



Government Gazette

OF THE STATE OF
NEW SOUTH WALES

Number 32

Wednesday, 11th February 2004

Published under authority by cmSolutions

SPECIAL SUPPLEMENT

LOCAL GOVERNMENT ACT 1993 – PROCLAMATION

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of Part 1 of Chapter 9 and Part 5 of Chapter 12 of the Local Government Act 1993, do, by this my Proclamation declare that, on 11 February 2004:

- (a) the Areas of Cooma-Monaro, Crookwell, the City of Goulburn, Gunning, Mulwaree, the City of Queanbeyan, Tallaganda, Tumut, Yarrowlumla and Yass are to be amalgamated so as to constitute new Areas having the names of Cooma-Monaro, Eastern Capital City Regional, Greater Argyle, Greater Queanbeyan City, Tumut, Upper Lachlan and Yass Valley and as described in Schedules A to G;
- (b) the provisions set out in Schedules A to G to this Proclamation are to apply on 11 February 2004 (unless another date is stated), to the new Areas effected by this Proclamation;
- (c) the Order published in Government Gazette No.1 of 2 January 2004 postponing the elections for the former Areas of Crookwell and Gunning is revoked; and
- (d) the Proclamations in force constituting or varying the constitution of the Southern Slopes County Council are amended in accordance with Schedule G.

Signed and sealed at Sydney, this 11th day of February 2004.

By Her Excellency's Command,

ANTHONY KELLY, M.L.C.,
Minister for Local Government

GOD SAVE THE QUEEN!

Schedule A

Land included in the Cooma-Monaro Local Government Area

Area about 5,421.03 square kilometres. Commencing at the confluence of the Murrumbidgee River and Black's Creek; and bounded thence by that creek upwards to the road from Kiandra to Cooma; by that road generally easterly to the generally western boundary of the parish of Cooma, county of Beresford; by part of that boundary generally northerly to the north-western corner of portion 136; by a line west for a distance of 10 chains; by a line north to a point west of the south western corner of portion 338; by a line east to Cooma Creek; by that creek downwards to the north-eastern corner of portion 91, parish of Binjura; by a line along the eastern boundary of that portion southerly to the northern boundary of portion 330, parish of Cooma; by part of that boundary, the generally north-eastern boundary of that portion, a line, and part of the generally north-eastern boundary of portion 319, easterly, and generally south-easterly to the north-eastern corner of portion 319; by a line along the north-western boundary, and by the north-eastern boundary of portion 337, and part of the north-eastern boundary of portion 318, north-easterly and south-easterly to its intersection with a line along the western boundaries of portion 336, 335 and 334, by that line and a line along the northern boundary of portion 334, northerly and easterly to the north-western boundary of portion 192, parish of Bunyan; by part of that boundary, the northern and a line along the eastern boundary of that portion and portion 180 of that parish and portion 180, parish of Cooma, north-easterly, easterly and southerly to the northern boundary of portion 296; by part of that boundary westerly to the north-eastern corner of portion 295; by a line along the eastern boundary of portions 295, 305 and 368, southerly to the northern boundary of portion 51; by part of the northern boundary of portion 51, the northern and western boundaries of portion 50, the western and southern boundaries of portion 53, the southern boundary of portion 58 and part of the southern boundary of portion 306, westerly, southerly and easterly to a point north of the north-western corner of portion 314; by a line along the western boundary of that portion southerly to a point east of the north-eastern corner of portion 348; by a line along the northern boundary of that portion, westerly to the road from Cooma to Nimmitabel; by that road south-easterly to the north-western corner of portion 183, parish of Bunyan; by part of the generally western boundary of that parish and the generally western boundary of the parish of Gladstone, generally southerly to the southernmost south-western corner of portion 99 of the said parish of Gladstone; by The Peak and Bobundara Creeks and the Snowy River downwards to the confluence of the Snowy River and Ironmungy Creek; by Ironmungy Creek upwards to the north-western corner of portion 94, parish of Ironmungy, county of Wellesley; by the generally northern boundary of that parish and the parish of Bungee, generally easterly to the Maclaughlin River; by that river upwards to Kings State Highway No. 19; by that highway generally southerly to Native Dog Creek; by that creek upwards to the north-west corner of portion 108, parish of Thoko; by the generally northern boundary of that parish generally easterly to the northernmost north-eastern corner of portion 131; by the range forming the generally eastern boundary of the parish of Glenbog, county of Wellesley, the generally south-eastern boundary of the parish of Winifred, county of Beresford, the generally eastern boundary of the parish of Kydra and the generally south-eastern boundary of the parish of Countigany, county of Dampier, generally north-easterly to a point south of Wadbilliga Trigonometrical Station; by a line north to that Trigonometrical Station; by a line along the north-eastern boundary of the parish of Quinen north-westerly to the Tuross River; by that river downwards to its intersection with a south-western boundary of the Land District of Moruya; by that boundary north-westerly to the generally south-eastern boundary of portion 51, parish of Big Badju, county of Beresford; by the range

forming the generally eastern boundary of that parish, the parishes of Hill and Sherlock, county of Beresford and the parish of Jingera, county of Murray, generally northerly to the generally northern boundary of the said parish of Jinjera; by part of that boundary generally westerly to the south-western corner of portion 113, parish of Bullongong; by part of the generally western boundary of that portion generally northerly for a distance of 11 chains; by a line west to the eastern boundary of portion 205; by part of that boundary and the southern boundary of that portion easterly and westerly to Ballinafad Creek; by that creek downwards to the Queanbeyan River; by that river downwards to Tinderry Creek; by that creek upwards to the generally northern boundary of the Parish of Tantangerang; by part of that boundary, westerly to the generally eastern boundary of Tinderry Nature Reserve, gazetted 23rd January, 1981; by part of that boundary and the generally northern boundary of that reserve, generally northerly and generally westerly to Burra Creek; by that creek, downwards to the eastern prolongation of the southern boundary of Lot 34, DP 248084; by that prolongation, boundary and the southern boundaries of Lots 33, a line, 31, 30, westerly, the southern boundary of Lot 1, DP 839565, westerly and the southern boundaries of Lots 45, 44 and 43, DP 259114, westerly to the ridge dividing the waters of Burra Creek from Deep Creek; by that ridge, generally south-westerly to the source of Deep Creek; by that creek, downwards to the Goulburn – Bombala Railway; by that railway, north-westerly to the generally eastern boundary between the State of New South Wales and the Australian Capital Territory; by that boundary, generally southerly and north-westerly, the north-western boundary of the parish of Yaouk, county of Cowley, the generally north-eastern boundary of the parish of Gunnangora and the generally northern boundary of the parish of Long Plain; generally north-westerly to the Murrumbidgee River; and by that river downwards to the point of commencement.

1 Definitions

In this Schedule:

clause means a clause in this schedule.

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

former Area means any or all of the following:

- that part of the former Area of Cooma-Monaro which, by this Proclamation, is constituted the Cooma-Monaro Council
- that part of the former Area of Yarrowlumla which, by this Proclamation, is constituted the Cooma-Monaro Council

former Council means any of the former Councils Cooma-Monaro or Yarrowlumla.

Minister means the Minister for Local Government.

new Area means the new Area of Cooma-Monaro.

new Council means the Cooma-Monaro Council.

proclamation date means 11 February 2004.

the Act means the Local Government Act 1993.

2 First election

- (1) The date of the first election of the Councillors of the new Council is 1 May 2004.
- (2) Unless otherwise required by the Act or the context, the provisions relating to ordinary elections shall be taken to apply to the first election of the councillors.
- (3) For the purposes of:
 - a) the entitlements of persons to be enrolled as electors for the new Area and to vote at the election, and
 - b) the entitlements of persons to be nominated for election as Councillors for the new Area at the election, and
 - c) the conduct of the election by the State Electoral Commissioner, and
 - d) any other matter relating to the election,

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

3 Administration of new Council for interim period

- (1) For the interim period between 11 February 2004 and the declaration of the first election, one Administrator is appointed and is Mr Tony Kaltoum (former Mayor of the former Cooma-Monaro Council) to direct and control the affairs of the new Council.
- (2) If Mr Tony Kaltoum declines to be appointed as the Administrator, then the Minister may appoint an alternate person as the Administrator.
- (3) The Administrator will be paid \$48,000 per annum on a pro-rata basis for the interim period.
- (4) For the purposes of the Local Government Act 1993, the Administrator does not hold an office or a position of profit under the new Council.

4 Appointment of Acting General Manager

- (1) The Acting General Manager of the new Area shall be Mr Neil Watt (former General Manager of the former Cooma-Monaro Shire Council) for a period of six months commencing from 11 February 2004.

- (2) The General Manager of the new Council is to be confirmed at the first meeting of the new Council after the six month period, or otherwise recruitment processes commenced.

5 Number of Councillors

- (1) The number of Councillors to be elected to the new Council at its first election is nine (9).
- (2) Subclause (1) does not limit the power of the new Council to re-determine, after the first election the number of its Councillors under section 224 of the Act.

6 Ward Structure

- (1) The new Council shall not be divided into wards for the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to obtain approval to divide its Area into wards in accordance with Division 1 of Part 1 of Chapter 9 of the Act.

7 Election of Mayor following the first election

- (1) The Mayor of the new Council is to be elected by the Councillors as referred to in sections 227(a), 282 and 290 (1) (c) of the Act at the new Councils first meeting following the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to determine the basis on which the Mayor attains office in accordance with Division 2 of Part 2 of Chapter 9 of the Act.

