with over 20% CDCs compared to DAs+CDCs

Council	Number of DAs determined	Number of CDCs determined	CDCs as % of DAs+CDCs
Blacktown City Council	2,166	569	21
Conargo Shire Council	23	6	21
Bathurst Regional Council	501	130	21
Dubbo City Council	458	116	20

Note: This table includes CDCs determined by councils and private certifiers.

City of Sydney, Sutherland Shire Council, Blacktown City Council, Penrith and Ku-ring-gai Council had the highest numbers of CDCs determined in 2011-12 (**Table 2-11**).

Table 2-11: Ten councils with the highest number of CDCs determined

Council	Number of CDC determined	% Residential alterations and additions	% Single new dwellings	% Commercial/retail/office	% Non standard category
Sydney City Council	1,105	1	0	94	2
Sutherland Shire Council	583	44	10	11	0
Blacktown City Council	569	1	5	54	0
Penrith City Council	540	42	32	9	0
Ku-ring-gai Council	526	24	13	6	2
Hornsby Shire Council	524	54	15	13	0
The Hills Shire Council	502	67	7	17	0
Ryde City Council	473	51	13	29	0
Parramatta City Council	436	35	10	19	0
Wyong Shire Council	404	65	5	22	0



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Local Development Determination Times		
2011-12	Development Applications and s96 Applications	2010-11
71	days on average taken to process a DA	68
15	councils with an average DA gross determination time in excess of 100 days	8
58	councils with an average DA gross determination time of 50 days or less	57
54	days on average taken to process s96 modifications	52

Local Development Determination Times		
2011-12	Complying Development Certificates (CDCs)	2010-11
18	days on average taken by councils to process CDCs (based on 135 councils)	14
46	councils with an average gross determination time for CDCs of 10 days or less	53





Definitions	
Gross determination time	Full length of the development assessment process (applies to DAs and CDCs).
Net time	The gross time minus referral and stop-the-clock time (only applies to DAs, not CDCs). It is possible for stop-the-clock time to occur concurrently with referral time for a development application. In these cases, days may be double counted and net time may be less than the actual time taken by council to determine the DA.
Mean determination time	The mean of a set of data values is the sum of all of the data values divided by the number of data values.
Median determination time	The median of a set of data values is the middle value of the data set when the values are ranked. If the number of values in the data set is even, then the median is the average of the two middle values. The median value is an alternative to analysing the mean which may be skewed by a relatively small number of high or low values in a data set.
Referral time	The time taken by state agencies to either grant concurrent consent (some DAs require council and agency consent) or to provide advice to council on a development proposal. Only applies to DAs, not CDCs.
'Stop-the-clock' (STC)	The time taken by applicants to respond to requests by councils or agencies for further information on a DA. Only applies to DAs, not CDCs.

Refer to Appendix 2 for more information on how determination times were calculated.

3.1 Statewide Trends

Total Processing and Determination Times

After recent minor planning reforms, 2011-12 was a year of consolidation for councils allowing them to continue refining their assessment procedures.

The statewide average time for DAs reflected the consolidation process, with similar average DA determination times: 71 days in 2011-12 compared with 68 days in 2010-11.

	2011-12	2010-11
Mean gross processing times DAs only	71	68

Table 3-2 shows that 15 councils (10% of all councils) had mean gross processing times for DAs over 100 days in 2011-12. This compares with eight councils (5% of all councils) in 2010-11. This is the first year since 2006 that the number of councils with mean gross DA processing times over 100 days has increased.

Financial Year	2011-12	2010-11	2009-10	2008-09	2007-08	2006-07
Number of councils	15	8	10	21	28	29

Seven councils had mean gross processing times for DAs over 100 days for applications valued under \$100,000. Performance against this indicator has improved since 2006-07 when 11 councils fell into this category (**Table 3-3**), though not as good as in 2010-11 and 2009-10.

Financial Year	2011-12	2010-11	2009-10	2008-09	2007-08	2006-07
Number of councils	7	2	4	11	14	11

There was no change in the proportion of councils that achieved mean gross processing times for DAs of 50 days or less. This was 38% of all councils in 2011-12, 2010-11 and 2009-10 (58, 57 and 58 councils respectively) (**Table 3-4**). More than one third of councils have met this criterion since 2006-07.

Financial Year	2011-12	2010-11	2009-10	2008-09	2007-08	2006-07
Number of councils	58	57	58	56	52	58

Gross time is important to applicants as it measures the total processing time taken between lodging an application and receiving the final decision. Net time is an indicator of the time taken by councils to determine the application, including the time taken to assess the application but excluding the time taken for delays for which they are not responsible.

Both net and gross times are examined to assess the service provided to applicants and to understand the factors affecting processing time, including the time taken by applicants to submit further information and the time taken by state agencies to assess referred DAs.

Only by understanding all components of the process can planning reforms be targeted to improve overall assessment times.

The differences between mean gross (processing) and mean net (determination) times indicate the significant impacts of stop-the-clock (STC) and referrals on processing times.

Another important factor which must be taken into account when comparing council performance is the council classification, commonly referred to as the DLG code.

The Australian Classification of Local Governments (ACLG) and the NSW Division of Local Government classify councils according to their socio-economic characteristics and location. NSW's 152 councils are grouped into 11 groups, and councils within those groups have similar socio-economic and location factors.



While statewide analysis provides important information on the performance of councils, care must be taken when comparing individual council performance. It can be simplistic to compare the performance of small regional councils to large inner-urban councils in terms of DA determinations due to the vastly different environmental, economic and social issues faced in these areas.

The statewide mean gross processing time for DAs with STC was 107 days compared with 50 days for a DA with no STC event, a 57 day difference. In 2011-12, 37% of DAs had STC. The high percentage of DAs with STC events and the average 57 days difference between DAs with STC and DAs without STC indicate the impact of sub-standard and non-complying DA applications on processing times. Similarly, DAs which were referred to state agencies had high average determination times (116 days) compared with DAs without any referral (65 days). Referrals applied to 12% of DAs in 2011-12. Stop-the-clock and referral issues are discussed in more detail in Chapter 4.

Median determination times were much lower than mean determination times.

As in 2011-12, more than half of all NSW councils (57%) had a median gross processing time for DAs of 40 days or less (see **Source Table 3-28**). In 2011-12, 80% of councils achieved median net determination times of 40 days or less, as in 2010-11.



Table 3-5 shows the effects of STC events and referrals in more detail statewide and by Division of Local Government classifications.

Table 3-5: Statewide DA Net Determination Times (Days) by Classification		
	2011-12 days	2010-11 days
ALL NSW		
Determination Times		
Mean net determination times DAs only	46	45
Median net days DA determined	31	31
Mean gross days - all DAs determined	71	68
Effect of stop-the-clock		
Mean gross determination time - only DAs with STC	107	105
Mean gross determination time - only DAs without STC	50	47
Mean stop days - only DAs with STC	58	56
Effect of referrals		
Mean gross determination time - only DAs with referrals	116	117
Mean gross determination time - only DAs without referrals	65	62
Mean referral days - only DAs with referrals	50	47
Urban (U) Capital City (CC) and Metropolitan Developed (D)		
Determination Times		
Mean net determination times - DAs only	60	55
Median net days - DA determined	42	41
Mean gross days - all DAs determined	81	74
Effect of stop-the-clock		
Mean gross determination time - only DAs with STC	111	107
Mean gross determination time - only DAs without STC	64	56
Mean stop days - only DAs with STC	53	50
Effect of referrals		
Mean gross determination time - only DAs with referrals	107	118
Mean gross determination time - only DAs without referrals	79	72
Mean referral days - only DAs with referrals	49	42
Regional Town/City (R)		
Determination Times		
Mean net determination times - DAs only	37	38
Median net days - DA determined	26	26
Mean gross days - all DAs determined	65	67

Note: The Australian Classification of Local Governments (ACLG) and the NSW Division of Local Government classify councils according to their socio-economic characteristics and location. NSW's 152 councils are grouped into 11 groups, and councils within those groups have similar socio-economic and location factors. See Appendix 3 for full explanation of ACLG and Division of Local Government classification of councils.

Table 3-5: Statewide DA Net Determination Times (Days) by Classification

	2011-12 days	2010-11 days
Effect of stop-the-clock		
Mean gross determination time - only DAs with STC	101	103
Mean gross determination time - only DAs without STC	40	42
Mean stop days - only DAs with STC	58	61
Effect of referrals		
Mean gross determination time - only DAs with referrals	115	118
Mean gross determination time - only DAs without referrals	56	57
Mean referral days - only DAs with referrals	51	47
Fringe (F)		
Determination Times		
Mean net determination times - DAs only	46	44
Median net days - DA determined	32	31
Mean gross days - all DAs determined	76	70
Effect of stop-the-clock		
Mean gross determination time - only DAs with STC	116	111
Mean gross determination time - only DAs without STC	53	49
Mean stop days - only DAs with STC	68	63
Effect of referrals		
Mean gross determination time - only DAs with referrals	138	124
Mean gross determination time - only DAs without referrals	67	61
Mean referral days - only DAs with referrals	62	54
Agricultural (A)		
Determination Times		
Mean net determination times DAs only	36	37
Median net days DA determined	24	25
Mean gross days - all DAs determined	56	54
Effect of stop-the-clock		
Mean gross determination time - only DAs with STC	101	94
Mean gross determination time - only DAs without STC	37	36
Mean stop days - only DAs with STC	54	48
Effect of referrals		
Mean gross determination time - only DAs with referrals	105	93
Mean gross determination time - only DAs without referrals	48	48
Mean referral days - only DAs with referrals	36	34

Note: The Australian Classification of Local Governments (ACLG) and the NSW Division of Local Government classify councils according to their socio-economic characteristics and location. NSW's 152 councils are grouped into 11 groups, and councils within those groups have similar socio-economic and location factors. See Appendix 3 for full explanation of ACLG and Division of Local Government classification of councils.

Figure 11 shows a significant ‘tail’ of DAs that took much longer to process and contributed to the much higher mean gross times compared with median gross times. Just over 2% of DAs took more than 300 days to determine. These DAs comprised development across all categories, the majority of the DAs contained significant ‘stop the clock’ events and/or environmental issues which needed to be resolved during the assessment period.

Figure 11: Number of DAs by assessment time

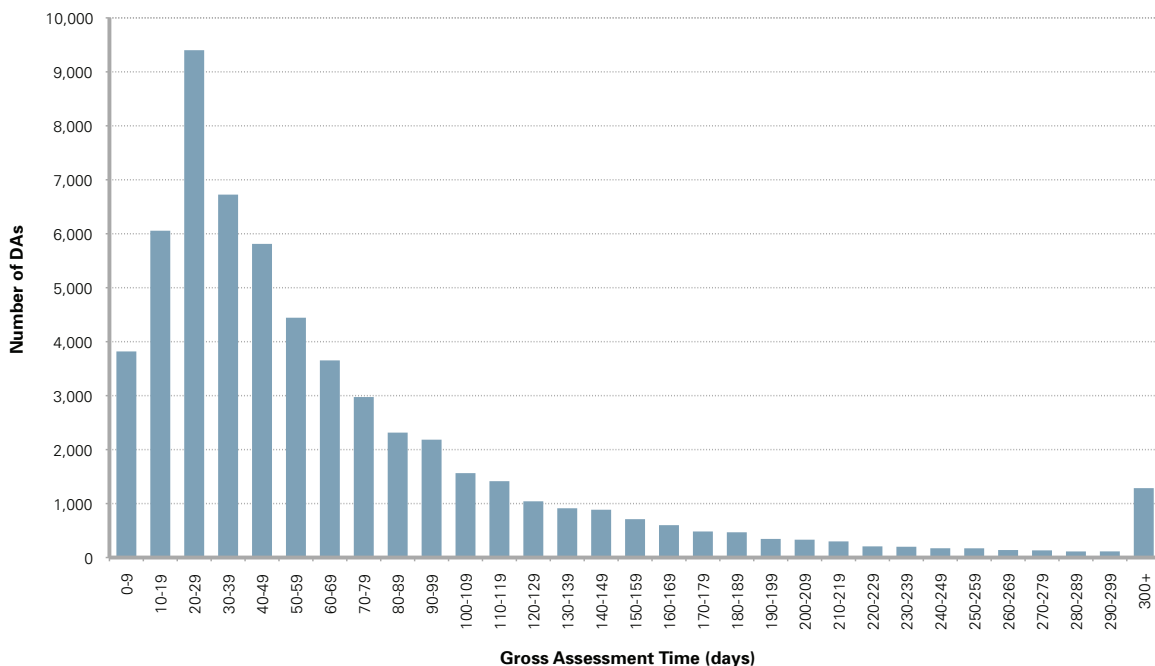


Table 3-5 shows a mean net determination time for DAs of 46 days, much higher than the median net time (31 days). This indicates that most DAs are determined in less than 46 days, only slightly higher than 2010-11: 45 days mean net and 31 days median net times.

As expected, **Table 3-5** also shows that DA times for urban councils were higher than the councils classified as regional, fringe and agricultural. The urban councils frequently deal with more complex DAs and with more developments which often attract significantly more public attention than non urban councils.

The mean gross time for urban councils was 81 days compared with 65 days for regional councils, 76 days for fringe councils and 56 days for agricultural councils. Mean gross times for DAs with STC was over 100 days for all classifications including agricultural councils. Median net determination time for urban councils was 42 days compared with 26 days for regional councils, 32 days for fringe councils and 24 days for agricultural councils.

Appendices 3 and 4 describe the council classification system and list the councils which fall into each group.

Table 3-6 shows that the median gross determination time for DAs was slightly higher for 2011-12 compared to 2010-11: 45 days and 44 days respectively and the median net determination time remained unchanged at 31 days.

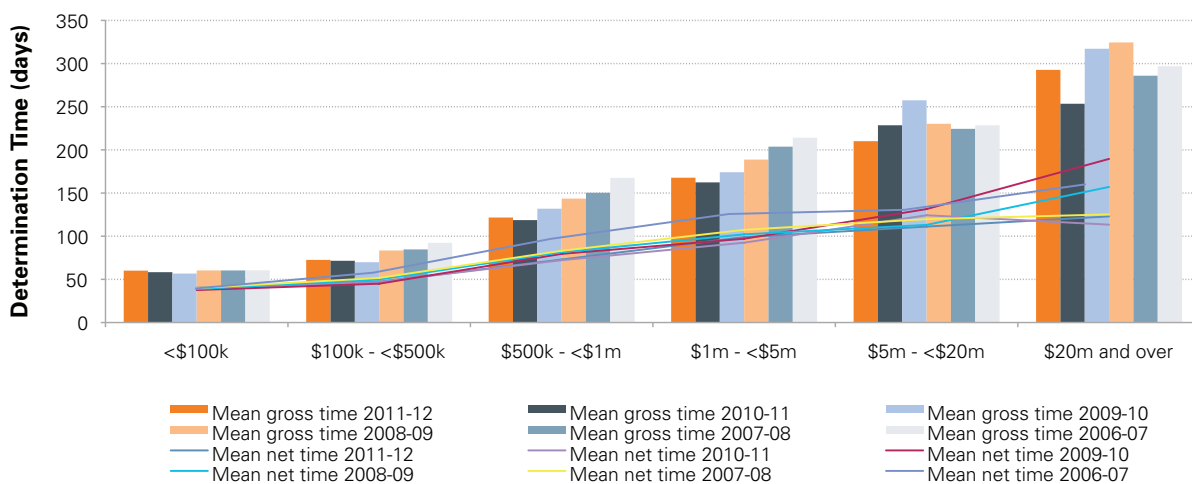
Table 3-6: DA Median Determination Times (Days)		
	2011-12	2010-11
Median gross determination times DAs only	45	44
Median net determination times DAs only	31	31

Determination Times by Value and Development Type

Figure 12 shows the determination times for all developments up to \$5 million were slightly higher than 2010-11. The mean gross time for developments \$500,000 to \$1 million rose from 119 days in 2010-11 to 122 days in 2011-12; development in the \$1-5 million group rose from 162 days to 168 days.

Mean gross determination times for DAs increased with the value of development. Determination times continued to be high for the higher value developments, although mean gross determination times were lower in 2011-12 for development in the \$5-20 million group. Mean gross determination times for development valued at \$5-20 million fell from 229 days (2010-11) to 210 days in 2011-12; mean gross times for developments valued over \$20 million increased from 253 days in 2010-11 to 293 days in 2011-12.

Figure 12: DA Determination times by value 2006-07 to 2011-12



As stated in Chapter 2, 97% of approved DAs and 99% of CDCs were valued at under \$1 million in 2011-12. The mean gross processing time for developments of under \$1 million was relatively stable, 67 days in 2011-12 compared with 65 days in 2010-11 (**Table 3-7**). The median gross DA determination time for developments of this value remained unchanged at 43 days for the same period (**Table 3-8**).

Table 3-7: Statewide DA mean determination times (days) by value 2011-12 and 2010-11

Value	Gross determination time		Net determination time		Stop-the-clock time		Referral time	
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11
\$0 Value	82	80	48	46	93	92	72	65
Under \$100K	60	58	40	39	53	54	48	44
\$100K-under \$500K	73	72	47	47	53	51	42	40
\$500K-under \$1m	122	119	73	72	72	70	60	53
Under \$1m	67	65	44	43	55	54	46	43
\$1m-under \$5m	168	162	99	93	99	100	80	82
\$5m-under \$20m	210	229	111	124	132	154	116	98
\$5m-under \$100m	231	231	115	120	156	152	122	101
\$20m+	293	253	123	113	232	164	147	110
\$30m+	277	317	118	125	228	208	142	127
\$50m+	288	371	121	139	278	297	132	143

Notes:

1. Mean stop-the-clock (STC) times are averages of STC time reported by councils only for DAs where STC occurred.
2. Mean referral times are averages of referral time only for DAs where referral occurred.
3. Since gross and net determination times in the table above are averages for all DAs, average STC and referral times cannot be deducted from the gross time to obtain the net times shown in the above table.

Processing times continued to be high for the higher value developments, although mean gross determination times were slightly higher in 2011-12 for most development value groups. Mean gross processing times for development valued at \$5-20 million fell from 229 days (2010-11) to 210 days in 2011-12; and from 317 days (2010-11) to 277 days in 2011-12 for developments valued over \$30 million. This may be due to an increasing number of these developments being determined by joint regional planning panels in 2011-12. The activity of the regional panels is discussed in detail in chapter 4.

Table 3-8: Statewide DA median determination times (days) by value 2011-12 and 2010-11

Value	Gross determination time		Net determination time		Stop-the-clock time		Referral time	
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11
\$0 Value	42	41	27	27	39	40	40	38
Under \$100K	37	36	28	28	25	25	28	26
\$100K-under \$500K	51	51	34	35	31	31	28	24
\$500K-under \$1m	97	93	56	58	48	45	32	30
Under \$1m	43	43	30	31	29	28	28	26
\$1m-under \$5m	137	131	75	73	63	63	50	46
\$5m-under \$20m	166	165	90	88	76	83	64	69
\$5m-under \$100m	176	167	91	86	91	84	69	69
\$20m+	196	176	95	78	123	93	77	75
\$30m+	195	202	100	72	135	118	85	100
\$50m+	202	195	98	84	175	122	70	103

Notes:

1. Median STC times are only for DAs where STC occurred.
2. Median referral times are only for DAs where referral occurred. Table 3-9 shows the mean gross determination time regardless of assessment process (ie. DA and CDC times are combined) for certain development categories where CDCs are more prevalent. the combined mean gross determination times for all categories were slightly lower than the mean gross determination time for DAs alone (see table 3-10).



Table 3-9 shows the mean gross determination time regardless of assessment process (ie. DA and CDC times are combined) for certain development categories where CDCs are more prevalent. The combined mean gross determination times for all categories were slightly lower than the mean gross determination time for DAs alone (see Table 3-10).

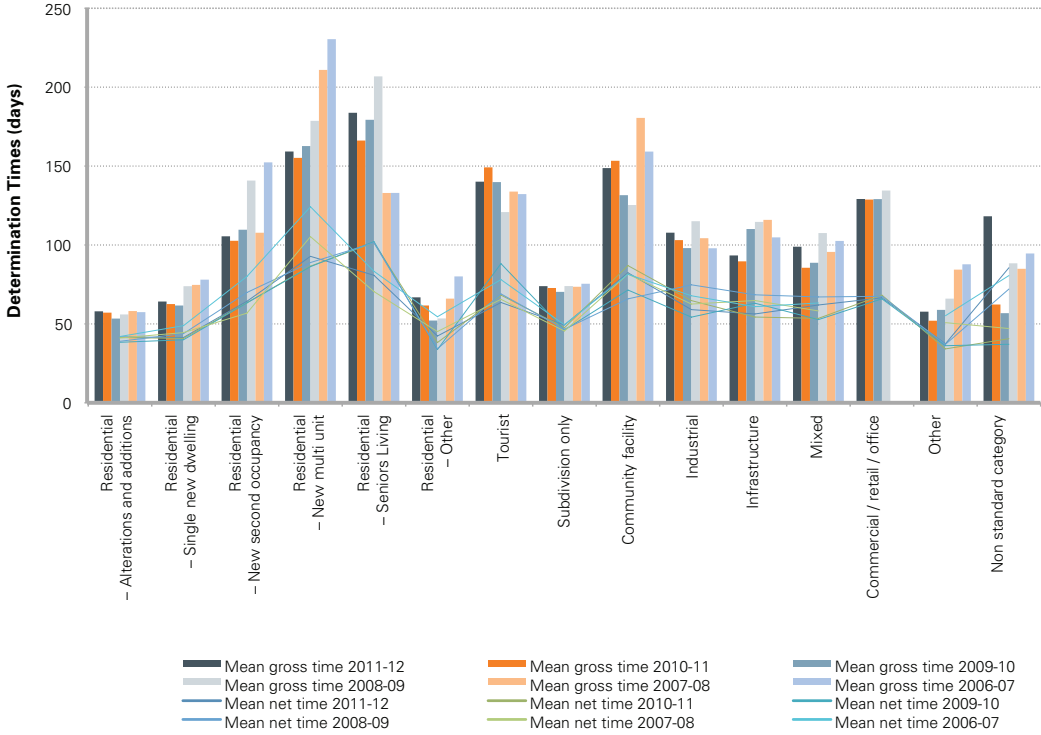
Table 3-9: DA and CDC Mean Gross Determination Times (days) by development category		
Category of development	2011-12	2010-11
Residential - Alterations and additions	54	53
Residential - Single new dwelling	62	61
Residential - New second occupancy	103	101
Commercial / retail / office	70	69
Industrial	92	88
Community facility	97	83



Figure 13 and **Table 3-10** show the mean gross determination times of DAs based on the development type. The lowest and the highest DA determination times for 2011-12 were both for residential development types. New single dwellings (64 days) and alterations and additions (58 days) were among the lowest times while seniors living (184 days) and multi-unit development (159 days) had the highest overall times.

Other developments such as new second occupancies, tourist and mixed use development, have had mean gross determination times of 100 days or more since 2006-07.

Figure 13: DA Determination times by development category 2006-07 to 2011-12



Note: The development category "subdivision only" was introduced in 2008-09

Overall the results are an indicator of the type of developments that are subject to numerous environmental issues, urban design issues and community concerns which need to be considered during the determination process.

These results will continue to be monitored as the impacts of the complying development codes and other planning reforms are felt. It is expected that with more developments being determined as complying development, determination times for other developments will fall as council staff time is freed up to assess more complex developments.

Table 3-10: Statewide mean DA determination time by development category 2011-12

Category	Net determination time	Gross determination time	Stop-the-clock time	Referral time
1. Residential - Alterations and additions	42	58	43	32
2. Residential - Single new dwelling	41	64	50	36
3. Residential - New second occupancy	64	106	64	47
4. Residential - New multi unit	93	159	94	72
5. Residential - Seniors Living	81	184	154	134
6. Residential - Other	42	67	56	42
7. Tourist	64	140	129	112
8. Commercial / retail / office	49	74	57	52
9. Mixed	82	149	105	74
10. Infrastructure	59	108	129	84
11. Industrial	56	93	70	58
12. Community facility	62	99	77	64
13. Subdivision only	67	129	126	81
14. Other	37	58	63	49
15. Non standard category	86	118	91	109

Notes:

1. Mean stop-the-clock (STC) times are averages of STC time only for DAs where STC occurred.
2. Mean referral times are averages of referral time only for DAs where referral occurred.
3. Not all councils classified their developments into the department's development categories. Developments that could not be classified into a department category were counted by the department as "non standard category".
4. Since gross and net determination times in the table above are averages for all DAs, average STC and referral times cannot be deducted from the gross time to obtain the net times shown in the above table.

DA Modifications (S96 Applications)

Section 96 applications (s96) are applications to modify an existing DA consent (approval). S96 applications range from significant revisions requiring substantial merit assessment to correcting minor errors in the approval. Depending on the extent of changes proposed, the time taken to assess the modifications can be similar and in some cases longer than the time taken to determine the original DA.

The EP&A Act classifies the type of modification application according to its significance, but requires that the development still remains substantially the same.

The types of s96 modifications are s96 (1) minor error or misdescription; s96 (1A) minimal environmental impact; s96 (2) other modification (significant environmental impact) and 96AA modification by consent authorities of consents granted by the Land and Environment Court.

There are a number of statutory steps that need to be taken before the environmental impact of the Section 96 application can be assessed. Firstly the application must be assessed to ensure it is 'substantially the same development' and secondly that the changes have been accurately described as s96 (1), s96 (1A) or s96 (2).

Most have a far lower processing time than standard DAs, but not always. Some (mostly rural) councils did not determine any s96 applications.

In 2011-12, the most common type of s96 application was the s96(1A) which usually involves minor changes to the development that result from detailed requirements of the construction certificate, unforeseen events during construction, and/or the applicant requesting minor changes to the development before the development is completed.

s96 Category	2011-12	% of total
s96(1A) - Minimal environmental impact	4,773	69
s96(2) - Other modification	1,059	15.3
s96(1) - Minor error/misdescription	956	13.8
Other s96	131	1.9

Table 3-12 shows that the mean gross processing times for s96 applications in 2011-12 was 54 days, slightly higher than the 52 days in 2010-11. Average determination times for s96 modifications have fallen compared with 2006-07, but have been relatively stable since 2008-09.

Financial Year	2011-12	2010-11	2009-10	2008-09	2007-08	2006-07
Mean gross determination times s96 modifications only	54	52	52	53	58	57
Mean gross determination times DAs + s96 modifications	68	65	64	71	72	73



Complying Development

Complying development is a form of approval for many types of minor or routine development, which have a minor impact and are identified under State Environmental Planning Policies or local development control plans. If the proposed development meets the criteria set in the Codes SEPP or the local council's complying development code, the development can be approved in 10 days or less. Typical CDC developments are new homes, renovations or improvements to homes or apartments, and office, shop or industrial building change of use or fit outs. Stop-the-clock and referrals are not possible with complying development applications.

A development approved as a complying development requires compliance with development standards while developments subject to merit approval must be assessed against a wide range of environmental, social and economic considerations and involve various forms of community consultation.

As noted in Chapter 2, complying development increased from 18% of all DA and CDC determinations in 2010-11 (excluding section 96 modifications) to 23% in 2011-12, which was to be expected given the additional types of developments now able to be determined as CDCs. Accredited (private) certifiers determined 70% of CDCs in 2011-12 compared to 68% of CDCs in 2010-11.

Table 3-13: CDCs determined by councils and private certifiers		
Financial year	2011-12	2010-11
Number of CDCs determined	17,128	15,085
Percentage of CDCs determined by councils (%)	30	34
Percentage of CDCs determined by private certifiers (%)	70	66

The determination times for CDCs reported since 2009-10 are only based on records of CDCs issued by councils due to inadequate date information for CDCs issued by private certifiers.