8 Appointment of the General Manager and other senior staff

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

9 Activities of former Councils

- (1) Anything that was done or omitted to be done by a former Council and that had effect immediately before the proclamation date continues to have effect as if it had been done or omitted to be done by the new Council.
- (2) Anything that was commenced by a former Council may be completed by the new Council as if it had been commenced by the new Council.

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

10 Delegations

- (1) Any delegation from a former Council that was in force immediately before the proclamation date is taken to be a delegation from the new council and may be revoked or amended accordingly.
- (2) Subclause (1) ceases to have effect when the new Council adopts new delegations under the relevant provisions of the Act.

11 Codes, policies and plans

- (1) The following policy and plan of the new Council are, as far as practicable, to be a composite of the corresponding policies and plans of each of the former Councils:
- a. local policies for approvals and orders (Part 3 of Chapter 7),
 - b. management plan (Part 2 of Chapter 13).
- (2) Each of the following codes, policies and plans of the former Cooma-Monaro Shire Council apply, as far as practicable, to the new Council:
- a. code of conduct (section 440),
 - b. code of meeting practice (Division 1 of Part 2 of Chapter 12),
 - c. expenses and facilities policy (Division 5 of Part 2 of Chapter 9),
 - d. EEO management plan (Part 4 of Chapter 11).
- (3) Subclauses (1) & (2) cease to have effect in relation to a code, policy or plan of the new Council when the new Council adopts a new code, policy or plan under the relevant provisions of the Act.

12 Fees

- (1) The annual fee paid to each Councillor of the new Council and the annual fee paid to the Mayor of the new Council is to be equal to the highest of the corresponding fees paid by the former Councils.
- (2) Subclause (1) ceases to have effect in relation to an annual fee when the new Council fixes the annual fee in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

13 Organisation Structure

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

14 Transfer of Senior Staff

(1) Any position that, immediately before the proclamation date, was a senior staff position of:

- (a) the former Cooma-Monaro Shire Council is transferred to the Council of the Area of Cooma-Monaro.
- (b) the former Yarrawlumla Shire Council is transferred to the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley, or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley and Eastern Capital City Regional.

(2) The senior staff of each former Council are taken to be the senior staff of the new Council as determined with reference to subclause (1).

(3) This clause ceases to have effect when a new organisation structure is determined by the new Council under Part 1 of Chapter 11 of the Act.

15 Transfer of other staff

(1) It is intended that the making of any determinations as to the transfer of staff (other than senior staff) by virtue of the constitution of the new Area made in this Proclamation is to be in accordance with this clause:

- (a) each member of staff of the former Cooma-Monaro Shire Council (a transferred staff member) is transferred to the Council of the Area of Cooma-Monaro.
- (b) each member of staff of the former Yarrawlumla Shire Council (a transferred staff member) is transferred to a new Council of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley or Eastern Capital City Regional as determined by agreement between the new Councils of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley and Eastern Capital City Regional.

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

16 Additional employment protection

- (1) For the period between 11 February 2004 and 1 May 2004 staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission may not be unreasonably based outside the general locality in which they were based immediately before the transfer without their approval.
- (2) For the period between 11 February 2004 and 1 May 2004, no staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission are to be made redundant without their approval.

17 Transfer of assets, rights and liabilities

- (1) The assets, rights and liabilities of:
 - a. The former Cooma-Monaro Shire Council are transferred to the new Council of the Area of Cooma-Monaro
 - b. The former Yarrawlumla Shire Council are transferred to the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley, or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley and Eastern Capital City Regional.
- (2) The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclause (1):
 - a. The assets of the former Councils vest in the new Council by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
 - b. The rights or liabilities of the former Councils become, by virtue of this clause, the rights and liabilities of the new Council,
 - c. All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Councils or a predecessor of any of the former Councils, and pending immediately before the transfer, are taken to be proceedings pending by or against the new Council,
 - d. Any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Councils or a predecessor of any of the former Councils is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Council.
 - e. Anything that was commenced by a former Council and uncompleted at the proclamation date may be completed by the new Council as if it had been commenced by the new Council. This includes but is not limited to any application for approval or consent under the Act or any other Act.

- f. In so doing, the new Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the relevant former Council, until such time as the new Council makes a new code, policy or plan in relation to that matter in accordance with the Act or any other Act.
 - g. Anything that was done by a former Council, and that had effect immediately before the proclamation date, or that was commenced by a former Council and completed by the new Council as a result of this Proclamation, continues to have effect and may be enforced by the new Council as if it had been done by the new Council.
 - h. Without limiting subclause (2)(g) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect and for all the purposes of the Act or any other Act shall be deemed to have been given or made by the new Council.
 - i. Any decision of the Land and Environment Court in an appeal from a decision of a former Council determined by the Court after the proclamation date shall be deemed to be a decision of the new Council.
- (3) During the transitional period no arrangements, without agreement between the new Council and the Minister, are to be entered into in relation to:
- a. the sale or purchase of property or of any assets involving an amount exceeding \$20,000
 - b. the leasing of property for a period exceeding five years
 - c. entering into new contracts for works involving an amount exceeding \$100,000
 - d. varying any budget allocation for any function.

(4) In this clause:

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

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

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

18 General provisions with respect to transfers

- (1) A transfer affected by this Schedule takes effect on the proclamation date.
- (2) The Minister may, by notice in writing, confirm a transfer affected by this Schedule.
- (3) Such a notice is conclusive evidence of the transfer.

19 Effect of transfer on third party rights

- (1) The operation of clause 17 (Transfer of assets, rights and liabilities) is not to be regarded:
 - a. As an event of default under any contract or other instrument, or
 - b. As a breach of contract or confidence or otherwise as a civil wrong, or
 - c. As a breach of contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - d. As giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (2) No attornment to the new Council by a lessee from a former Council is required in relation to a transfer affected by clause 17.
- (3) No compensation is payable to any person or body in connection with a transfer affected by clause 17.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between a former Council and that person or body.

20 Reports and reviews of the new Council

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

21 Auditor

The Auditor, Auswild Boyce & Co. will be the Auditor of the new Council unless the Council appoints another Auditor in accordance with Division 3 of Part 3 of Chapter 13 of the Act.

22 References to former Areas and Councils

In any Act, in any instrument made under any Act or in any document of any kind:

- (1) A reference to any of the former Areas, or to a predecessor of any of the former Areas, is taken to include a reference to the new Area and is to be read as a reference to the new Area, and
- (2) A reference to any of the former Councils, or to a predecessor of any of the former Councils, is to be taken as a reference to the new Council and is to be read as a reference to the new Council.

23 Rating Structures

- (1) The new Council's maximum general income for 2004/05 is to be determined by estimating the proportionate amount of general income for 2003/04 from land in the former Areas of Cooma-Monaro and Yarrowlumla included in the new Area.
- (2) The new Council is to determine its rating structure taking into consideration subclause (1).
- (3) The rating structure is to be reviewed within the first term of the new Council.

24 Matters to be determined by Minister

- (1) In order to give effect to this Proclamation, the Minister may determine from time to time any matter or thing, including, without limitation, the content of the matters set out in clause 11 (1).
- (2) In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by the new Council.
- (3) The Minister may also determine any matter or thing that has not been referred to him by a new Council if the Minister concludes that the matter or thing cannot be determined by agreement between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro or Tumut, or if the Minister is not satisfied with any agreement reached between the aforementioned new Councils, including in relation to subclauses (2) and (4) herein.
- (4) A matter to be determined by the Minister shall be referred to the Director General, and/or another person or persons nominated by the Minister, for advice and recommendation, as appropriate.
- (5) The Director General and/or another person or persons nominated by the Minister, shall, if required by the Minister, convene a meeting between the affected new Councils listed in subclause (3) to assist in the determination of the matter.

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

25 Statement of Intent

- (1) The Minister will consider an application made by the new Council for a Special Variation to increase its General Income.
- (2) There will be meaningful cooperation between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro and Tumut in the sharing of information and agreement of all matters necessary to facilitate the provisions of this Proclamation.
- (3) The new Council should give consideration to establishing precinct areas and committees, which have defined roles and responsibilities.
- (4) The Councillors of the new Council are to consider operating under the basis of portfolio responsibilities and are to exercise community leadership for the whole local government area as set out in the Act.