Accredited (private) certifiers have a statutory obligation to send councils details of the complying development applications that they determined including information on the date the application was lodged by the applicant, the date the application was determined and whether the CDC was issued under the Codes SEPP or under the local council's Exempt and Complying DCP. This information is for the public record and also assists councils to enforce development approvals. However, the data can be incomplete particularly regarding dates and planning controls.

The reporting and completeness of complying development data needs to continue to improve. This relies on both accredited certifiers providing complete and accurate data to councils within a reasonable timeframe and councils systems retaining the information appropriately. With a greater focus on assisting certifiers and councils in this regard in the coming year, it is expected that future reports will provide data on CDC determination times by accredited certifiers.

Despite the gaps in CDC determination time data, the data on determination times by councils for CDCs is very informative. The median determination time for 2011-12 was unchanged at 8 days (based on data from 135 councils) (**Table 3-15**).

As in 2010-11, CDCs could be lodged under either the Codes SEPP or a council Local Environmental Plan or Development Control Plan. It seems that some determination times are higher than the 10-day statutory timeframe because some councils request additional information from applicants to resolve issues when required, rather than refuse the CDC (stop-the-clock does not apply to CDC applications).

Table 3-14: Mean determination time for council CDCs with valid dates		
Financial year	2011-12	2010-11
Mean determination time - council determined CDCs only	18	14

Note: Determination times are only for records with valid dates. For full explanation of valid dates, see Appendix 2.

Table 3-15: Median determination time for council CDCs with valid dates		
Financial year	2011-12	2010-11
Median determination time - council determined CDCs only	8	8

CDC determination times by value

Determination times were substantially higher for developments valued \$1 million and over (56 days mean determination time and 18 days median determination time), however this applied to only 26 CDCs in 2011-12 (**Table 3-16**).

Value range	Mean determination time	Median determination time	Number of valid council CDC records
\$0 Value	25	7	156
Under \$100k	17	8	3,938
\$100k-under \$500k	20	10	1,017
\$500k-under \$1m	36	16	95
Under \$1m	18	8	5,050
\$1m and over	56	18	26

Note: Only CDCs determined by councils are included in this table due to invalid data / missing data on dates of lodgement or determination for CDCs determined by private certifiers.

CDC determination times by development type

Table 3-17 shows mean and median determination times for the three most common development types for CDCs. Mean times were slightly higher than the statutory time of a maximum 10 days; median times were under the 10 day limit.

Category	Mean determination time	Median determination time	Number of council issued CDCs
Residential - Alterations and additions	16	8	2,351
Residential - Single new dwelling	18	8	757
Commercial / retail / office	18	7	503

Note: Only CDCs determined by councils are included in this table due to invalid data / missing data on dates of lodgement or determination for CDCs determined by private certifiers.

3.2 Council Trends

Care needs to be taken when viewing tables on council performance in processing and determining development applications. The gross time is the time perceived by the applicant from submitting the application to receiving a determination, but that time is influenced by a number of factors which are outside the direct control of councils.

Although the average gross determination time for DAs was 71 days, determination times varied considerably across the state, ranging from 11 days mean gross determination time (Jerilderie) to 183 days (Wentworth).

Almost double the number of councils reported mean gross determination times of 100 days or more for DAs, fifteen in 2011-12 compared to eight councils in 2010-11.

Table 3-18 lists the councils with mean gross processing times for DAs of 100 days or more. The councils are listed according to the codes set by the Division of Local Government (DLG). "*According to their socioeconomic characteristics and their capacity to deliver a range of services to the community*" (refer appendix A).

The greatest number of councils with times over 100 days was concentrated in DLG Group 2 which is to be expected as Group 2 contains Sydney based councils, which have the greatest number of DAs covering a wide range of application types. It is noted that the 'simple DA' is now increasingly being determined as complying development under the expanded Codes SEPP.



Table 3-18: Councils with mean gross DA determination times over 100 days

Council	DLG Code	Mean 2011-12	Mean 2010-11	% change	Median 2011-12
Botany Bay City Council	2	136	111	23	136
Mosman Municipal Council	2	109	114	-4	105
North Sydney Council	2	109	104	4	91
Pittwater Council	2	107	93	14	88
Hunters Hill Municipal Council	2	106	95	11	98.5
Waverley Council	2	106	86	23	87
Hurstville City Council	3	117	58	102	89.5
Willoughby City Council	3	111	96	15	85
Greater Taree City Council	4	127	82	55	43
Lithgow City Council	4	126	62	102	55
Hawkesbury City Council	6	163	76	113	120
Wollondilly Shire Council	6	102	73	41	48
Wentworth Shire Council	10	183	70	161	98
Kyogle Council	10	149	90	66	47.5
Yass Valley Council	11	111	97	15	63

Note: The Australian Classification of Local Governments (ACLG) and the NSW Division of Local Government classify councils according to their socio-economic characteristics and location. NSW's 152 councils are grouped into 11 groups, and councils within those groups have similar socio-economic and location factors. See Appendix 3 for full explanation of ACLG and Division of Local Government classification of councils.

Tables 3-19 and **3-20** provide a further breakdown of determination times for the councils with mean gross determination times over 100 days.

Table 3-19: Councils with mean gross DA determination times over 100 days - times and values										
Council	DLG	Mean Gross - DAs only	<\$100k	>\$100k	\$100k - \$500k	\$500k - \$1m	<\$1m	\$1m - \$5m	\$5m - \$20m	>\$20m
Botany Bay City Council	2	136	123	155	140	131	129	163	266	321
Mosman Municipal Council	2	109	74	123	109	127	99	144	92	
North Sydney Council	2	109	84	138	127	141	103	171	196	170
Pittwater Council	2	107	82	125	111	143	102	201	143	
Hunters Hill Municipal Council	2	106	92	116	106	134	103	140		
Waverley Council	2	106	76	137	115	202	100	201	166	
Hurstville City Council	3	117	88	146	122	134	106	344		200
Willoughby City Council	3	111	90	133	119	162	108	179	158	115
Greater Taree City Council	4	127	145	102	93	314	126	336		
Lithgow City Council	4	126	124	129	130	123	126	125		
Hawkesbury City Council	6	163	154	176	159	170	156	295	191	
Wollondilly Shire Council	6	102	100	108	96	197	100	167	181	435
Wentworth Shire Council	10	183	123	261	269	163	184	102		
Kyogle Council	10	149	144	174	161		147		355	
Yass Valley Council	11	111	108	116	93	432	111	137		

Note: The Australian Classification of Local Governments (ACLG) and the NSW Division of Local Government classify councils according to their socio-economic characteristics and location. NSW's 152 councils are grouped into 11 groups, and councils within those groups have similar socio-economic and location factors. See Appendix 3 for full explanation of ACLG and Division of Local Government classification of councils.

Table 3-20 shows there is not always a correlation between the total value of DAs determined and the gross time taken to determine DAs. For example, Wentworth Shire had the longest mean gross determination time of 183 days but the total value of determined DAs was only \$20.9m, while Willoughby Council which determined \$201.3 million worth of DAs in 111 days mean gross time.

Table 3-20: Councils with mean gross DA determination time over 100 days - total values and time breakdown						
Council	DLG Code	Mean Gross Time - DAs only	Estimated Value of DAs Determined	Estimated Value of DAs Approved	Mean Stop-the-clock time (days)	Mean Referral time (days)
Botany Bay City Council	2	136	\$318m	\$317.6m		
Mosman Municipal Council	2	109	\$208.1m	\$192.7m	40	32
North Sydney Council	2	109	\$537.4m	\$470.1m	88	
Pittwater Council	2	107	\$133.8m	\$127.2m	46	39
Hunters Hill Municipal Council	2	106	\$38.7m	\$32.7m	82	110
Waverley Council	2	106	\$154.3m	\$146.8m	71	
Willoughby City Council	3	111	\$201.3m	\$193.6m	75	50
Hurstville City Council	3	117	\$244.4m	\$193.8m	60	
Greater Taree City Council	4	127	\$53.8m	\$53.1m	166	25
Lithgow City Council	4	126	\$37.9m	\$37.9m	73	169
Hawkesbury City Council	6	163	\$50.5m	\$44.4m	88	
Wollondilly Shire Council	6	102	\$167.8m	\$166.8m	85	53
Wentworth Shire Council	10	183	\$20.9m	\$20.9m	81	38
Kyogle Council	10	149	\$9.6m	\$9m	108	102
Yass Valley Council	11	111	\$50.9m	\$50.9m	63	91

Note: The Australian Classification of Local Governments (ACLG) and the NSW Division of Local Government classify councils according to their socio-economic characteristics and location. NSW's 152 councils are grouped into 11 groups, and councils within those groups have similar socio-economic and location factors. See Appendix 3 for full explanation of ACLG and Division of Local Government classification of councils.

Table 3-21 shows that councils with the highest mean gross determination time for residential alterations/additions and single new dwellings valued under \$500,000 had few CDCs as a proportion of their total determinations.

Table 3-21: Councils with the highest mean gross determination time (DA + CDC) for residential alterations/additions and single new dwellings under \$500,000 in value					
Council	Mean gross determination time	Median gross determination time	Number of DAs determined	CDCs as % of total determinations	Number of CDCs determined with valid dates
DLG Group 1					
City of Sydney Council	81	68	546	0	0
DLG Group 2					
Botany Bay City Council	126	124	97	6	6
North Sydney Council	112	95	217	1	3
Mosman Municipal Council	99	96	137	0	0
DLG Group 3					
Willoughby City Council	102	84	283	6	19
Hurstville City Council	92	76	214	10	25
City of Canada Bay Council	86	68	322	4	14
DLG Group 4					
Lithgow City Council	98	55	104	7	8
Greater Taree City Council	82	34	309	4	14
Richmond Valley Council	71	42	140	0	0
DLG Group 5					
The City of Newcastle Council	83	69	838	1	9
Shoalhaven City Council	61	37	1,067	3	35
Wollongong City Council	52	39	842	0	3
DLG Group 6					
Hawkesbury City Council	148	108	80	0	0
Wollondilly Shire Council	67	40	469	5	24
Camden Council	32	25	829	5	45

Table 3-21: Councils with the highest mean gross determination time (DA + CDC) for residential alterations/additions and single new dwellings under \$500,000 in value

Council	Mean gross determination time	Median gross determination time	Number of DAs determined	CDCs as % of total determinations	Number of CDCs determined with valid dates
DLG Group 7					
Campbelltown City Council	80	55	326	11	42
Blue Mountains City Council	78	55	564	1	3
The Hills Shire Council	64	48	758	5	43
DLG Group 8					
Brewarrina Shire Council	48	48	2	0	0
Urana Shire Council	12	7	9	0	0
Jerilderie Shire Council	7	1	7	53	8
DLG Group 9					
Boorowa Council	49	43	30	0	0
Lockhart Shire Council	37	27	17	0	0
Tumbarumba Shire Council	35	28	19	0	0
DLG Group 10					
Wentworth Shire Council	180	76	113	8	10
Upper Lachlan Shire Council	87	77	68	0	0
Oberon Council	66	41	18	0	0
DLG Group 11					
Yass Valley Council	71	61	132	6	8
Cabonne Shire Council	61	50	32	3	1
Palerang Council	55	54	213	0	1

Note: The Australian Classification of Local Governments (ACLG) and the NSW Division of Local Government classify councils according to their socio-economic characteristics and location. NSW's 152 councils are grouped into 11 groups, and councils within those groups have similar socio-economic and location factors. See Appendix 3 for full explanation of ACLG and Division of Local Government classification of councils.



Table 3-22 shows the five councils that reported the lowest average determination times according to the total value of all DAs determined. All these councils are in rural or regional areas.

Table 3-22: Lowest reporting councils - mean gross DA processing time					
\$0-\$1m	Days	\$1-\$5m	Days	\$5m and over	Days
Jerilderie Shire Council	11	Blayney Shire Council	9	Singleton Council	51
Warren Shire Council	14	Coonamble Shire Council	23	Parkes Shire Council	56
Urana Shire Council	14	Moree Plains Shire Council	29	Carrathool Shire Council	61
Hay Shire Council	15	Gloucester Shire Council	30	Wingecarribee Shire Council	61
Conargo Shire Council	15	Cabonne Shire Council	32	Ashfield Municipal Council	64

See Appendix 2 for additional notes on data analysis.

Table 3-23 shows those councils that achieved the greatest reduction in their mean gross determination times listed by DLG codes. Where there were no councils in a DLG group that reduced their mean times, those with least change were listed. Some significant improvements were made by councils that previously had mean gross determination times over 100 days.