Schedule B

Land included in the Eastern Capital City Regional Local Government Area

Area about 5,144.47 square kilometres. Commencing at the intersection of the boundary between the State of New South Wales and the Australian Capital Territory and the Federal Highway; and bounded thence by that highway, generally north-easterly to the range forming the eastern watershed of Collector Creek; by that range and the Great Dividing range, generally southerly to the road from Bugendore to Goulburn; by that road northeasterly, the road forming the northern boundary of Portion 212, Parish of Merigan, the northern and an eastern boundary of Portion 213, a northern and a western boundary of Portion 282 easterly, southerly, again easterly and northerly to the southernmost generally southern boundary of Lot 1, D.P. 564552; by part of that boundary and part of the westernmost eastern boundary of Portion 294 and its prolongation generally easterly and northerly to the road forming the northernmost boundary of the lastmentioned portion; by that road easterly to the western boundary of the Goulburn to Bombala Railway Lands; by part of that boundary northerly to the western prolongation of the northern boundary of Portion 130; by that prolongation and boundary easterly to the road from Bungendore to Bungonia; by that road northeasterly of the range forming the eastern watershed of Merigan Creek; by that range generally northerly and a ridge within Portion 142 and its continuation generally southeasterly to Boro Creek; by that creek downwards to the eastern boundary of Portion 67; by part of the generally northeastern boundary of the Parish of Merigan generally southeasterly to Boro Creek of the western boundary of Portion 84, parish of Mulwaree, County of Argyle; again by Boro Creek and Shoalhaven River downwards to the confluence of Endrick River; by that river upwards, by the northern and eastern boundaries of portion 27 and the eastern boundary of portion 26, Parish of Corang, County of St. Vincent, to the western boundary of the lands district of Milton; by that boundary southerly to Mount Budawang; by the eastern boundaries of the parishes of Budawang and Monga, County of St. Vincent, portions 1 and 2 and the eastern boundary of the latter parish southerly to the western boundary of the land district of Moruya, at Sugarloaf Mountain; by that boundary southerly to the eastern boundary of the county of Beresford at Big Badja; by that boundary northerly to the eastern boundary of the Parish of Jinjera, County of Murray; by that boundary and the generally northern boundary of that parish, northerly and generally westerly to the generally western boundary of Lot 113, DP 754870; by part of that boundary northerly to a point east of a point approximately 110 metres south of the north-eastern corner of Lot 1, DP 597911; by a line westerly to that point; by part of the eastern and southern boundaries of that lot and its prolongation, southerly and westerly to Ballinafad Creek and by that creek and Queanbeyan River, downwards and Tinderry Creek, upwards to the generally northern boundary of the Parish of Tantangeria; by part of that boundary, westerly to the generally eastern boundary of Tinderry Nature Reserve, gazetted 23rd January, 1981; by part of that boundary and the generally northern boundary of that reserve, generally northerly and generally westerly to Burra Creek; by that creek, downwards to the eastern prolongation of the southern boundary of Lot 34, DP 248084; by that prolongation, boundary and the southern boundaries of Lots 33, a line, 31, 30, westerly, the southern boundary of Lot 1, DP 839565, westerly and the southern boundaries of Lots 45, 44 and 43, DP 259114, westerly to the ridge dividing the waters of Burra Creek from Deep Creek; by that ridge, generally south-westerly to the source of Deep Creek; by that creek, downwards to the Goulburn – Bombala Railway; by that railway, north-westerly to the generally eastern boundary between the State of New South Wales and the Australian Capital Territory; by that boundary, generally northerly to the western prolongation of the southern boundary of Lot 1, DP 576452; by that prolongation and boundary easterly, the

southern and part of the eastern boundaries of Lot 186, DP 754871 easterly and northerly, the southern boundary of Lot B, DP 163491 easterly to the left bank of Jerrabomberra Creek; by that bank downwards to the western prolongation of the southern boundary of Lot 37, DP 754871; by that prolongation and boundary easterly, the southern and eastern boundaries of Lot 181, DP 754871 easterly and northerly, part of the southern, the eastern and the northernmost northern boundary of Lot 6, DP 754871 easterly, northerly and westerly, part of the northern boundary of Lot 5, DP 754871 westerly, the southern prolongation of the eastern boundary of Lot 4, DP 754871 and that boundary northerly, part of the southern and the eastern boundaries of Lot 203, DP 754871 easterly and northerly, part of the southern and the western boundaries of Lot 7001, DP 1027109 easterly and northerly, part of the western boundary of Lot 19, DP 270317 northerly, the western prolongation of the generally southern boundary of Lot 49, DP 270317 and that boundary easterly, the generally western boundary of Lot 49, DP 270317 and its prolongation generally northerly, part of the southern and part of the eastern boundaries of Lot Pt 48, DP 754881 easterly and northerly, the generally southern boundary of Lot 5, DP 867223 generally easterly, the southern and part of the generally eastern boundaries of Lot 9, DP 255493 easterly and generally northerly, part of the generally western, the generally north-western and the generally north-eastern boundaries of Lot 7, DP 592 796 generally northerly, generally north-easterly and generally south-easterly, the east most eastern, the south most northern, the west most eastern and part of the northern boundary of Lot 83, DP 754922 northerly, westerly, northerly and westerly, the southern prolongation of the eastern boundary of Lot 135, DP 754875 and that boundary northerly, part of the southern, the west most eastern, the south most northern and the eastern boundaries of Lot 88, DP 754875 easterly, northerly, easterly and northerly, the eastern boundaries of Lots 87 and 126, DP 754875 northerly, the generally southern and eastern boundaries of Lot 11, DP 1046608 generally easterly and northerly, a line northerly, the eastern boundary of Lot 12, DP 1046608 northerly, a line northerly, the eastern boundaries of Lot 2, DP 812850 and Lot 18, DP 614734 northerly, part of the southern and the western boundaries of Lot 118, DP 754875 westerly and northerly, the generally south western, west most eastern and north most southern boundaries of Lot 8, DP 261221 generally south-easterly, northerly and easterly to the left bank of Stoney Creek, by that bank downwards to the north-eastern corner of Lot 8, DP 261221; by a line north-westerly to the south-western corner of Lot 82, DP 754875; by the south-eastern boundary of Lot 82, DP 754875 north-easterly, part of the southern and the generally eastern boundaries of Lot 86, DP 754875 easterly and generally northerly to the left bank of the Molonglo River; by that bank downwards to the northern boundary of W & CR 53; by that boundary and its prolongation westerly, part of the eastern boundary of Lot Pt 1, DP 956848 northerly, a line northerly across Kings Highway, the eastern boundary of Lot 1, DP 456990 and its prolongation to the boundary between the State of New South Wales and the Australian Capital Territory, aforesaid, by that boundary generally easterly and generally north-westerly to the point of commencement.

1 Definitions

In this Schedule:

clause means a clause in this schedule.

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

former Area means any or all of the following:

- that part of the former Area of Gunning which, by this Proclamation, is constituted the Eastern Capital City Regional Council
- that part of the former Area of Yarrawlumla which, by this Proclamation, is constituted the Eastern Capital City Regional Council
- that part of the former Area of Tallaganda which, by this Proclamation, is constituted the Eastern Capital City Regional Council
- that part of the former Area of Mulwaree which, by this Proclamation, is constituted the Eastern Capital City Regional Council

former Council means any of the former Councils Tallaganda, Yarrawlumla, Mulwaree or Gunning.

Minister means the Minister for Local Government.

new Area means the new Area of Eastern Capital City Regional.

new Council means the Eastern Capital City Regional Council.

proclamation date means 11 February 2004.

the Act means the Local Government Act 1993.

2 First election

- (1) The date of the first election of the Councillors of the new Council is 1 May 2004.
- (2) Unless otherwise required by the Act or the context, the provisions relating to ordinary elections shall be taken to apply to the first election of the councillors.
- (3) For the purposes of:
 - a) the entitlements of persons to be enrolled as electors for the new Area and to vote at the election, and
 - b) the entitlements of persons to be nominated for election as Councillors for the new Area at the election, and
 - c) the conduct of the election by the State Electoral Commissioner, and
 - d) any other matter relating to the election,

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

3 Administration of new Council for interim period

- (1) For the interim period between 11 February 2004 and the declaration of the first election, one Administrator is appointed and is Mr Terry Bransdon (former Mayor of the former Yarrawluma Shire Council) to direct and control the affairs of the new Council.
- (2) If Mr Terry Bransdon declines to be appointed as the Administrator, then the Minister may appoint an alternate person as the Administrator.
- (3) The Administrator will be paid \$48,000 per annum on a pro-rata basis for the interim period.
- (4) For the purposes of the Local Government Act 1993, the Administrator does not hold an office or a position of profit under the new Council.

4 Appointment of Acting General Manager

- (1) The Acting General Manager of the new Area shall be Mr Robert Morgan (former General Manager of the former Yarrawluma Shire Council) for a period of six months commencing from 11 February 2004.
- (2) The General Manager of the new Council is to be confirmed at the first meeting of the new Council after the six month period, or otherwise recruitment processes commenced.

5 Number of Councillors

- (1) The number of Councillors to be elected to the new Council at its first election is nine (9).
- (2) Subclause (1) does not limit the power of the new Council to re-determine, after the first election the number of its Councillors under section 224 of the Act.

6 Ward Structure

- (1) The new Council shall not be divided into wards for the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to obtain approval to divide its Area into wards in accordance with Division 1 of Part 1 of Chapter 9 of the Act.

7 Election of Mayor following the first election

- (1) The Mayor of the new Council is to be elected by the Councillors as referred to in sections 227(a), 282 and 290 (1) (c) of the Act at the new Councils first meeting following the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to determine the basis on which the Mayor attains office in accordance with Division 2 of Part 2 of Chapter 9 of the Act.

8 Appointment of the General Manager and other senior staff

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

9 Activities of former Councils

- (1) Anything that was done or omitted to be done by a former Council and that had effect immediately before the proclamation date continues to have effect as if it had been done or omitted to be done by the new Council.
- (2) Anything that was commenced by a former Council may be completed by the new Council as if it had been commenced by the new Council.
- (3) Without limiting subclause (1) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect as if it had been done or made by the new Council.

10 Delegations

- (1) Any delegation from a former Council that was in force immediately before the proclamation date is taken to be a delegation from the new council and may be revoked or amended accordingly.
- (2) Subclause (1) ceases to have effect when the new Council adopts new delegations under the relevant provisions of the Act.

11 Codes, policies and plans

- (1) The following policy and plan of the new Council are, as far as practicable, to be a composite of the corresponding policies and plans of each of the former Councils:
 - a. local policies for approvals and orders (Part 3 of Chapter 7),
 - b. management plan (Part 2 of Chapter 13).

(2) Each of the following codes, policies and plans of the former Yarrowlumla Shire Council apply, as far as practicable, to the new Council:

- a. code of conduct (section 440),
- b. code of meeting practice (Division 1 of Part 2 of Chapter 12),
- c. expenses and facilities policy (Division 5 of Part 2 of Chapter 9),
- d. EEO management plan (Part 4 of Chapter 11).

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

12 Fees

- (1) The annual fee paid to each Councillor of the new Council and the annual fee paid to the Mayor of the new Council is to be equal to the highest of the corresponding fees paid by the former Councils.
- (2) Subclause (1) ceases to have effect in relation to an annual fee when the new Council fixes the annual fee in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

13 Organisation Structure

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

14 Transfer of Senior Staff

- (1) Any position that, immediately before the proclamation date, was a senior staff position of:
 - (a) the former Tallaganda Shire Council is transferred to the Council of the Area of Eastern Capital City Regional.
 - (b) the former Mulwaree Shire Council is transferred to a Council of the Areas of Greater Argyle, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Greater Argyle, Upper Lachlan and Eastern Capital City Regional.

- (c) the former Gunning Shire Council is transferred to a Council of the Areas of Yass Valley, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Yass Valley, Upper Lachlan and Eastern Capital City Regional.
 - (d) the former Yarrowlumla Shire Council is transferred to a Council of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut and Eastern Capital City Regional.
- (2) The senior staff of each former Council are taken to be the senior staff of the new Council as determined with reference to subclause (1).
- (3) This clause ceases to have effect when a new organisation structure is determined by the new Council under Part 1 of Chapter 11 of the Act.

15 Transfer of other staff

- (1) It is intended that the making of any determinations as to the transfer of staff (other than senior staff) by virtue of the constitution of the new Area made in this Proclamation is to be in accordance with this clause:
- (a) each member of staff of the former Tallaganda Shire Council (a transferred staff member) is transferred to the Council of the Area of Eastern Capital City Regional.
 - (b) each member of staff of the former Mulwaree Shire Council (a transferred staff member) is transferred to a Council of the Areas of Greater Argyle, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the new Councils of the Areas of Greater Argyle, Upper Lachlan and Eastern Capital City Regional.
 - (c) each member of staff of the former Yarrowlumla Shire Council (a transferred staff member) is transferred to a Council of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut or Eastern Capital City Regional as determined by agreement between the new Councils of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut and Eastern Capital City Regional.
 - (d) each member of staff of the former Gunning Shire Council (a transferred staff member) is transferred to a Council of the Areas of Yass Valley, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Yass Valley, Upper Lachlan and Eastern Capital City Regional.
- (2) Part 6 of Chapter 11 of the Act (employment protection) applies to the employment of a transferred staff member.

16 Additional employment protection

- (1) For the period between 11 February 2004 and 1 May 2004 staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission may not be unreasonably based outside the general locality in which they were based immediately before the transfer without their approval.
- (2) For the period between 11 February 2004 and 1 May 2004, no staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission are to be made redundant without their approval.

17 Transfer of assets, rights and liabilities

- (1) It is intended that the making of any determinations as to the transfer of assets, rights and liabilities of the former Councils by virtue of the constitution of the new Area made in this Proclamation is to be in accordance with this clause:
 - a. The assets, rights and liabilities of the former Tallaganda Shire Council are transferred to the Council of the Area of Eastern Capital City Regional.
 - b. The assets, rights and liabilities of the former Mulwaree Shire Council are transferred to the Councils of the Areas of Greater Argyle, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Greater Argyle, Upper Lachlan and Eastern Capital City Regional.
 - c. The assets, rights and liabilities of the former Yarrowlumla Shire Council are transferred to the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut and Eastern Capital City Regional.
 - d. The assets, rights and liabilities of the former Gunning Shire Council are transferred to the Councils of the Areas of Yass Valley, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Yass Valley, Upper Lachlan and Eastern Capital City Regional.
- (2) The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclause (1):
 - a. The assets of the former Councils vest in the new Council by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
 - b. The rights or liabilities of the former Councils become, by virtue of this clause, the rights and liabilities of the new Council,

- c. All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Councils or a predecessor of any of the former Councils, and pending immediately before the transfer, are taken to be proceedings pending by or against the new Council,
 - d. Any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Councils or a predecessor of any of the former Councils is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Council.
 - e. Anything that was commenced by a former Council and uncompleted at the proclamation date may be completed by the new Council as if it had been commenced by the new Council. This includes but is not limited to any application for approval or consent under the Act or any other Act.
 - f. In so doing, the new Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the relevant former Council, until such time as the new Council makes a new code, policy or plan in relation to that matter in accordance with the Act or any other Act.
 - g. Anything that was done by a former Council, and that had effect immediately before the proclamation date, or that was commenced by a former Council and completed by the new Council as a result of this Proclamation, continues to have effect and may be enforced by the new Council as if it had been done by the new Council.
 - h. Without limiting subclause (2)(g) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect and for all the purposes of the Act or any other Act shall be deemed to have been given or made by the new Council.
 - i. Any decision of the Land and Environment Court in an appeal from a decision of a former Council determined by the Court after the proclamation date shall be deemed to be a decision of the new Council.
- (3) During the transitional period no arrangements, without agreement between the new Council and the Minister, are to be entered into in relation to:
- a. the sale or purchase of property or of any assets involving an amount exceeding \$20,000
 - b. the leasing of property for a period exceeding five years
 - c. entering into new contracts for works involving an amount exceeding \$100,000
 - d. varying any budget allocation for any function.

(4) In this clause:

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

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

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

18 General provisions with respect to transfers

- (1) A transfer affected by this Schedule takes effect on the proclamation date.
- (2) The Minister may, by notice in writing, confirm a transfer affected by this Schedule.
- (3) Such a notice is conclusive evidence of the transfer.

19 Effect of transfer on third party rights

- (1) The operation of clause 17 (Transfer of assets, rights and liabilities) is not to be regarded:
 - a. As an event of default under any contract or other instrument, or
 - b. As a breach of contract or confidence or otherwise as a civil wrong, or
 - c. As a breach of contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - d. As giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (2) No attornment to the new Council by a lessee from a former Council is required in relation to a transfer affected by clause 17.
- (3) No compensation is payable to any person or body in connection with a transfer affected by clause 17.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between a former Council and that person or body.

20 Reports and reviews of the new Council

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

21 Auditor

The Auditor, Auswild & Co will be the Auditor of the new Council unless the Council appoints another Auditor in accordance with Division 3 of Part 3 of Chapter 13 of the Act.

22 References to former Areas and Councils

In any Act, in any instrument made under any Act or in any document of any kind:

- (1) A reference to any of the former Areas, or to a predecessor of any of the former Areas, is taken to include a reference to the new Area and is to be read as a reference to the new Area, and
- (2) A reference to any of the former Councils, or to a predecessor of any of the former Councils, is to be taken as a reference to the new Council and is to be read as a reference to the new Council.

23 Rating Structures

- (1) The new Council's maximum general income for 2004/05 is to be determined by estimating the proportionate amount of general income for 2003/04 from land in the former Areas of Tallaganda, Yarrolumla, Gunning and Mulwaree included in the new Area.
- (2) The new Council is to determine its rating structure taking into consideration subclause (1).
- (3) The rating structure is to be reviewed within the first term of the new Council.

24 Matters to be determined by Minister

- (1) In order to give effect to this Proclamation, the Minister may determine from time to time any matter or thing, including, without limitation, the content of the matters set out in clause 11 (1).
- (2) In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by the new Council.

- (3) The Minister may also determine any matter or thing that has not been referred to him by a new Council if the Minister concludes that the matter or thing cannot be determined by agreement between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro or Tumut, or if the Minister is not satisfied with any agreement reached between the aforementioned new Councils, including in relation to subclauses (2) and (4) herein.
- (4) A matter to be determined by the Minister shall be referred to the Director General, and/or another person or persons nominated by the Minister, for advice and recommendation, as appropriate.
- (5) The Director General and/or another person or persons nominated by the Minister, shall, if required by the Minister, convene a meeting between the affected new Councils listed in subclause (3) to assist in the determination of the matter.
- (6) The Director General and/or any person or persons nominated by the Minister under this clause, shall have regard to the Statement of Intent herein and any other principles or guidelines considered appropriate in the circumstances.

25 Statement of Intent

- (1) The Minister will consider an application made by the new Council for a Special Variation to increase its General Income.
- (2) There will be meaningful cooperation between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro and Tumut in the sharing of information and agreement of all matters necessary to facilitate the provisions of this Proclamation.
- (3) The new Council should give consideration to establishing precinct areas and committees, which have defined roles and responsibilities.
- (4) The Councillors of the new Council are to consider operating under the basis of portfolio responsibilities and are to exercise community leadership for the whole local government area as set out in the Act.