Country councils appear to have made more significant improvements to their determination times compared to urban councils. Care needs to be taken when making direct comparisons as the nature of DAs vary significantly between regions and the comparisons should be made within the DLG groups. Of the inner-metropolitan councils, Leichhardt Council made the greatest improvement, reducing its mean gross determination time from 115 days in 2010-11 to 88 days in 2011-12

Table 3-23: Top three Councils per DLG Group				
Council	Mean Gross DAs only (2011-12)	Mean Gross DAs only (2010-11)	Mean Gross Time % Change	Estimated Value of DAs Approved
DLG Code 1				
City of Sydney Council	74	61	22	\$2.9b
DLG Code 2				
Leichhardt Municipal Council	88	115	-24	\$103.5m
Kogarah City Council	79	85	-8	\$93.6m
Manly Council	83	90	-8	\$95m
DLG Code 3				
Canterbury City Council	94	102	-8	\$138.2m
City of Canada Bay Council	98	104	-5	\$394.9m
Randwick City Council	74	77	-4	\$463.1m
DLG Code 4				
Bega Valley Shire Council	56	82	-32	\$68m
Wagga Wagga City Council	50	74	-32	\$170.8m
Griffith City Council	43	63	-32	\$31.3m
DLG Code 5				
Tweed Shire Council	93	133	-30	\$150.7m
Port Macquarie-Hastings Council	62	81	-23	\$113.1m
Wollongong City Council	66	83	-21	\$364.2m
DLG Code 6				
No council recorded improved times for this DLG Group.				
DLG Code 7				
Blue Mountains City Council	85	96	-12	\$119.5m
Campbelltown City Council	89	95	-7	\$173.8m
Wyong Shire Council	56	60	-6	\$195.3m

Table 3-23: Top three Councils per DLG Group

Council	Mean Gross DAs only (2011-12)	Mean Gross DAs only (2010-11)	Mean Gross Time % Change	Estimated Value of DAs Approved
DLG Code 8				
Jerilderie Shire Council	11	26	-58	\$2.3m
Urana Shire Council	14	21	-31	\$0.46m
Conargo Shire Council	15	18	-16	\$2.2m
DLG Code 9				
Weddin Shire Council	21	45	-54	\$3.9m
Harden Shire Council	25	49	-50	\$2.3m
Warren Shire Council	14	25	-45	\$2m
DLG Code 10				
Gwydir Shire Council	43	87	-50	\$3.6m
Narrandera Shire Council	44	66	-33	\$2.8m
Liverpool Plains Shire Council	51	69	-26	\$58m
DLG Code 11				
Tumut Council	38	68	-43	\$8.3m
Narrabri Shire Council	32	53	-39	\$19.8m
Cooma-Monaro Shire Council	70	92	-24	\$13.6m

Note: The Australian Classification of Local Governments (ACLG) and the NSW Division of Local Government classify councils according to their socio-economic characteristics and location. NSW's 152 councils are grouped into 11 groups, and councils within those groups have similar socio-economic and location factors. See Appendix 3 for full explanation of ACLG and Division of Local Government classification of councils.

The councils with the lowest mean gross time

The councils according to their DLG grouping that reported the lowest mean gross time for DAs relating to residential alterations and additions are shown in **Table 3-24**. Country council DLG groups usually have lower processing times than the urban council DLG groups.

Table 3.24: Residential alterations and additions		
Council	Residential alterations and additions	Single new dwellings
DLG Group 1		
City of Sydney Council	82	130
DLG Group 2		
Ashfield Municipal Council	39	66
Kogarah City Council	68	116
Lane Cove Council	70	110
DLG Group 3		
Rockdale City Council	54	76
Bankstown City Council	54	90
Blacktown City Council	56	42
DLG Group 4		
Deniliquin Council	25	49
Dubbo City Council	26	28
Albury City Council	28	30
DLG Group 5		
Lake Macquarie City Council	39	41
Coffs Harbour City Council	39	57
Maitland City Council	40	28
DLG Group 6		
Camden Council	33	34
Wollondilly Shire Council	57	93
Hawkesbury City Council	155	135

Table 3.24: Residential alterations and additions

Council	Residential alterations and additions	Single new dwellings
DLG Group 7		
Wyong Shire Council	40	40
Hornsby Shire Council	44	82
Liverpool City Council	45	69
DLG Group 8		
Jerilderie Shire Council	11	11
Urana Shire Council	12	
Brewarrina Shire Council	19	77
DLG Group 9		
Bourke Shire Council	8	42
Warren Shire Council	11	23
Hay Shire Council	13	23
DLG Group 10		
Junee Shire Council	11	197
Temora Shire Council	12	65
Berrigan Shire Council	13	15
DLG Group 11		
Corowa Shire Council	8	32
Cabonne Shire Council	14	63
Leeton Shire Council	17	22

Note: The Australian Classification of Local Governments (ACLG) and the NSW Division of Local Government classify councils according to their socio-economic characteristics and location. NSW's 152 councils are grouped into 11 groups, and councils within those groups have similar socio-economic and location factors. See Appendix 3 for full explanation of ACLG and Division of Local Government classification of councils.



Sydney councils dominated the list of the councils with the highest determination time for certain residential developments shown in **Table 3-25**.

Many of the councils in **Table 3-25** are inner urban Sydney councils and face similar constraints which are likely to adversely affect their assessment times. These constraints include high population density, often in environmentally sensitive areas, resulting in complex interrelated issues for development assessment and a need for a higher level of public consultation.

Table 3-25: Councils with mean gross DA determination time over 100 days - residential alterations and additions			
Council	DLG Code	Residential alterations and additions	Single new dwellings
Botany Bay City Council	2	126	150
Mosman Municipal Council	2	112	143
North Sydney Council	2	110	124
Willoughby City Council	3	114	170
Hawkesbury City Council	6	155	135

See Appendix 3 for explanation of DLG Codes.



Table 3-26 shows the 23 councils that had mean gross determination times for commercial / retail / office development of over 100 days. In 2010-11, 28 councils fell into this category compared with 24 councils in 2009-10, and 23 councils in 2008-09.

Table 3-26: Councils with mean gross DA determination time over 100 days - commercial/retail/office			
Council	DLG Code	Mean gross time (days)	Construction value estimate
Botany Bay City Council	2	129	\$61.1m
Hurstville City Council	3	108	\$7.8m
Lithgow City Council	4	153	\$5.5m
Cessnock City Council	4	121	\$7m
Lismore City Council	4	118	\$10.3m
Port Stephens Council	4	103	\$37.5m
Tweed Shire Council	5	117	\$26.6m
Maitland City Council	5	116	\$166.7m
Wollondilly Shire Council	6	233	\$25.3m
Hawkesbury City Council	6	192	\$6.6m
Liverpool City Council	7	137	\$40.2m
Gosford City Council	7	118	\$70.1m
Blue Mountains City Council	7	116	\$31.4m
Boorowa Council	9	118	\$0.2m
Kyogle Council	10	676	\$0.18m
Oberon Council	10	295	\$0.34m
Wentworth Shire Council	10	179	\$3.3m
Upper Lachlan Shire Council	10	141	\$0.18m
Murray Shire Council	10	140	\$0.33m
Tenterfield Shire Council	10	108	\$0.82m
Yass Valley Council	11	128	\$1.1m
Cabonne Shire Council	11	113	\$0
Parkes Shire Council	11	103	\$8.9m

Note: The Australian Classification of Local Governments (ACLG) and the NSW Division of Local Government classify councils according to their socio-economic characteristics and location. NSW's 152 councils are grouped into 11 groups, and councils within those groups have similar socio-economic and location factors. See Appendix 3 for full explanation of ACLG and Division of Local Government classification of councils.

Table 3-27 shows mean gross determination times for commercial / retail / office development for all Sydney councils with commercial development. **Table 3-27** shows that determination times in the regional centres for commercial / retail / office DAs were often higher than those in metropolitan areas.

Table 3-27: Mean gross DA determination time commercial/retail/office development - Sydney Region			
Council	DLG Code	Gross Days	Construction value estimate
City of Sydney Council	1	60	\$743.8m
Burwood Council	2	45	\$4.3m
Ashfield Municipal Council	2	46	\$2.4m
Kogarah City Council	2	51	\$3.4m
Lane Cove Council	2	53	\$2.9m
Mosman Municipal Council	2	63	\$1.6m
Manly Council	2	69	\$12.2m
Strathfield Municipal Council	2	70	\$2.9m
North Sydney Council	2	80	\$168.8m
Pittwater Council	2	83	\$2.8m
Leichhardt Municipal Council	2	84	\$6.4m
Waverley Council	2	90	\$7.3m
Woollahra Municipal Council	2	99	\$14.4m
Botany Bay City Council	2	129	\$61.1m
Willoughby City Council	3	53	\$47m
Holroyd City Council	3	58	\$11.3m
Randwick City Council	3	61	\$21.8m
Bankstown City Council	3	62	\$19.8m
Auburn City Council	3	65	\$16.9m
City of Canada Bay Council	3	67	\$21.4m
Parramatta City Council	3	67	\$43.6m
Marrickville Council	3	67	\$4.8m
Ku-ring-gai Council	3	67	\$2.1m
Rockdale City Council	3	69	\$2.2m
Ryde City Council	3	73	\$270.8m
Sutherland Shire Council	3	75	\$72.7m
Warringah Council	3	88	\$25.9m

Table 3-27: Mean gross DA determination time commercial/retail/office development - Sydney Region

Council	DLG Code	Gross Days	Construction value estimate
Fairfield City Council	3	89	\$119.6m
Blacktown City Council	3	90	\$35.8m
Canterbury City Council	3	95	\$15.8m
Hurstville City Council	3	108	\$7.8m
Camden Council	6	92	\$41.1m
Hawkesbury City Council	6	192	\$6.6m
Wollondilly Shire Council	6	233	\$25.3m
Hornsby Shire Council	7	62	\$12.3m
The Hills Shire Council	7	63	\$133.5m
Penrith City Council	7	76	\$98.1m
Wyong Shire Council	7	82	\$52.4m
Campbelltown City Council	7	90	\$37.2m
Blue Mountains City Council	7	116	\$31.4m
Gosford City Council	7	118	\$70.1m
Liverpool City Council	7	137	\$40.2m

Note: The Australian Classification of Local Governments (ACLG) and the NSW Division of Local Government classify councils according to their socio-economic characteristics and location. NSW's 152 councils are grouped into 11 groups, and councils within those groups have similar socio-economic and location factors. See Appendix 3 for full explanation of ACLG and Division of Local Government classification of councils.





chapter 4
determination bodies,
applicants and
referral bodies

**Summary Table - Determination bodies and time
(for DAs and CDCs with valid times)**

Determination level	Determinations 11-12	% of total	Mean gross determination time 11-12	Determinations 10-11	% of total	Mean gross determination time 10-11
Council staff	61,259	80.5	62	70,105	84.4	60
Councillors	2,309	3	170	2,534	3	172
Private certifiers	11,989	15.8		9,958	12	
IHAP or independent panel	156	0.2	148	74	0.1	162
Other	390	0.5	223	439	0.5	196
Total	76,103	100	67	83,110	100	65

Notes:

1. Mean gross time only includes records with valid dates. Mean gross determination times were not included for CDCs issued by private certifiers for either 2010-11 or 2011-12, as valid date information was missing for most CDCs issued by private certifiers. For full explanation of valid dates, see Appendix 2.
2. In this table, the numbers of determinations also only include DAs and CDCs with valid dates in order to use the same data set for number of determinations and determination time.
3. 'Other' includes joint regional planning panels and determination bodies that did not fit into the other categories (e.g. panels consisting of both councillors and staff).



4.1 Statewide Trends

Activity by Determination Body

Determination body activity relates to developments that were approved or refused in 2011-12. It does not cover applications lodged but not yet determined in 2011-12.

Similar to previous years, in 2011-12, council staff continued to make the vast majority of determinations (80.5%).

The results for 2011-12 continue to show the influence of state policies. Most notable was the increase in private certifier determinations which increased in both 2010-11 and 2011-12, which is to be expected given the additional range of developments covered in the Exempt and Complying Development Codes SEPP.

The activity of joint regional planning panels (counted in 'other' in the Summary Table) is also discussed in this chapter.

Council staff, councillors and private certifiers

The proportion of development determined by council staff has been falling since 2008-09: from 91.3% of all determinations (including CDCs) in 2008-09 to 80.5% in 2011-12. This is most likely to have been due to the increase in complying development determined by private certifiers. Private certifiers determined 15.8% of determinations in 2011-12 and in 2010-11, 12% of determinations.

Figure 14: Values of DAs and CDCs determined by determination level

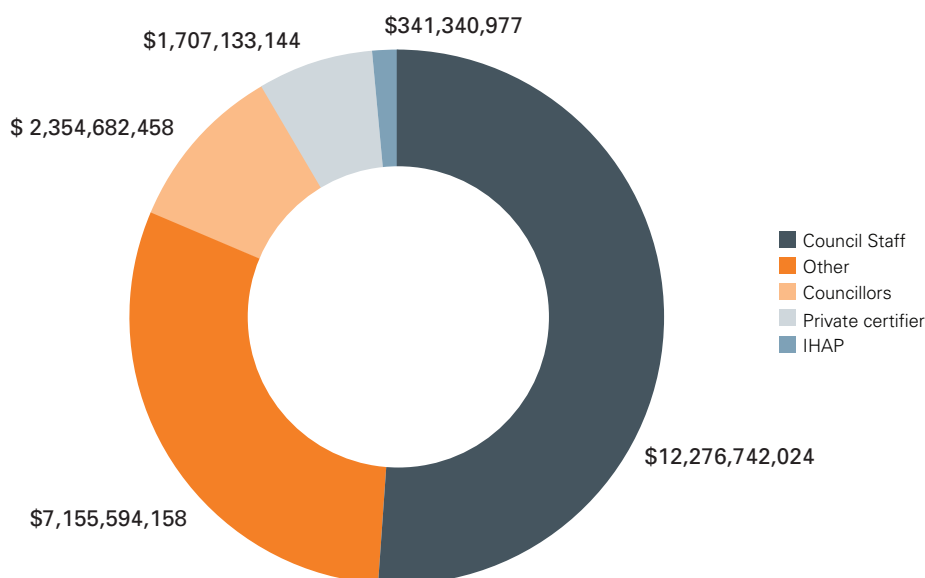


Table 4-1: Total value of development (\$billion) by determination body (DAs and CDCs determined)				
Council Staff	Councillors	Private certifiers	IHAP	Other
12.3	2.4	1.7	0.34	7.2

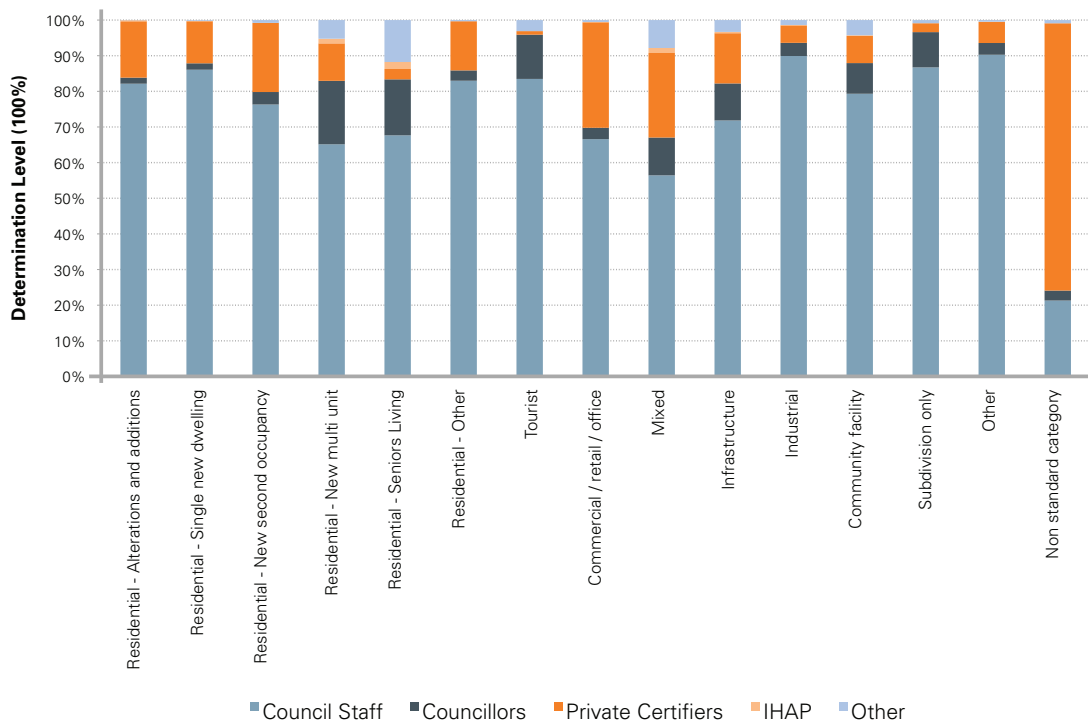
Note: Dollar values above have been rounded up, refer to figure 14 for precise vales.