Schedule C

Land included in the Greater Argyle Local Government Area

Area about 3,231.80 square kilometres. Commencing at the confluence of the Paddys River with the Wollondilly River: and bounded thence by the latter river upwards to the generally northern boundary of the Parish of Norrong, County of Argyle; by part of that boundary generally westerly to the Tarlo River; by that river upwards to the generally northern boundary of the Parish of Rhyana; by that boundary generally westerly, part of the generally eastern and the generally southern boundaries of the Parish of Upper Tarlo, generally southerly and generally westerly to the range forming the generally south-eastern watershed of Pejar Dam; by that range, generally south-westerly to the source of Oxley Creek; by that creek and Wollondilly River, aforesaid, downwards to generally eastern boundary of the Parish of Gurrunda; by that boundary and the generally eastern boundaries of the parishes of Mutmutbilly and Millbang generally southerly to the the range forming the watershed between the Lachlan River and Collector Creek; by that range, generally north-easterly and generally easterly, the range forming the eastern watershed of Collector Creek, generally southerly, the Great Dividing range, generally southerly to the road from Bugendore to Goulburn; by that road northeasterly, the road forming the northern boundary of Portion 212, Parish of Merigan, the northern and an eastern boundary of Portion 213, a northern and a western boundary of Portion 282 easterly, southerly, again easterly and northerly to the southernmost generally southern boundary of Lot 1, D.P. 564552; by part of that boundary and part of the westernmost eastern boundary of Portion 294 and its prolongation generally easterly and northerly to the road forming the northernmost boundary of the lastmentioned portion; by that road easterly to the western boundary of the Goulburn to Bombala Railway Lands; by part of that boundary northerly to the western prolongation of the northern boundary of Portion 130; by that prolongation and boundary easterly to the road from Bungendore to Bungonia; by that road northeasterly of the range forming the eastern watershed of Merigan Creek; by that range generally northerly and a ridge within Portion 142 and its continuation generally southeasterly to Boro Creek; by that creek downwards to the eastern boundary of Portion 67; by part of the generally northeastern boundary of the Parish of Merigan generally southeasterly to Boro Creek of the western boundary of Portion 84, parish of Mulwaree, County of Argyle; again by Boro Creek and Shoalhaven River downwards and Kangaroo River and Bundanoon Creek upwards to a point approximately 150 metres north-west of the confluence of the last mentioned creek and Tallowa Gully; by a line westerly to the line of cliffs forming the north-western escarpment of Tallowa Gully by that escarpment generally south-westerly to Bull Point Gully; by that gully downwards and Tallowa Gully, aforesaid, upwards to the generally western boundary of the Parish of Caoura, County of Camden; by part of that boundary generally northerly to the northern boundary of Portion 44, Parish of Bumballa; by that boundary westerly, part of the eastern and part of the northern boundaries of Portion 18 northerly and westerly part of the eastern and part of the northern boundaries of Portion 16 northerly and westerly and the eastern boundary of Portion 14 and its prolongation northerly to the generally southern boundary of the Parish of Wingello; by part of that boundary generally westerly to the generally northern boundary of Lot 2, D.P. 71717; by part of that boundary generally westerly, part of the generally western boundary of Portion 190 generally northerly, the southern and westernmost western boundaries of Portions 168 westerly and northerly and the northern boundaries of Portions 175 and 111 (and its prolongation) westerly to the eastern boundary of Portion 103; by part of that boundary and its prolongation generally northerly to the generally western boundary of the Parish of

Wingello; by part of that boundary generally northerly to Paddys River, aforesaid and by that river downwards to the point of commencement.

1 Definitions

In this Schedule:

clause means a clause in this schedule.

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

former Area means any or all of the following:

- that part of the former Area of Goulburn City which, by this Proclamation, is constituted the Greater Argyle Council
- that part of the former Area of Mulwaree which, by this Proclamation, is constituted the Greater Argyle Council

former Council means any of the former Councils Goulburn City or Mulwaree.

Minister means the Minister for Local Government.

new Area means the new Area of Greater Argyle.

new Council means the Greater Argyle Council.

proclamation date means 11 February 2004.

the Act means the Local Government Act 1993.

2 First election

- (1) The date of the first election of the Councillors of the new Council is 1 May 2004.
- (2) Unless otherwise required by the Act or the context, the provisions relating to ordinary elections shall be taken to apply to the first election of the councillors.
- (3) For the purposes of:
 - a) the entitlements of persons to be enrolled as electors for the new Area and to vote at the election, and
 - b) the entitlements of persons to be nominated for election as Councillors for the new Area at the election, and
 - c) the conduct of the election by the State Electoral Commissioner, and
 - d) any other matter relating to the election,

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

3 Administration of new Council for interim period

- (1) For the interim period between 11 February 2004 and the declaration of the first election, one Administrator is appointed and is Mr Maxwell Hadlow (former Mayor of the former Goulburn City Council) to direct and control the affairs of the new Council.
- (2) If Mr Maxwell Hadlow declines to be appointed as the Administrator, then the Minister may appoint an alternate person as the Administrator.
- (3) The Administrator will be paid \$80,000 per annum on a pro-rata basis for the interim period.
- (4) For the purposes of the Local Government Act 1993, the Administrator does not hold an office or a position of profit under the new Council.

4 Appointment of Acting General Manager

- (1) The Acting General Manager of the new Area shall be Mr Don Cooper (former General Manager of the former Goulburn City Council) for a period of six months commencing from 11 February 2004.
- (2) The General Manager of the new Council is to be confirmed at the first meeting of the new Council after the six month period, or otherwise recruitment processes commenced.

5 Number of Councillors

- (1) The number of Councillors to be elected to the new Council at its first election is nine (9).
- (2) Subclause (1) does not limit the power of the new Council to re-determine, after the first election the number of its Councillors under section 224 of the Act.

6 Ward Structure

- (1) The new Council shall not be divided into wards for the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to obtain approval to divide its Area into wards in accordance with Division 1 of Part 1 of Chapter 9 of the Act.

7 Election of Mayor following the first election

- (1) The Mayor of the new Council is to be elected by the Councillors as referred to in sections 227(a), 282 and 290 (1) (c) of the Act at the new Councils first meeting following the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to determine the basis on which the Mayor attains office in accordance with Division 2 of Part 2 of Chapter 9 of the Act.

8 Appointment of the General Manager and other senior staff

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

9 Activities of former Councils

- (1) Anything that was done or omitted to be done by a former Council and that had effect immediately before the proclamation date continues to have effect as if it had been done or omitted to be done by the new Council.
- (2) Anything that was commenced by a former Council may be completed by the new Council as if it had been commenced by the new Council.
- (3) Without limiting subclause (1) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect as if it had been done or made by the new Council.

10 Delegations

- (1) Any delegation from a former Council that was in force immediately before the proclamation date is taken to be a delegation from the new council and may be revoked or amended accordingly.
- (2) Subclause (1) ceases to have effect when the new Council adopts new delegations under the relevant provisions of the Act.

11 Codes, policies and plans

- (1) The following policy and plan of the new Council are, as far as practicable, to be a composite of the corresponding policies and plans of each of the former Councils:
 - a. local policies for approvals and orders (Part 3 of Chapter 7),
 - b. management plan (Part 2 of Chapter 13).

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

- a. code of conduct (section 440),
- b. code of meeting practice (Division 1 of Part 2 of Chapter 12),
- c. expenses and facilities policy (Division 5 of Part 2 of Chapter 9),
- d. EEO management plan (Part 4 of Chapter 11).

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

12 Fees

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

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

13 Organisation Structure

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

14 Transfer of Senior Staff

(1) Any position that, immediately before the proclamation date, was a senior staff position of:

- (a) the former Goulburn City Council is transferred to the Council of the Area of Greater Argyle.
- (b) the former Mulwaree Shire Council is transferred to a Council of the Areas of Greater Argyle, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the new Councils of the Areas of Greater Argyle, Upper Lachlan and Eastern Capital City Regional.

(2) The senior staff of each former Council are taken to be the senior staff of the new Council as determined with reference to subclause (1).

- (3) This clause ceases to have effect when a new organisation structure is determined by the new Council under Part 1 of Chapter 11 of the Act.

15 Transfer of other staff

- (1) It is intended that the making of any determinations as to the transfer of staff (other than senior staff) by virtue of the constitution of the new Area made in this Proclamation is to be in accordance with this clause:
- (a) each member of staff of the former Goulburn City Council (a transferred staff member) is transferred to the new Council of the Area of Greater Argyle.
 - (b) each member of staff of the former Mulwaree Shire Council (a transferred staff member) is transferred to a Council of the Areas of Greater Argyle, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the new Councils of the Areas of Greater Argyle, Upper Lachlan and Eastern Capital City Regional.
- (2) Part 6 of Chapter 11 of the Act (employment protection) applies to the employment of a transferred staff member.

16 Additional employment protection

- (1) For the period between 11 February 2004 and 1 May 2004 staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission may not be unreasonably based outside the general locality in which they were based immediately before the transfer without their approval.
- (2) For the period between 11 February 2004 and 1 May 2004, no staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission are to be made redundant without their approval.

17 Transfer of assets, rights and liabilities

- (1) The assets, rights and liabilities of:
- a. The former Goulburn City Council are transferred to the Council of the Area of Greater Argyle.
 - b. The former Mulwaree Shire Council are transferred to the Councils of the Areas of Greater Argyle, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Greater Argyle, Upper Lachlan and Eastern Capital City Regional.