As shown in **Figure 14** and **Table 4-1**, the total value of developments determined (approved and refused) by council staff (\$12.3b) and councillors (\$2.4b) continued to be the highest. However, the total value of CDC determinations by private certifiers was also high at \$1.7b (construction and occupation certificates issued by private certifiers or councils are not included in this analysis).

Figure 15 below shows that councillors tended to determine less typical developments such as seniors living, residential multi-unit, infrastructure and tourist developments.

Private certifier CDCs featured significantly in the following development categories: commercial / retail / office; mixed; and residential – new secondary occupancy. This is due to the increasing use of complying development for these development categories, encouraged by the Codes SEPP.

Figure 15: Category of development by Determination Level for determined DAs and CDCs



Notes:

1. Private certifier determinations are for CDCs only
2. Independent Hearing Assessment Panel (IHAP) or Independent Panel does not include where IHAPs or independent panels made recommendations only.
3. 'Non standard category' means the development description supplied by councils did not match any of the Department's standard development types because not enough information was supplied to identify the correct development category or no development description was supplied. 'Non standard category' is different from 'other'. 'Other' means a development type apart from the Department's six residential development types and seven non residential development types e.g. demolition only falls into 'other', whereas 'dwelling' is counted in 'non standard category'.

Table 4-2 shows that determinations by councillors remained constant at 3% in 2011-12 compared with 2010-11. The percentage of determinations by staff fell by 3.9% overall, while the percentage of determinations by private certifiers rose by 3.8% overall.

Table 4-2: Statewide summary of delegations for DA and CDC determined		
	2011-12	2010-11
Staff (individual, staff committee) as % of all determinations	80.5	84.4
Councillors (full council or council committee) as % of all determinations	3	3
Private certifiers as % of all determinations	15.8	12
IHAP or independent panel as % of all determinations	0.2	0.1
Other as % of all determinations	0.5	0.5
Number of reporting councils	152	152

See notes with Figure 15 above.

Table 4-3 shows that independent panels and councillors were more likely to refuse development consent than other determination bodies. Independent Hearing Assessment Panels (IHAPs) refused 12.2% of developments and councillors 10.3%. However, just 156 DAs were reported as being determined by an IHAP in 2011-12. 'Other' includes regional panels. Regional panels refused 12% of the 305 developments they determined during the year (see Table 4-4).

Complex and controversial developments are more likely to be referred to councillors and independent panels. However, 3.75% of determined developments were referred to councillors, IHAPs or 'Other' (including regional panels) in 2011-12. It is likely that not all private certifier refusals were recorded in the 2011-12 data. The Department has found gaps in information on private certifier certificates in the past and is continuing to work with the Building Professionals Board to address this issue.

Table 4-3: Percentage of DAs and CDCs determined that were approved and refused			
Level of determination	Number	% approved	% refused
Council staff	61,259	97.8	2.2
Councillors	2,309	89.7	10.3
Private certifiers	11,989	100	0
IHAP or independent panel	156	87.8	12.2
Other	390	88.7	11.3

See notes with Figure 15 above.

Joint regional planning panels

The joint regional planning panels (regional panels) formally established in July 2009, provide independent and merit-based decision making on regionally significant developments.

During 2011-12, 305 DAs were determined by regional panels (Table 4-4), representing 0.4% of all determinations in NSW. This compared with 303 DAs in 2010-11.

The total capital investment value (CIV) of approvals by regional panels was \$6.026 billion in 2011-12 (27.2% of the total approval value of all DAs in NSW).

In October 2011, as part of the government's reform of the NSW planning system, the Environmental Planning and Assessment Act 1979 (EP & A Act) was amended and certain classes of development previously determined by regional panels were returned to councils for determination.

The capital investment value (CIV) threshold for the general development category has increased from \$10 million to \$20 million. However, a new provision in the Act allows for the referral by the applicant or council of a development application (DA) with a CIV of \$10-20 million where that DA is not determined by council within 120 days.

Regional Panel	Number of determinations	All DAs (incl under \$5m) days	DAs CIV \$5m to \$20m days	DAs CIV Over \$20m days
Hunter & Central Coast	32	244	242	241
Northern	22	189	136	270
Southern	23	238	246	222
Sydney East	105	166	162	181
Sydney West	116	270	234	320
Western	7	204	241	-
TOTALS	305	222	211	241

Table 4-5 shows that Sydney West region had the highest number of DAs (38%), followed by Sydney East with 34% of the DAs determined.

Table 4-5: Activity by Joint Regional Planning Panels by Region				
Regional Panel	Number of determinations	Approved	Refused	CIV of approvals
Hunter & Central Coast	32	24 (1)	8 (1)	\$480,521,614
Northern	22	21 (1)	1	\$328,212,800
Southern	23	22	1	\$298,500,000
Sydney East	105	90 (16)	15 (2)	\$2,662,080,035
Sydney West	116	105 (1)	11	\$2,236,016,558
Western	7	7	-	\$20,679,000
TOTALS	305	269 (19)	36 (3)	\$6.026 billion

Note: Figures in brackets are number of applications determined contrary to recommendation for approval or refusal. Decisions not consistent with officer recommendation – 7.2% (7.7% in 2010-11). Overall rate of refusal by regional panels - 12.1% (13.2% in 2010-11)

Table 4-6 shows that the average time taken by regional panels to determine DAs was 222 days compared to 185 days in 2010-11.

Table 4-6: Time taken for decisions by Joint Regional Planning Panels					
Year	Total determinations by Regional Panels	CIV of approvals	Average determination times (days)		
			All DAs	DAs \$5m-\$20m	DAs over \$20m
2009-10 *	102	\$1.015 billion	134	149	130
2010-11	303	3.769 billion	185	180	183
2011-12	305	6.026 billion	222	211	241

* 2009-10 year was the first year of operations and determinations are only for DAs lodged since 1 July 2009

Determination Time by Determination Body

Determination times by determination body relates to all developments with a determination outcome in 2011-12, approved or refused. It does not cover applications lodged but not yet determined by 30 June 2012.

The average gross determination time for developments (DAs and CDCs) determined by council staff was 62 days, significantly lower than the result for other determination groups (see chapter 4 summary table).

Table 4-7 shows that for DAs determined by councillors, both mean and median determination times were significantly higher than for DAs determined by council staff. Both mean and median gross days were over 100 days for councillor determinations, though their mean gross determination fell marginally from 172 days in 2010-11 to 171 days in 2011-12. Councillors determined 3.9% of DAs statewide while council staff determined 95.2% (not including CDCs).

DAs referred to councillors are more likely to be contentious or complex. Council officers must complete their assessment and recommendations before the DA can be dealt with by councillors. The DA also has to go through public consultation and fit in with the frequency of council meetings. These are all factors affecting processing times. However, these determination times, including net determination times (which exclude STC and referral time), are still high. The Department will continue to monitor these trends.

The high STC periods and referral times are the result of the complexity and the potential environmental impact of the proposed developments. Inadequate and insufficient information supplied as part of the DA is a significant issue. DAs may also be subject to design changes during the assessment period and may even require re-notification due to these changes.

Description	Councillors	Delegated	Both
Number of DAs determined	2,299	56,131	58,430
Number with valid net time (1-3649 days)	2,214	54,964	57,178
Mean stop-the-clock time	104	54	57
Number of DAs with stop-the-clock time	1,209	20,575	21,784
Mean referral time	84	46	49
Number of DAs with referral time	477	6,215	6,692
Mean gross time (days)	171	66	70
Mean net time (days)	108	43	46
Median gross time (days)	127	43	45
Median net time (days)	75	30	31

Note:

1. 'Valid net time' excludes records where net time is negative or greater than 10 years. Net time is gross determination time minus referral and stop-the-clock time. As referral and STC days may occur on the same days, their sum may double count days and net time may be negative in some cases. Determination times greater than 10 years are eliminated from the calculations as they are assumed to be errors.
2. Determination times are for DAs only (not including s96 modifications).



In 2011-12, councillors determined about 3.9% of DAs statewide while regional panels determined 0.4% of DAs. **Table 4-8** shows that the mean gross determination times (219 days) for regional panels were higher than the mean gross determination times for councillors (171 days), but the regional panels' mean net determination time (110 days) was only slightly higher than the councillors' (108 days).

The total time for a regional panel determination is comprised of various components as shown in **Table 4-8** below, but the process replicates that taken by DAs determined by councillors. Council officers process the DA from lodgement, coordinate referrals to state agencies if required, undertake public exhibition and receive public submissions, and prepare the assessment report for the panel or the councillors to consider. The processing time will be extended when the panel or councillors request additional information or design changes from the applicants. Regional panels function like councillors, by making the determination after council staff assess the DA and prepare recommendations.

The number of DAs analysed in **Table 4-8** (265) differs from the total number of DAs determined by the regional panels (305) due to the following:

- regional panel and councils have different record systems;
- time lag from post-DA determination administration process (e.g. after DAs are determined by regional panels, they are returned to councils for preparation of determination letters and other administration processes);
- some councils did not include regional panel DAs in their LDPM data submission.

A relatively high proportion of the average determination time for DAs determined by the regional panels was taken up by stop-the-clock (STC), referral and exhibition times. On average, STC took up more than half of the total determination time for DAs that were determined by regional panels. The average STC time was 144 days and the average referral time was 106 days. The mean net time was 110 days.

Table 4-8: Regional panels determination times	
Number of DAs determined	Days
Number of DAs determined by regional panels	305
Number of DAs analysed for regional panels determination times*	265
Number of DAs with stop-the-clock	158
Number of DAs with referral	115
Time taken to determine DAs (mean)	
Mean gross time (days)	219
Mean stop-the-clock time (days)	144
Mean referral time (days)	106
Mean net time (days)	110
Time taken to determine DAs (median)	
Median gross time (days)	172
Median net time (days)	85
Time taken to determine DAs over \$20 million (median)	
Median gross time (days)	189
Median net time (days)	76

Note: Panel DAs analysed include only records where JRPP and LDPM data could be matched. This analysis draws on data in LDPM (STC and referral time and council determination date which may be after the panel meeting date).

Quality of DAs Submitted by Applicants

Rejected DAs

DAs can be rejected if the applicant submits illegible, unclear or incomplete information.

A very low proportion of DAs were reported as being rejected (1%), but this figure is likely to be under-reported as it does not reflect the number of DAs rejected before being recorded as having been received. Anecdotal information from councils is that the incomplete applications are a significant issue, not reflected by the low percentage of recorded rejections. In addition, to assist applicants, councils often accept incomplete DAs and request the missing information or documentation be submitted, resulting in longer determination times.

The department will be reinforcing the importance of councils recording rejected applications, especially to assist in future monitoring on the adequacy of applications.

Stop-the-clock

A relatively high proportion of DAs had their assessment suspended due to incomplete information from the applicant (stop-the-clock): 37% in 2011-12, unchanged for the last two reporting periods (2010-11 & 2009-10). However, this was still lower than in previous years (2006-07: 39%; 2007-08: 40%; 2008-09: 40%).

Determination Times (days)	2011-12	%	2010-11	%
Mean time (days) spent waiting for further information on DAs from applicant ('stop-the-clock')	58	37	56	37
Median time (days) spent waiting for further information on DAs from applicant ('stop-the-clock')	30	37	29	37
Number of councils that reported stop-the-clock time	138		133	

Notes:

The times for stop-the-clock are based on DAs with stop-the-clock events, not all DAs. For instance, for 2011-12, 37% of DAs had stop-the-clock. The mean stop-the-clock time of 58 days was calculated by using the stop-the-clock data for these 37% of DAs. The percentage figures are the percentages of DA records determined that had stop-the-clock time.

Applicants took an average of 58 days in 2011-12 to provide the extra information required. This was higher than in 2010-11 (56 days) but lower than previous years (2006-07: 64 days; 2007-08: 63 days; 2008-09: 64 days; 2010-11: 58 days).

The number of reported DAs with STC decreased from 24,937 in 2010-11 to 22,085 in 2011-12, but this was due to the downturn in DA numbers rather than an improvement in the quality of the DAs submitted. The percentage of councils reporting STC events in 2011-12 was 91% compared to 88% of councils reported having at least one DA with STC in 2010-11.

When extreme STC times are removed, the median STC increased slightly from 29 days in 2010-11 and 2009-10, to 30 days for 2011-12, but it is still an improvement on 2008-09 when it was 31 days.

Improving the quality of DAs is an area where further efforts need to be made. The EP&A Regulation currently allows councils to set a time limit for applicants to provide further information on their DA. In practice, it is understood that some DAs are put on hold indefinitely pending information from the applicant, leading to some inefficient practices. Anecdotal information suggests that some STC events occur where applications are lodged with inadequate information, lie dormant for a lengthy period and are eventually 'closed off' by the council with a formal rejection or are withdrawn by the applicant. These incidences could make a major contribution to increasing determination times. Councils are implementing measures such as on-line information services to educate and assist applicants in preparing and submitting DAs.

Councils have also indicated that as their aim is to provide a service to DA applicants that they will guide an applicant through the DA process and request additional information as required rather than refuse or reject DAs, this has an adverse impact on the time taken by councils to determine applications.

Activity and Time By Referral Body

Based on council records, the proportion of DAs referred to a state government agency for advice or approval was 12% in 2011-12. However, as fewer developments are going through the development consent process, the number of referred DAs was lower. The number of DAs reported as being referred fell from 7,791 in 2009-10 to 7,597 in 2010-11 and 6,881 in 2011-12 (not including s96 modifications).

The average referral times (according to council data) spent by agencies assessing DAs increased, from 47 days in 2010-11 to 50 days in 2011-12, a 6% increase, although fewer councils reported referrals in 2011-12 compared with 2010-11: 114 councils compared with 118.

Determination Times (days)	2011-12	%	2010-11	%
Mean time (days) spent by referral agencies assessing DAs	50	12	47	11
Median time (days) spent by referral agencies assessing DAs	28	12	27	11
Number of councils that reported referral time	114		118	

Notes:

The times for referrals are based on DAs with referral events, not all DAs. For instance, for 2011-12, 12% of DAs had referrals.

The mean referral time of 50 days was calculated by using the referral data for these 12% of DAs.

The percentage figures are the percentages of DA records determined that had referral time. S96 modifications to DAs are not included.

2011-12 was the third full year of co-ordinated monitoring and reporting on referral performance by state government agencies which began in 2009. There is little consistency between the agencies in terms of data recording methods, and it is not possible to directly compare one agency to another.

The agencies' methods of recording data, in relation to concurrences and referrals, does not mirror council recording systems and results in difficulties reconciling data between councils and the agencies.

A summary of the results is shown below. It should be noted that some statutory referrals are not included in these results. The department's survey of agencies does not include statutory referrals to corporations (e.g. Energy Australia) or Federal Government bodies (e.g. Civil Aviation Safety Authority).



Table 4-11 Activity and time by referral agency - 2011-12

Agency / Authority	C&R Finalised in Reporting Period	Average Gross Processing Time	Average Net Processing Time	Median Gross Processing Time	Median Net Processing Time	Adequacy of Original Information Submitted (% adequate)	Processed in net <=40 days (%)
Department of Planning & Infrastructure	394	34.49	23.32	17	15	83	85
DPI - Crown Lands	9	14.56	14.56	10	10	100	89
DPI - Fisheries NSW	133	18.99	12.84	12	12	92	98
DPI - Fisheries NSW (Marine Parks)	43	23.79	21.14	21	20	93	84
DPI - NSW Office of Water	619	54.70	30.40	28	23	79	77
DPC - Office of Environment & Heritage	101	27.14	21.85	17	17	96	87
Environment Protection Authority	72	35.00	22.70	14	13	89	90
Mine Subsidence Board	4467	3.00	* 3.00	N/A	N/A	92	100
Natural Resources Commission	7	24.14	15.57	23	14	29	100
Heritage Council	715	42.10	26.97	25	20	70	81
NSW Rural Fire Service	4550	31.30	* 31.30	21	* 21	82	* 80
Railcorp	64	86.00	13.00	84	12	17	98
RMS Maritime	103	21.35	* 21.35	17	* 17	N/A	* 92
RMS Roads	2513	20.42	20.36	20	20	87	92
Sydney Catchment Authority	172	74.32	32.31	39	35	60	95
Sydney Olympic Park Authority	8	2.75	2.75	2	2	100	100
Sydney Water Corporation	2	20.00	20.00	20	20	100	100
Overall (all agencies)	13972	22.50	19.30			84	89

Notes:

C&R = concurrence or referral. Concurrence is a form of referral.

Average net processing time is total time minus time where additional information was being provided by the applicant.

N.A. = not available from data supplied by agency.

* *Net averages/medians not available so gross average/median used*



Based on the agency data, the Rural Fire Service and the Mine Subsidence Board processed the most concurrences or referrals in the period (note: not all of these would have been determined by the council in the period): 65% of all referrals reported by agencies for the year.

Agencies reported a far higher number of referrals than councils. However, councils report the number of DAs which had one or more referrals. A DA may be referred to more than one agency. It is not possible to know the incidence of multiple referrals from the records received by the department.

The results shown in **Table 4-11** derived from state agency data differ from the average referral times reported by councils (**Table 4-10**). Some difference is to be expected due to time lost in transmitting DAs and accompanying information from council to agency and back again. Councils report the date the DA was sent to the agency and when the agency's advice was received; whereas agencies report the date they received the information from council and when they sent their advice back to council.

A minor proportion of non-statutory referrals were recorded by councils in past sample data analysed by the department. Councils should only be counting the time taken for agencies to respond to statutory referrals i.e. referrals required under legislation or an environmental planning instrument.

As this is the third year of agencies submitting referral information to the department, agencies are continuing to upgrade their recording systems to improve their compliance with recording requirements.

The department is continuing to work with agencies and councils on more consistent ways to record referral information to improve future monitoring and identify areas for improvement in implementing referrals.

4.2 Council Trends

Table 4-12 below shows the ten regional councils with highest proportion of determinations by councillors. As in previous years, they are regional and rural councils that generally have fewer planning staff and therefore fewer opportunities to delegate to staff.

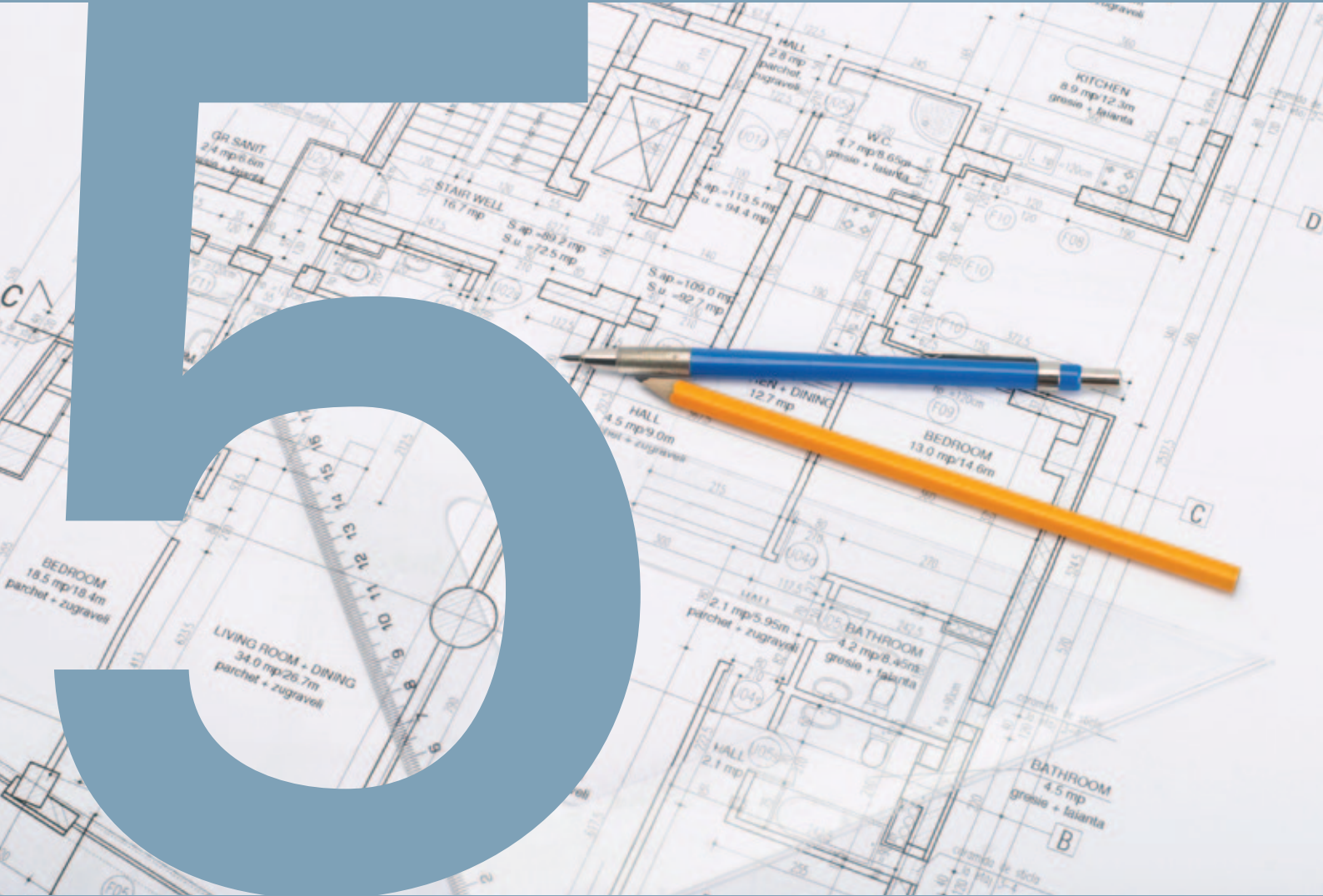
Table 4-12 Ten regional councils with highest percentage of DA determinations by councillors		
Council	Councillors (as % of all DAs determined)	DLG Code
Warren Shire Council	40.7	9
Balranald Shire Council	39.3	9
Hay Shire Council	31.6	9
Murray Shire Council	23.5	10
Junee Shire Council	23.5	10
Gundagai Shire Council	21.3	9
Uralla Shire Council	19.3	10
Parkes Shire Council	18.8	11
Boorowa Council	18.2	9
Wentworth Shire Council	17	10



Table 4-13 shows the Sydney region councils with the highest proportion of determinations by councillors. It is interesting to note that councils with the highest percentage of determinations also have some of the longest times for DAs determinations.

Table 4-13 Ten Sydney region councils with highest percentage of determinations by councillors		
Council	Councillors (as % of all DAs determined)	DLG Code
Botany Bay City Council	35.4	2
Leichhardt Municipal Council	30.1	2
North Sydney Council	25.6	2
Hunters Hill Municipal Council	21.2	2
Ashfield Municipal Council	18.1	2
Waverley Council	14.8	2
Randwick City Council	14.6	3
Woollahra Municipal Council	14.4	2
Parramatta City Council	14	3
Strathfield Municipal Council	11.8	2





chapter 5 staffing

Summary table - Council Staffing		
2011-12		2010-11
1,059	Total EFT positions in development assessment reported across the State	1,104
56	development determinations on average made per full time equivalent staff member	62
13	councils recorded an average number of development determinations per full time equivalent staff of more than 100	17
55	councils recorded an average number of development determinations per full time equivalent staff of less than 40	46

5.1 Statewide Trends

Table 5-1: Statewide council staffing summary	2011-12	2010-11
Total EFTs	1,059	1,104
Total DA determinations	58,975	68,025
Number of DAs determined per EFT	56	62
Number of reporting councils	152	152

Councils are asked to report on the total number of staff involved in development assessment and determination. This includes planners, managers and other staff directly involved in assessment work, but excludes administrative staff and consultants.

In 2011-12, there was a drop in the number of DA determinations by 13.3% from 68,025 to 58,975 compared to 2010-11. Likewise, the average number of DAs per EFT staff between 2010-11 and 2011-12 fell by nearly 9.7% from 62 to 56 and the total EFT staff decreased by 4.2% from 1,104 to 1,059.

5.2 Council Trends

The average number of DAs determined per EFT DA staff varied significantly across the state; the averages in urban and rural councils are 56 and 35 respectively.

Table 5-2 below highlights the councils with the highest numbers of DAs determined per EFT DA staff in 2011-12.

Table 5-2: 20 Councils with the highest number of Development Applications determined per full time DA staff equivalent			
Name	Average DAs determined per EFT	Actual Number of DAs	EFT DA Staff
Narrabri Shire Council	214	107	0.5
Port Macquarie-Hastings Council	158	631	4
Corowa Shire Council	155	272	1.75
Cabonne Shire Council	146	146	1
Port Stephens Council	139	835	6
Walcha Council	130	39	0.3
Maitland City Council	128	1,219	9.5
Kempsey Shire Council	113	270	2.4
The City of Newcastle Council	111	1,442	13
Armidale Dumaresq Council	107	193	1.8
Coffs Harbour City Council	106	847	8
Blacktown City Council	103	2,166	21
Inverell Shire Council	101	152	1.5
Wollondilly Shire Council	100	709	7.1
Eurobodalla Shire Council	99	691	7
Young Shire Council	96	241	2.5
Campbelltown City Council	93	626	6.7
Palerang Council	93	327	3.5
Penrith City Council	93	1,208	13

Table 5-2: 20 Councils with the highest number of Development Applications determined per full time DA staff equivalent

Name	Average DAs determined per EFT	Actual Number of DAs	EFT DA Staff
Warringah Council	93	1,444	15.6

Rural councils that recorded high average number of DAs determined per EFT staff are generally due to the very low number of EFT staff, such as Narrabri (0.5 EFT) and Corowa (1.75 EFT staff).