- (2) The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclause (1):
- a. The assets of the former Councils vest in the new Council by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
 - b. The rights or liabilities of the former Councils become, by virtue of this clause, the rights and liabilities of the new Council,
 - c. All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Councils or a predecessor of any of the former Councils, and pending immediately before the transfer, are taken to be proceedings pending by or against the new Council,
 - d. Any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Councils or a predecessor of any of the former Councils is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Council.
 - e. Anything that was commenced by a former Council and uncompleted at the proclamation date may be completed by the new Council as if it had been commenced by the new Council. This includes but is not limited to any application for approval or consent under the Act or any other Act.
 - f. In so doing, the new Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the relevant former Council, until such time as the new Council makes a new code, policy or plan in relation to that matter in accordance with the Act or any other Act.
 - g. Anything that was done by a former Council, and that had effect immediately before the proclamation date, or that was commenced by a former Council and completed by the new Council as a result of this Proclamation, continues to have effect and may be enforced by the new Council as if it had been done by the new Council.
 - h. Without limiting subclause (2)(g) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect and for all the purposes of the Act or any other Act shall be deemed to have been given or made by the new Council.
 - i. Any decision of the Land and Environment Court in an appeal from a decision of a former Council determined by the Court after the proclamation date shall be deemed to be a decision of the new Council.

- (3) During the transitional period no arrangements, without agreement between the new Council and the Minister, are to be entered into in relation to:
- a. the sale or purchase of property or of any assets involving an amount exceeding \$20,000
 - b. the leasing of property for a period exceeding five years
 - c. entering into new contracts for works involving an amount exceeding \$100,000
 - d. varying any budget allocation for any function.

(4) In this clause:

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

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

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

18 General provisions with respect to transfers

- (1) A transfer affected by this Schedule takes effect on the proclamation date.
- (2) The Minister may, by notice in writing, confirm a transfer effected by this Schedule.
- (3) Such a notice is conclusive evidence of the transfer.

19 Effect of transfer on third party rights

- (1) The operation of clause 17 (Transfer of assets, rights and liabilities) is not to be regarded:
 - a. As an event of default under any contract or other instrument, or
 - b. As a breach of contract or confidence or otherwise as a civil wrong, or
 - c. As a breach of contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or

- d. As giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (2) No attornment to the new Council by a lessee from a former Council is required in relation to a transfer affected by clause 17.
- (3) No compensation is payable to any person or body in connection with a transfer affected by clause 17.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between a former Council and that person or body.

20 Reports and reviews of the new Council

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

21 Auditor

The Auditor, James Murphy & Co. will be the Auditor of the new Council unless the Council appoints another Auditor in accordance with Division 3 of Part 3 of Chapter 13 of the Act.

22 References to former Areas and Councils

In any Act, in any instrument made under any Act or in any document of any kind:

- (1) A reference to any of the former Areas, or to a predecessor of any of the former Areas, is taken to include a reference to the new Area and is to be read as a reference to the new Area, and
- (2) A reference to any of the former Councils, or to a predecessor of any of the former Councils, is to be taken as a reference to the new Council and is to be read as a reference to the new Council.

23 Rating Structures

- (1) The new Council's maximum general income for 2004/05 is to be determined by estimating the proportionate amount of general income for 2003/04 from land in the former Areas of Goulburn City and Mulwaree included in the new Area.
- (2) The new Council is to determine its rating structure taking into consideration subclause (1).

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

24 Matters to be determined by Minister

- (1) In order to give effect to this Proclamation, the Minister may determine from time to time any matter or thing, including, without limitation, the content of the matters set out in clause 11 (1).
- (2) In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by the new Council.
- (3) The Minister may also determine any matter or thing that has not been referred to him by a new Council if the Minister concludes that the matter or thing cannot be determined by agreement between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro or Tumut, or if the Minister is not satisfied with any agreement reached between the aforementioned new Councils, including in relation to subclauses (2) and (4) herein.
- (4) A matter to be determined by the Minister shall be referred to the Director General, and/or another person or persons nominated by the Minister, for advice and recommendation, as appropriate.
- (5) The Director General and/or another person or persons nominated by the Minister, shall, if required by the Minister, convene a meeting between the affected new Councils listed in subclause (3) to assist in the determination of the matter.
- (6) The Director General and/or any person or persons nominated by the Minister under this clause, shall have regard to the Statement of Intent herein and any other principles or guidelines considered appropriate in the circumstances.

25 Statement of Intent

- (1) The Minister will consider an application made by the new Council for a Special Variation to increase its General Income.
- (2) There will be meaningful cooperation between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro and Tumut in the sharing of information and agreement of all matters necessary to facilitate the provisions of this Proclamation.
- (3) The new Council should give consideration to establishing precinct areas and committees, which have defined roles and responsibilities.
- (4) The Councillors of the new Council are to consider operating under the basis of portfolio responsibilities and are to exercise community leadership for the whole local government area as set out in the Act.

Schedule D

Land included in the Greater Queanbeyan City Local Government Area

Area about 172.88 square kilometres. Commencing at the intersection of the western prolongation of the southern boundary of Lot 1, DP 576452 and the boundary between the State of New South Wales and the Australian Capital Territory; and bounded thence by that prolongation and boundary easterly, the southern and part of the eastern boundaries of Lot 186, DP 754871 easterly and northerly, the southern boundary of Lot B, DP 163491 easterly to the left bank of Jerrabomberra Creek; by that bank downwards to the western prolongation of the southern boundary of Lot 37, DP 754871; by that prolongation and boundary easterly, the southern and eastern boundaries of Lot 181, DP 754871 easterly and northerly, part of the southern, the eastern and the northernmost northern boundary of Lot 6, DP 754871 easterly, northerly and westerly, part of the northern boundary of Lot 5, DP 754871 westerly, the southern prolongation of the eastern boundary of Lot 4, DP 754871 and that boundary northerly, part of the southern and the eastern boundaries of Lot 203, DP 754871 easterly and northerly, part of the southern and the western boundaries of Lot 7001, DP 1027109 easterly and northerly, part of the eastern boundary of Lot 19, DP 270317 northerly, the western prolongation of the generally southern boundary of Lot 49, DP 270317 and that boundary easterly, the generally western boundary of Lot 49, DP 270317 and its prolongation generally northerly, part of the southern and part of the eastern boundaries of Lot Pt 48, DP 754881 easterly and northerly, the generally southern boundary of Lot 5, DP 867223 generally easterly, the southern and part of the generally eastern boundaries of Lot 9, DP 255493 easterly and generally northerly, part of the generally western, the generally north-western and the generally north-eastern boundaries of Lot 7, DP 592 796 generally northerly, generally north-easterly and generally south-easterly, the east most eastern, the south most northern, the west most eastern and part of the northern boundary of Lot 83, DP 754922 northerly, westerly, northerly and westerly, the southern prolongation of the eastern boundary of Lot 135, DP 754875 and that boundary northerly, part of the southern, the west most eastern, the south most northern and the eastern boundaries of Lot 88, DP 754875 easterly, northerly, easterly and northerly, the eastern boundaries of Lots 87 and 126, DP 754875 northerly, the generally southern and eastern boundaries of Lot 11, DP 1046608 generally easterly and northerly, a line northerly, the eastern boundary of Lot 12, DP 1046608 northerly, a line northerly, the eastern boundaries of Lot 2, DP 812850 and Lot 18, DP 614734 northerly, part of the southern and the western boundaries of Lot 118, DP 754875 westerly and northerly, the generally south western, west most eastern and north most southern boundaries of Lot 8, DP 261221 generally south-easterly, northerly and easterly to the left bank of Stoney Creek, by that bank downwards to the north-eastern corner of Lot 8, DP 261221; by a line north-westerly to the south-eastern corner of Lot 82, DP 754875; by the south-eastern boundary of Lot 82, DP 754875 north-easterly, part of the southern and the generally eastern boundaries of Lot 86, DP 754875 easterly and generally northerly to the left bank of the Molonglo River; by that bank downwards to the northern boundary of W & CR 53; by that boundary and its prolongation westerly, part of the eastern boundary of Lot Pt 1, DP 956848 northerly, a line northerly across Kings Highway, the eastern boundary of Lot 1, DP 456990 and its prolongation to the boundary between the State of New South Wales and the Australian Capital Territory, aforesaid, by that boundary generally westerly, south-westerly and generally southerly to the point of commencement.

1 Definitions

In this Schedule:

clause means a clause in this schedule.

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

former Area means any or all of the following:

- that part of the former Area of Queanbeyan which, by this Proclamation, is constituted the Greater Queanbeyan City Council
- that part of the former Area of Yarrowlumla which, by this Proclamation, is constituted the Greater Queanbeyan City Council

former Council means any of the former Councils Queanbeyan City or Yarrowlumla.

Minister means the Minister for Local Government.

new Area means the new Area of Greater Queanbeyan City.

new Council means the Greater Queanbeyan City Council.

proclamation date means 11 February 2004.

the Act means the Local Government Act 1993.