Narrabri continued to be the council with the highest number of DAs determined per EFT since 2010-11, although the average number of DAs determined per EFT reduced considerably by 60.7% (from 545 to 214 DAs per EFT) with increased EFT from 0.2 to 0.5. Corowa remained similar to 2010-11 with 155 DAs per EFT and 1.75 EFT staff in 2011-12.

Urban councils generally recorded high averages, particularly those with considerably high actual number of DAs, such as Port Macquarie-Hastings (158 DAs per EFT and a total 631 DAs) and Port Stephens (139 DAs per EFT and a total 835 DAs). Maitland, Newcastle, Penrith and Warringah are councils with averages of 93 to 128 DAs per EFT with more than 1,000 DAs and Blacktown council had an average 103 DAs per EFT with more than 2,000 DAs.

Councils with the lowest average number of DAs determined per EFT in 2011-12 are generally rural local government areas with fewer actual DAs determined and no more than 5 EFT staff.

Figure 16 shows the ten councils throughout NSW that recorded the highest number of EFT positions directed to development assessment and their actual number of DAs determined. These councils ranged from capital city, metropolitan urban centres, regional centres, coastal areas and major land release areas for dwelling production. There appears no direct correlation between the number of development assessment staff and the volume, value and determination time of DAs. A variety of factors may explain these variations, including administrative efficiencies, development assessment controls and systems and the complexity of projects being considered.

Figure 16: Councils with the highest actual EFTs in 2011-12

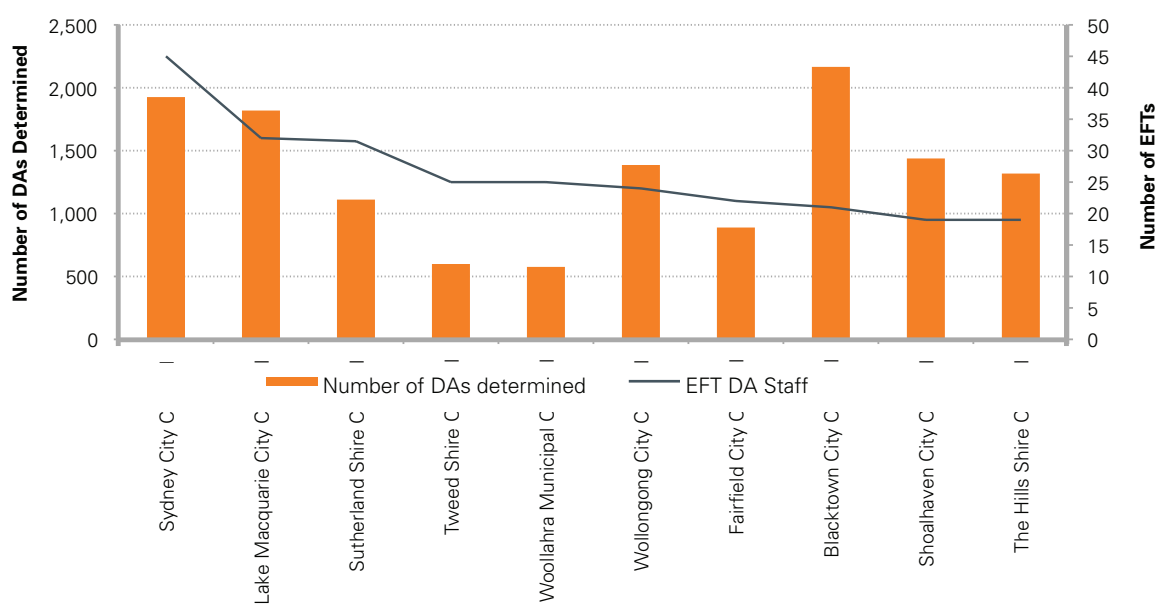


Table 5-3 shows number of DAs determined per EFT for councils with the highest mean gross determination time in 2011-12. A high number of DAs per EFT generally results in a higher average DA determination time. However, **Table 5-3** shows that other factors are also influencing higher determination times. These factors include complexity of DAs, neighbour comments on DAs and DA backlogs.

Wentworth Shire Council had a mean gross determination time of 183 days, amongst the lowest EFT count in the state (2 EFTs) and relatively high average number of DAs per EFT (88 DAs per EFT).

Table 5-3: Ten Councils with the highest determination times by staff to DA ratio				
Name	Mean Gross DA determination time	Average DAs per EFT	DAs determined	EFTs
Wentworth Shire Council	183	88	176	2
Hawkesbury City Council	163	91	182	2
Kyogle Council	149	17	84	5
Botany Bay City Council	136	21	181	8.5
Greater Taree City Council	127	72	431	6
Lithgow City Council	126	50	250	5
Hurstville City Council	117	41	408	10
Yass Valley Council	111	39	308	8
Willoughby City Council	111	28	527	18.6
Mosman Municipal Council	109	43	274	6.35



Councils that recorded the greatest increase in EFT staff for development assessment compared with 2010-11 were:

- Tweed Shire Council increased 6 EFTs from 19 to 25,
- Wagga Wagga City Council increased 6 EFTs from 9 to 15,
- Camden Council increased 5 EFTs from 10 to 15, and
- Liverpool City Council increased 4 EFTs from 10 to 14.

Councils that recorded the biggest falls in EFT staff for development assessment compared with 2010-11 were:

- Lake Macquarie Council reduced 8 EFTs from 40 to 32,
- Campbelltown City Council reduced 6.8 EFTs from 13.5 to 6.7,
- Warringah Council reduced 6.4 EFTs from 22 to 15.6, and
- Ku-ring-gai Council reduced 5.5 EFTs from 22 to 16.5.

Lake Macquarie experienced the greatest EFT staff adjustment, which swung from 28 to 40 for 2010-11 (increase of 12), then dropped back to 32 in 2011-12 (8 reduction).

Source Data Table 5-4 at the end of this report shows the data on staffing for all councils.



chapter 6
reviews and
appeals

Summary table - Reviews and Appeals 2011-12		
2011-12		2010-11
626	s82A reviews undertaken by reporting councils (64 councils in 2011-12)	564
70	% s82A reviews approved by councils on review	74
18	% s82A reviews refused by councils on review	17
403	Class 1 appeals determined in the Land and Environment Court (61 councils in 2011-12)	386
28	% of Class 1 appeals upheld	24

An applicant that is dissatisfied with a decision by council on a development application (DA) or application to modify a development consent (s96) can, under certain circumstances, ask for the decision to be reviewed by the council under section 82A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), so called s82A review, or appeal the matter through the Land and Environment Court (LEC) under the *Land and Environment Court Act 1979*.

S82A Review

Following commencement of the *Planning Appeals Legislation Amendment Act 2010* (PALA) on 28 February 2011, s82A review has been expanded and three classes of internal review are available, as follows:

- reviews of DAs rejected due to inadequate information when lodged with council (s82B of the EP&A Act);
- reviews of DA determinations (s82A of the EP&A Act); and
- reviews of modification determinations (s96AB of the EP&A Act).

S82A review does not apply to complying development certificates (CDC), designated development, integrated development, deemed refusal, Crown DA and determinations made by a regional panel. S96AB review does not apply to modification relating to minor error, misdescription or miscalculation, as well as CDC, designated development, integrated development, Crown DA, deemed refusal and determinations made by a regional panel.

Land and Environment Court Merit Appeal

Alternatively, the applicant can appeal against a council decision to the LEC. Appeals can be made when:

- the application is refused;
- the conditions of consent are disputed; or
- the application has not been determined in the deemed refusal period as prescribed in the *Environmental Planning and Assessment Regulation 2010* (EP&A Regulation).

Excluded:

- decisions on CDC;
- decisions made by the Planning and Assessment Commission (PAC) if the decision was made after a public hearing; and
- decisions on designated development made by any determining authority if the decision was made after a public hearing by the PAC.

Part 3 of the *Land and Environment Court Act 1979* allows the LEC to hear and dispose a range of matters. The court's jurisdiction is divided into the following classes.

- Class 1 - Environmental planning and protection appeals.
- Class 2 - Local government and miscellaneous appeals and applications.
- Class 3 - Land tenure, valuation, rating and compensation matters.
- Class 4 - Environmental planning and protection and development contract civil enforcement.
- Class 5 - Environmental planning and protection criminal enforcement.
- Class 6 - Appeals from convictions relating to environmental offences.
- Class 7 - Other appeals relating to environmental offences.
- Class 8 - Mining matters.

In addition, the objector/third party who made a submission objecting to a DA during the public exhibition period can bring a merits appeal against a decision to approve designated development. There is no merits appeal right available if the DA is not classified as designated development or if a public hearing has been held by the PAC.

The implementation of the mandatory conciliation-arbitration scheme in the LEC allows for faster and less costly appeals. The scheme applies to appeals for small scale residential development. The main objective of the new procedure is to "provide quick, just and cost effective appeals and reviews for users of the planning system"¹.



¹ Minister's Second Reading Speech, Hansard 11/11/2010

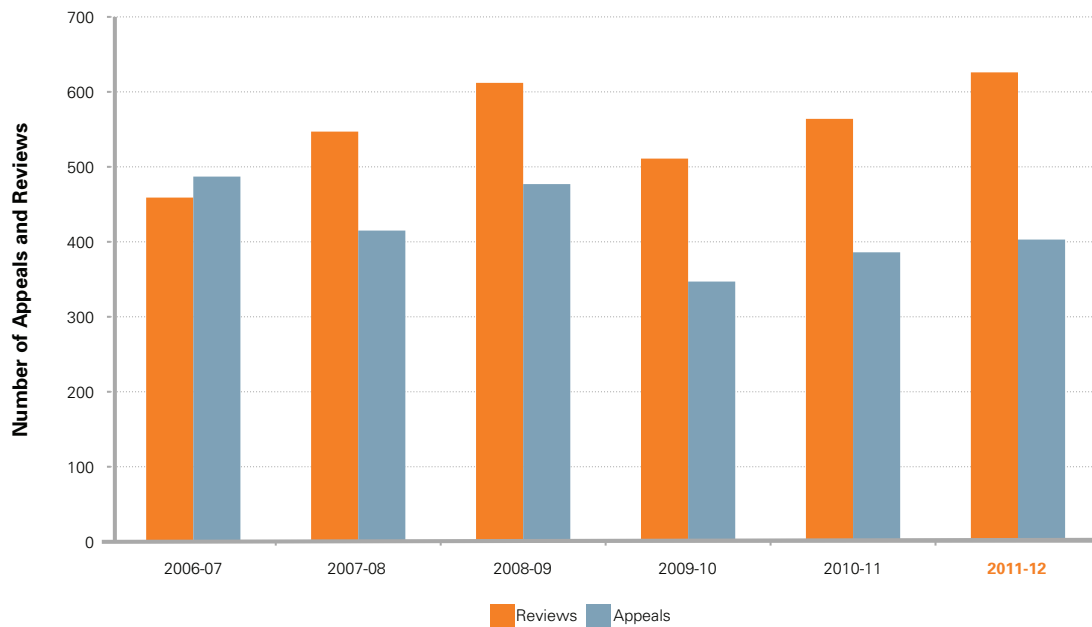
6.1 Statewide Trends

Only a very small number of DAs and s96 applications were contested through the formal review or appeal process (Table 6-1).

Six hundred and twenty six (626) s82A reviews were reported as being determined in 2011-12 compared with 564 in 2010-11. Four hundred and three (403) Class 1 appeals were reported compared with 386 in 2010-11. Class 1 appeals are generally appeals against a council planning decision and are determined on the merits of the development proposal, rather than on legal issues, by the LEC.

Figure 17 shows that since 2007-08, there were more reviews by councils each year than appeals (Class 1) through the LEC.

Figure 17: Number of Reviews compared with Class 1 Legal Appeals 2006-07 to 2011-12



The numbers of completed s82A reviews and Class 1 appeals for 2011-12 increased 11% and 4.4% respectively, compared to 2010-11.

It is too early to determine if the changes to the planning appeals legislation in February 2011, including new rights to s82A reviews, a new conciliation-arbitration scheme for small scale residential development appeals, reduced statutory limitation period for merit appeals and lower cost to amend plans during the proceedings, have any influence on the number of reviews and appeals lodged.

Table 6-1: Statewide s82A and legal appeals summary 2011-12		
s82A Reviews (based on 64 reporting councils)	2011-12	2010-11
Number of s82A reviews	626	564
s82A reviews as % of DA determinations (note 2)	1.1	0.8
% s82A appeals approved on review	70	74
% s82A appeals refused on review	18	17
% s82A appeals withdrawn/cancelled on review	10	7
% s82A appeals rejected on review	1.3	1.2
Legal Appeals (based on 62 reporting councils)		
Number of legal appeals	423	406
Legal appeals as % of DA determinations (note 3)	0.72	0.6
Class 1 appeals		
Number of Class 1 legal appeals	403	386
Class 1 legal appeals as % of DA determinations (note 3)	0.68	0.57
% of appeals were upheld	28	24
% of appeals withdrawn or dismissed	37	42
Number of appeals brought by developer	399	378
% of developer appeals upheld	28	24
% of developer appeals upheld with amended plans	19	19
% of developer appeals with consent orders	17	15
% of developer appeals withdrawn or dismissed	37	42
Number of appeals brought by third party/objector	3	4
% of appeals brought by third party/objector that were upheld	0	50
% of appeals brought by third party/objector that were given consent orders with amended plans	33	-
% of appeals brought by third party/objector that were withdrawn or dismissed	67	25
Other proceedings		
Number of Class 4 proceedings	20	16
Number of Class 5 proceedings	0	0
Number of Supreme Court proceedings	0	4

Notes

1. Some applicants seek both a s82A review and legal appeal for the same development application.
2. S82A reviews include reviews of DAs determined before 2011-12. Therefore, reviews as % of determinations is only indicative.
3. Legal appeals include appeals of DAs determined before 2011-12. Therefore, appeals as % of determinations is only indicative. Appeal outcomes include upheld, upheld with amended plans, dismissed, withdrawn and consent orders.

Table 6-1 shows that most s82A reviews (70%) were approved, although there was a 4% absolute decrease from previous years. An approved s82A review means that the council changed its original determination in favour of the applicant's review application (e.g. the applicant can request a review of a refused consent or a review of conditions of consent).



Table 6-2: Statewide S82A/legal appeals comparison with 2010-11

	2011-12	2010-11
S82A reviews		
Number of s82A reviews	626	564
Number of reporting councils	64	59
Legal Appeals		
Number of Class 1 legal appeals	403	386
Legal appeals as % of DA determinations	0.7	0.6
Number of reporting councils	62	63

37% of Class 1 appeals brought by developers against a council decision were withdrawn or dismissed in favour of the council, a 5% decrease compared with 2010-11.

47% of appeals by developers were approved by the court, however only 28% were upheld in favour of the developer without any changes to the proposed development.

The LEC and councils have over recent years put greater emphasis on the resolution of matters before the court by way of conciliation. 19% of appeals brought by developers were upheld in favour of the developer after the original development proposal was amended to address the issues raised by the council. In addition, 17% of appeals resulted in consent being issued by agreement by the parties.

A high proportion of Class 1 appeals by an objector/third party were withdrawn or dismissed, though they were only 0.7% of all Class 1 appeals (3 appeals).

Class 4 and Class 5 proceedings are civil and criminal enforcement proceedings in response to allegations of unlawful activity, to remedy or restrain a breach or of any other act if it is likely to cause environmental harm.

The number of Class 4 proceedings involving councils represented only a small proportion of the number of appeals in 2011-12: 4.7% of the appeals. There were no Class 5 appeals recorded in 2011-12. It should be noted that councils have powers to enforce environmental planning law that do not involve court actions, such as the issue of fines. Class 4 and 5 legal proceedings may only need to be taken as matters of last resort.

6.2 Council Trends

Councils that reported the highest number of s82A reviews are shown in **Table 6-3**. The majority of DAs subsequently reviewed were approved in these council areas.

Table 6-3: Section 82A reviews - councils with most reviews 2011-12					
Council	Total s82A reviews (100%)	Number of reviews approved	% of reviews approved	Number of reviews refused	Number of other outcomes
Warringah Council	82	71	87	7	4
City of Sydney Council	78	50	64	23	5
Marrickville Council	58	49	84	4	5
Sutherland Shire Council	38	24	63	7	7
Wollongong City Council	31	23	74	1	7
Holroyd City Council	29	25	86	2	2
Gosford City Council	26	14	54	6	6
Waverley Council	23	13	57	7	3
Leichhardt Municipal Council	21	14	67	5	2
Ku-ring-gai Council	17	10	59	2	5
Kiama Municipal Council	14	14	100	0	0

Similar to last year, councils with the highest number of legal appeals in 2011-12 were City of Sydney, Ku-ring-gai and Waverley councils as shown in **Table 6-4**.



Table 6-4: Legal appeals - councils with most Class 1 appeals 2011-12

Council	Legal appeals
City of Sydney	44
Ku-ring-gai Council	36
Waverley Council	32
Leichhardt Municipal Council	25
Hurstville City Council	15
Randwick City Council	14
Parramatta City Council	14
Manly Council	14
Marrickville Council	11
Warringah Council	11
Sutherland Shire Council	10

Of the councils with the highest number of determined Class 1 appeals, City of Sydney, Warringah and Sutherland recorded a reduction in the number of appeals compared with 2010-11, by 17%, 39% and 17% respectively.

City of Sydney's appeals reduced by 17%, from 53 appeals in 2010-11 to 44 appeals in 2011-12. This is despite the fact that it had the highest number of Class 1 appeals in 2011-12 and it has been in the top six of the list since 2006-07.

Amongst the highest number of determined Class 1 appeals, Waverley, Leichhardt, Hurstville, Manly and Marrickville councils considerably increased the number of appeals from 2010-11.

Some councils have made efforts to reduce appeal activity during the year. Woollahra Council reported the highest number of Class 1 appeals in 2008-09 (57 appeals). Their appeals fell by three quarters to 15 appeals in 2010-11 and further dropped to only 9 appeals in 2011-12.

Source Data **Tables 6-5** and **6-6** at the end of this report show the data on s82A reviews and legal appeals for all councils.



chapter 7

other certificates

Summary table - Other Certificates 2011-12		
2011-12		2010-11
48,981	Construction certificates issued state-wide (52% issued by councils in 2011-12)	56,213
48,848	Occupation certificates issued statewide (52% issued by councils in 2011-12)	49,161
3,630	Subdivision certificates issued statewide	4,136
820	Strata certificates issued statewide	949

7.1 Statewide Trends

After development consent has been granted, further approvals may still be required depending on the type of works involved in carrying out the proposed development.

Post-development consent certificates provide an indication of construction activity as not all planning approvals actually result in building and construction works. In addition, these work commencements may be delayed for up to five years after the development has received planning approval.

Generally, construction certificates (which are required before construction can commence to certify that the plans comply with the development consent and with any relevant standards) are required more often than occupation certificates (confirms that the building complies with the development consent and is capable of being occupied or used in accordance with its building classification). For development that relates to creation of a new parcel of land or subdivision or arrangement of an existing parcel of land, a subdivision certificate or strata certificate is required (depending on the type and purpose of the plan) for the new plan to be registered in the Land & Property Information Division (LPI). CDC approvals do not require a separate Construction Certificate, as the CDC is a combined planning and construction approval.

Table 7-1 details the number of construction, occupation, subdivision and strata certificates issued in 2011-12 and 2010-11, and the number of reporting councils.

Table 7-1: Statewide other certificates summary				
Numbers of certificates issued	2011-12	Number of Local Government Areas	2010-11	Number of Local Government Areas
Construction	48,981	152	56,213	151
Occupation	48,848	148	49,161	145
Subdivision	3,630	144	4,136	142
Strata	820	83	949	86

Figure 18: Total number of certificates issued by councils and private certifiers 2006-07 to 2011-12

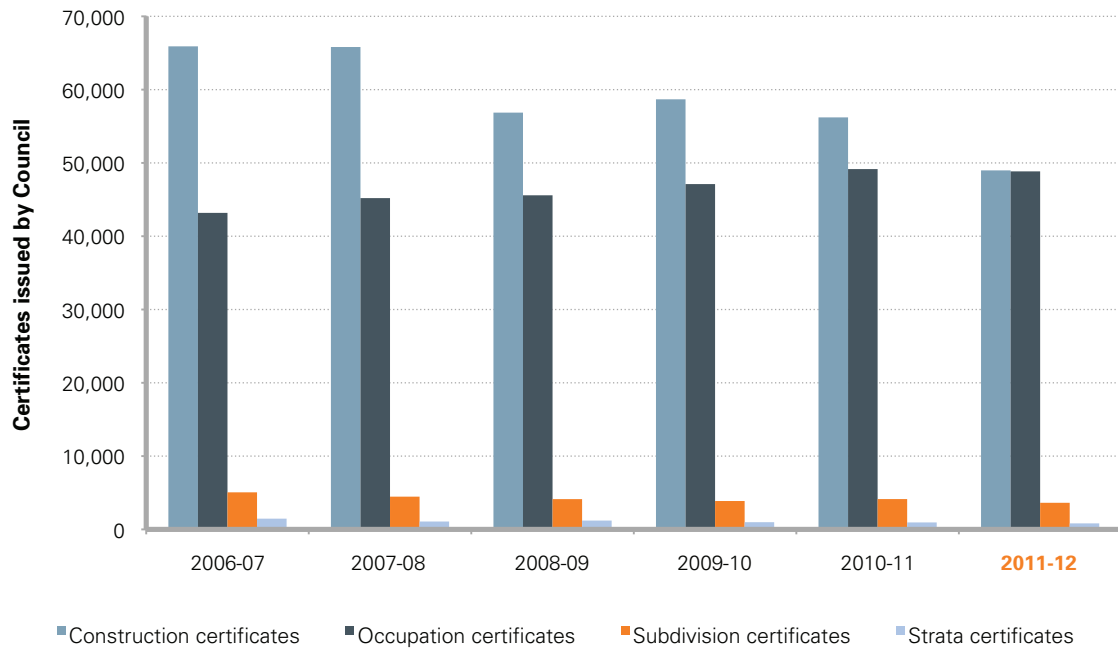


Figure 18 shows that the number of construction certificates issued was lower than previous years. The number of construction certificates dropped from 65,907 in 2006-2007 to 48,981 in 2011-12, despite a slight increase in 2009-10. The number of construction certificates fell by 13% in 2011-12 compared with 2010-11.

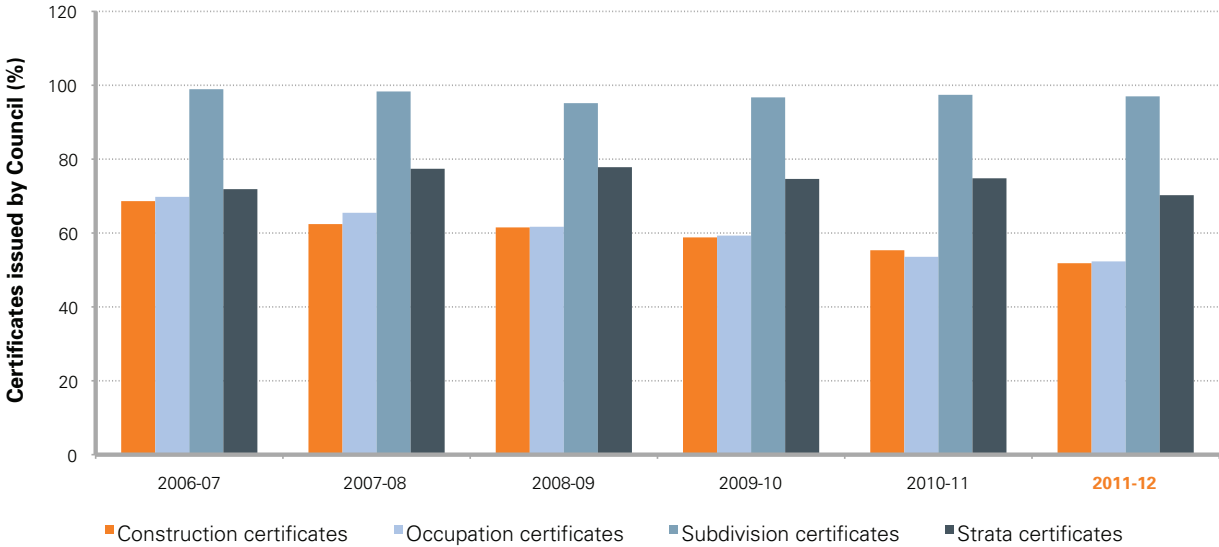
The number of occupation, subdivision and strata certificates issued also decreased in 2011-12 compared with 2010-11 (down by 1%, 12% and 14% respectively).

	Councils	%	Private	%	Total
Construction	25,385	52	23,596	48	48,981
Occupation	25,557	52	23,291	48	48,848
Subdivision	3,521	97	109	3	3,630
Strata	576	70	244	30	820

While councils still issue the majority of certificates statewide, the proportion of construction certificates issued by private certifiers continued to increase from 38% of construction certificates in 2008-09 to 48% in 2011-12. A similar trend is shown for occupation certificates with 48% issued by private certifiers in 2011-12.

The proportion of strata certificates issued by private certifiers gradually increased from 22% in 2008-09, to 25% in 2009-10 and 2010-11, and to 30% in 2011-12.

Figure 19: Percentage of certificates issued by Councils 2006-07 to 2011-12



7.2 Council Trends

Table 7-3 shows the ten councils across the State that issued the highest number of construction certificates in 2011-12 and their results for 2010-11. The councils in the top ten list are very similar to those for 2010-11, representing capital city, regional cities, major centres and release areas.

Since 2006-07, both Blacktown and Lake Macquarie have been in the top three and City of Sydney in the top six council areas with the highest number of construction certificates. Council areas that appear on the list for 2011-12 but not in 2010-11 include Penrith and Liverpool.

Council	2011-12	2010-11
Blacktown	2,020	2,091
City of Sydney	1,966	1,761
Lake Macquarie	1,704	2,005
Shoalhaven	1,245	1,380
The Hills	1,194	1,561
Maitland	1,163	1,162
Penrith	1,127	1,006
Newcastle	1,121	1,528
Camden	1,014	1,154
Liverpool	1,010	1,075

In the previous two years, 8 out of 10 council areas on the top ten highest numbers of construction certificates list had more construction certificates issued by council than by private certifiers, except in City of Sydney and The Hills.

For 2011-12, the proportion of council and private certifier issued certificates changed noticeably. Most of the council areas on the top ten list (7 out of 10) had more construction certificates issued by private certifiers than councils.

In particular, private certifiers issued 88% of construction certificates in the City of Sydney council area (compared with 78% in 2010-11). The high proportion of commercial development in the City of Sydney council area is likely to account for this.

Table 7-4: Ten Local Government Areas with highest numbers of construction certificates - proportion of council and private certifier issued certificates

Council	Council	%	Private	%	Total
Blacktown	1,303	65	717	35	2,020
City of Sydney	242	12	1,724	88	1,966
Lake Macquarie	835	49	869	51	1,704
Shoalhaven	748	60	497	40	1,245
The Hills	569	48	625	52	1,194
Maitland	664	57	499	43	1,163
Penrith	362	32	765	68	1,127
Newcastle	521	46	600	54	1,121
Camden	488	48	526	52	1,014
Liverpool	492	49	518	51	1,010

Blacktown reported the highest number of construction certificates issued for 2011-12 (2,020). This was a 3% drop from 2010-11.

The council areas with the highest reported numbers of occupation certificates in 2011-12 included Blacktown (2,714), City of Sydney (1,886) and Shoalhaven (1,385).

Source Data **Table 7-5** at the end of this report shows the data on other certificates for all council areas.