2 First election

- (1) The date of the first election of the Councillors of the new Council is 1 May 2004.
- (2) Unless otherwise required by the Act or the context, the provisions relating to ordinary elections shall be taken to apply to the first election of the councillors.
- (3) For the purposes of:
 - a. the entitlements of persons to be enrolled as electors for the new Area and to vote at the election, and
 - b. the entitlements of persons to be nominated for election as Councillors for the new Area at the election, and
 - c. the conduct of the election by the State Electoral Commissioner, and
 - d. any other matter relating to the election,

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

3 Administration of new Council for interim period

- (1) For the interim period between 11 February 2004 and the declaration of the first election, one Administrator is appointed and is Mr Frank Pangallo (former Mayor of the former Queanbeyan City Council) to direct and control the affairs of the new Council.
- (2) If Mr Frank Pangallo declines to be appointed as the Administrator, then the Minister may appoint an alternate person as the Administrator.
- (3) The Administrator will be paid \$80,000 per annum on a pro-rata basis for the interim period.
- (4) For the purposes of the Local Government Act 1993, the Administrator does not hold an office or a position of profit under the new Council.

4 Appointment of Acting General Manager

- (1) The Acting General Manager of the new Area shall be Mr Hugh Percy (former General Manager of the former Queanbeyan City Council) for a period of six months commencing from 11 February 2004.
- (2) The General Manager of the new Council is to be confirmed at the first meeting of the new Council after the six month period, or otherwise recruitment processes commenced.

5 Number of Councillors

- (1) The number of Councillors to be elected to the new Council at its first election is ten (10).
- (2) Subclause (1) does not limit the power of the new Council to re-determine, after the first election the number of its Councillors under section 224 of the Act.

6 Ward Structure

- (1) The new Council shall not be divided into wards for the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to obtain approval to divide its Area into wards in accordance with Division 1 of Part 1 of Chapter 9 of the Act.

7 Election of Mayor

- (1) The Mayor of the new Council is to be elected by the electors as referred to in sections 227(b), 282 and 289 of the Act at the first election.

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

8 Appointment of the General Manager and other senior staff

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

9 Activities of former Councils

- (1) Anything that was done or omitted to be done by a former Council and that had effect immediately before the proclamation date continues to have effect as if it had been done or omitted to be done by the new Council.
- (2) Anything that was commenced by a former Council may be completed by the new Council as if it had been commenced by the new Council.
- (3) Without limiting subclause (1) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect as if it had been done or made by the new Council.

10 Delegations

- (1) Any delegation from a former Council that was in force immediately before the proclamation date is taken to be a delegation from the new council and may be revoked or amended accordingly.
- (2) Subclause (1) ceases to have effect when the new Council adopts new delegations under the relevant provisions of the Act.

11 Codes, policies and plans

- (1) The following policy and plan of the new Council are, as far as practicable, to be a composite of the corresponding policies and plans of each of the former Councils:
 - a. local policies for approvals and orders (Part 3 of Chapter 7),
 - b. management plan (Part 2 of Chapter 13).
- (2) Each of the following codes, policies and plans of the former Queanbeyan City Council apply, as far as practicable, to the new Council:
 - a. code of conduct (section 440),

- b. code of meeting practice (Division 1 of Part 2 of Chapter 12),
- c. expenses and facilities policy (Division 5 of Part 2 of Chapter 9),
- d. EEO management plan (Part 4 of Chapter 11).

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

12 Fees

- (1) The annual fee paid to each Councillor of the new Council and the annual fee paid to the Mayor of the new Council is to be equal to the highest of the corresponding fees paid by the former Councils.
- (2) Subclause (1) ceases to have effect in relation to an annual fee when the new Council fixes the annual fee in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

13 Organisation Structure

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

14 Transfer of Senior Staff

- (1) Any position that, immediately before the proclamation date, was a senior staff position of:
 - (a) the former Queanbeyan City Council is transferred to the Council of the Area of Greater Queanbeyan City.
 - (b) the former Yarrowlumla Shire Council is transferred to a Council of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley, or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley and Eastern Capital City Regional.
- (2) The senior staff of each former Council are taken to be the senior staff of the new Council as determined with reference to subclause (1).
- (3) This clause ceases to have effect when a new organisation structure is determined by the new Council under Part 1 of Chapter 11 of the Act.

15 Transfer of other staff

- (1) It is intended that the making of any determinations as to the transfer of staff (other than senior staff) by virtue of the constitution of the new Area made in this Proclamation is to be in accordance with this clause:
 - (a) each member of staff of the former Queanbeyan City Council (a transferred staff member) is transferred to the Council of the Area of Greater Queanbeyan City.
 - (b) each member of staff of the former Yarrowlumla Shire Council (a transferred staff member) is transferred to a Council of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley and Eastern Capital City Regional.
- (2) Part 6 of Chapter 11 of the Act (employment protection) applies to the employment of a transferred staff member.

16 Additional employment protection

- (1) For the period between 11 February 2004 and 1 May 2004 staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission may not be unreasonably based outside the general locality in which they were based immediately before the transfer without their approval.
- (2) For the period between 11 February 2004 and 1 May 2004, no staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission are to be made redundant without their approval.

17 Transfer of assets, rights and liabilities

- (1) The assets, rights and liabilities of:
 - a. The former Queanbeyan City Council are transferred to the Council of the Area of Greater Queanbeyan City.
 - b. The former Yarrowlumla Shire Council are transferred to the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley, or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan City, Tumut, Yass Valley and Eastern Capital City Regional.

- (2) The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclause (1):
- a. The assets of the former Councils vest in the new Council by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
 - b. The rights or liabilities of the former Councils become, by virtue of this clause, the rights and liabilities of the new Council,
 - c. All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Councils or a predecessor of any of the former Councils, and pending immediately before the transfer, are taken to be proceedings pending by or against the new Council,
 - d. Any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Councils or a predecessor of any of the former Councils is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Council.
 - e. Anything that was commenced by a former Council and uncompleted at the proclamation date may be completed by the new Council as if it had been commenced by the new Council. This includes but is not limited to any application for approval or consent under the Act or any other Act.
 - f. In so doing, the new Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the relevant former Council, until such time as the new Council makes a new code, policy or plan in relation to that matter in accordance with the Act or any other Act.
 - g. Anything that was done by a former Council, and that had effect immediately before the proclamation date, or that was commenced by a former Council and completed by the new Council as a result of this Proclamation, continues to have effect and may be enforced by the new Council as if it had been done by the new Council.
 - h. Without limiting subclause (2)(g) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect and for all the purposes of the Act or any other Act shall be deemed to have been given or made by the new Council.
 - i. Any decision of the Land and Environment Court in an appeal from a decision of a former Council determined by the Court after the proclamation date shall be deemed to be a decision of the new Council.

- (3) During the transitional period no arrangements, without agreement between the new Council and the Minister, are to be entered into in relation to:
- a. the sale or purchase of property or of any assets involving an amount exceeding \$20,000
 - b. the leasing of property for a period exceeding five years
 - c. entering into new contracts for works involving an amount exceeding \$100,000
 - d. varying any budget allocation for any function.

(4) In this clause:

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

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

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

18 General provisions with respect to transfers

- (1) A transfer affected by this Schedule takes effect on the proclamation date.
- (2) The Minister may, by notice in writing, confirm a transfer affected by this Schedule.
- (3) Such a notice is conclusive evidence of the transfer.

19 Effect of transfer on third party rights

- (1) The operation of clause 17 (Transfer of assets, rights and liabilities) is not to be regarded:
 - a. As an event of default under any contract or other instrument, or
 - b. As a breach of contract or confidence or otherwise as a civil wrong, or
 - c. As a breach of contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or

- d. As giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (2) No attornment to the new Council by a lessee from a former Council is required in relation to a transfer affected by clause 17.
- (3) No compensation is payable to any person or body in connection with a transfer affected by clause 17.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between a former Council and that person or body.

20 Reports and reviews of the new Council

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

21 Auditor

The Auditor, James Murphy & Co. will be the Auditor of the new Council unless the Council appoints another Auditor in accordance with Division 3 of Part 3 of Chapter 13 of the Act.

22 References to former Areas and Councils

In any Act, in any instrument made under any Act or in any document of any kind:

- (1) A reference to any of the former Areas, or to a predecessor of any of the former Areas, is taken to include a reference to the new Area and is to be read as a reference to the new Area, and
- (2) A reference to any of the former Councils, or to a predecessor of any of the former Councils, is to be taken as a reference to the new Council and is to be read as a reference to the new Council.

23 Rating Structures

- (1) The new Council's maximum general income for 2004/05 is to be determined by estimating the proportionate amount of general income for 2003/04 from land in the former Areas of Queanbeyan and Yarrowlumla included in the new Area.
- (2) The new Council is to determine its rating structure taking into consideration subclause (1).
- (3) The rating structure is to be reviewed within the first term of the new Council.

24 Matters to be determined by Minister

- (1) In order to give effect to this Proclamation, the Minister may determine from time to time any matter or thing, including, without limitation, the content of the matters set out in clause 11 (1).
- (2) In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by the new Council.
- (3) The Minister may also determine any matter or thing that has not been referred to him by a new Council if the Minister concludes that the matter or thing cannot be determined by agreement between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro or Tumut, or if the Minister is not satisfied with any agreement reached between the aforementioned new Councils, including in relation to subclauses (2) and (4) herein.
- (4) A matter to be determined by the Minister shall be referred to the Director General, and/or another person or persons nominated by the Minister, for advice and recommendation, as appropriate.
- (5) The Director General and/or another person or persons nominated by the Minister, shall, if required by the Minister, convene a meeting between the affected new Councils listed in subclause (3) to assist in the determination of the matter.
- (6) The Director General and/or any person or persons nominated by the Minister under this clause, shall have regard to the Statement of Intent herein and any other principles or guidelines considered appropriate in the circumstances.

25 Statement of Intent

- (1) The Minister will consider an application made by the new Council for a Special Variation to increase its General Income.
- (2) There will be meaningful cooperation between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro and Tumut in the sharing of information and agreement of all matters necessary to facilitate the provisions of this Proclamation.
- (3) The new Council should give consideration to establishing precinct areas and committees, which have defined roles and responsibilities.
- (4) The Councillors of the new Council are to consider operating under the basis of portfolio responsibilities and are to exercise community leadership for the whole local government area as set out in the Act.

Schedule E

Land included in the Tumut Local Government Area

Area about 4,579.09 square kilometres. Commencing on the right bank of Tarcutta Creek at the northwestern corner of portion 94, Parish of Hillas, County of Wynyard: and bounded thence by the northern boundary of that portion, part of the western boundary of portion 16 and a line along the northern boundary of the said portion 16 and 17 easterly, northerly and again easterly to Bago Creek; by that creek upwards to its intersection with a line along the southern boundary of portion 27 and 10; by that line and part of the eastern boundary of portion 10 easterly and northerly to the southwestern corner of portion 13; by the southern boundary of that portion easterly to the generally southwestern boundary of the Parish of Selwyn; by that boundary generally south-easterly to the generally western boundary of the Parish of Buddong, County of Selwyn; by the boundaries of that parish generally southerly and generally easterly to Honeysuckle Creek; by that creek downwards and the Tumut River and Happy Jack's River upwards to its intersection with a line parallel to and about 550 metres east of the western boundary of portion 9, Parish of Scott, by that line (being also the former eastern boundary of the Parish of Table Top) northerly to its intersection with the generally western boundary of the County of Wallace; by that boundary generally northerly to the Murrumbidgee River (North Branch); by that river upwards to the generally western boundary of the County of Cowley; by part of that boundary generally north-easterly to Gurrangorambla Range; by that range generally southerly and generally south-easterly to the generally south-eastern boundary of the Parish of Cooleman, County of Cowley; by that boundary generally north-easterly to the boundary between the State of New South Wales and the Australian Capital Territory; by that boundary generally northerly to the source of Fastigata Creek; by a line westerly to Webbs Ridge; by that ridge generally north-easterly to the north-eastern corner of Lot3, DP 751811; by part of the eastern boundary of Lot4, DP 751811 northerly to the western prolongation of the eastmost northern boundary of the Parish of Cooree; by that prolongation westerly to the Goodradigbee River; by that river downwards and Nottingham Creek upwards to the generally southern boundary of the Parish of Wee Jasper, County of Buccleuch; by that boundary and the generally western boundary of that parish, generally westerly and generally northerly, the generally north-eastern, the generally northern and part of the generally western boundaries of the parish of Cowrajogo, and a line along the western boundary of portion 81 generally northerly, generally westerly, generally southerly and southerly to the northern boundary of portion 9 REM; again by part of the said generally western boundary of the parish generally southerly to Shaking Bog Creek; by that creek downwards to its intersection with a line along the southern boundary of portion 229, Parish of Wyangle; by that line westerly to the southeastern corner of that portion; by the eastern boundary of that portion and portion 224 northerly; by the generally northern boundary of that parish and part of the generally northern boundary of the Parish of Brungle generally westerly to the northwestern corner of portion 226; by part of the western boundary of that portion, the generally northern boundary of portion 312 and part of the northern boundary of the former portion 262 shown in plan catalogued B1044-1713 generally westerly to the south-eastern corner of the former portion 144 shown in plan catalogued B1406-1713; by the eastern and a line along the northern boundary of that portion northerly and westerly to the eastern boundary of portion 143; by part of that boundary northerly to the said generally northern boundary of the Parish of Brungle; by that boundary generally westerly to the Tumut River; by that river upwards; by the generally northern boundary of the Parish of Minjary, County of Wynyard, generally westerly to the easternmost northeastern corner of the former portion 205 shown in plan catalogued W2532-2119; by the easternmost eastern and the

generally southern boundary of that portion southerly, westerly and again southerly to the northernmost northeastern corner of portion 167, Parish of Calagat; by the generally northern boundaries of that parish and the Parish of Euadera generally westerly and generally southeasterly to the northernmost northern boundary of portion 266, Parish of Ellerslie; by the boundaries of that portion westerly, southerly, again westerly and southerly and again westerly to the northeastern corner of portion 26; by a line along the northern boundary of that portion and portion 9 westerly to the northwestern corner of that portion; by a line along the western boundary of that portion southerly to the northern boundary of portion 89; by part of that boundary and part of the western boundary of that portion, the northern-most northern boundary of portion 90 and part of the eastern boundary and the southern boundary of portion 76 westerly, southerly, again westerly, again southerly and again westerly to the northeastern corner of portion 22; by part of the southwestern boundary of that portion southeasterly to its intersection with a line along the northern boundary of portion 74; by that line westerly to Yaven Yaven Creek; by that creek upwards to the mountain range forming the generally eastern boundary of portions 101, 103, 102 and 49, Parish of Blanch, and the generally southern boundary of portion 49 generally southerly and generally westerly to the range forming the generally eastern boundary of portions 35, 93, 91, 104, 89 and 26 and the generally northeastern boundary of portions 130, 129, 73, 120 and 80, Parish of Oberne, generally southerly and generally southeasterly to the northernmost corner of lot 1, Deposited Plan 212749, by the northeastern boundaries of that lot generally southeasterly to the mountain range forming the boundary between portions 66 and 68, Parish of Dutzon; by that range generally southerly to the northwestern corner of portion 101, Parish of Mate; by the boundaries of that portion generally southerly and generally southeasterly to the boundary dividing the Eastern and Central Divisions; by the boundary generally southeasterly to Tarcutta Creek; and by that creek upward to the point of commencement.

1 Definitions

In this Schedule:

clause means a clause in this schedule.

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

former Area means any or all of the following:

- that part of the former Area of Tumut which, by this Proclamation, is constituted the Tumut Council
- that part of the former Area of Yarrowlumla which, by this Proclamation, is constituted the Tumut Council

former Council means any of the former Councils Tumut or Yarrowlumla.

Minister means the Minister for Local Government.

new Area means the new Area of Tumut.

new Council means the Tumut Council.

proclamation date means 11 February 2004.

the Act means the Local Government Act 1993.

2 First election

- (1) The date of the first election of the Councillors of the new Council is 1 May 2004.
- (2) Unless otherwise required by the Act or the context, the provisions relating to ordinary elections shall be taken to apply to the first election of the councillors.
- (3) For the purposes of:
 - a) the entitlements of persons to be enrolled as electors for the new Area and to vote at the election, and
 - b) the entitlements of persons to be nominated for election as Councillors for the new Area at the election, and
 - c) the conduct of the election by the State Electoral Commissioner, and
 - d) any other matter relating to the election,

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

3 Administration of new Council for interim period

- (1) For the interim period between 11 February 2004 and the declaration of the first election, one Administrator is appointed and is Mr Geoff Pritchard (former Mayor of the former Tumut Shire Council) to direct and control the affairs of the new Council.
- (2) If Mr Geoff Pritchard declines to be appointed as the Administrator, then the Minister may appoint an alternate person as the Administrator.
- (3) The Administrator will be paid \$48,000 per annum on a pro-rata basis for the interim period.
- (4) For the purposes of the Local Government Act 1993, the Administrator does not hold an office or a position of profit under the new Council.

4 Appointment of Acting General Manager

- (1) The Acting General Manager of the new Area shall be Mr Chris Adams (former General Manager of the former Tumut Shire Council) for a period of six months commencing from 11 February 2004.

- (2) The General Manager of the new Council is to be confirmed at the first meeting of the new Council after the six month period, or otherwise recruitment processes commenced.

5 Number of Councillors

- (1) The number of Councillors to be elected to the new Council at its first election is seven (9).
- (2) Subclause (1) does not limit the power of the new Council to re-determine, after the first election the number of its Councillors under section 224 of the Act.

6 Ward Structure

- (1) The new Council shall not be divided into wards for the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to obtain approval to divide its Area into wards in accordance with Division 1 of Part 1 of Chapter 9 of the Act.

7 Election of Mayor following the first election

- (1) The Mayor of the new Council is to be elected by the Councillors as referred to in sections 227(a), 282 and 290 (1) (c) of the Act at the new Councils first meeting following the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to determine the basis on which the Mayor attains office in accordance with Division 2 of Part 2 of Chapter 9 of the Act.

8 Appointment of the General Manager and other senior staff

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

9 Activities of former Councils

- (1) Anything that was done or omitted to be done by a former Council and that had effect immediately before the proclamation date continues to have effect as if it had been done or omitted to be done by the new Council.
- (2) Anything that was commenced by a former Council may be completed by the new Council as if it had been commenced by the new Council.

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

10 Delegations

- (1) Any delegation from a former Council that was in force immediately before the proclamation date is taken to be a delegation from the new council and may be revoked or amended accordingly.
- (2) Subclause (1) ceases to have effect when the new Council adopts new delegations under the relevant provisions of the Act.

11 Codes, policies and plans

- (1) The following policy and plan of the new Council are, as far as practicable, to be a composite of the corresponding policies and plans of each of the former Councils:
- a. local policies for approvals and orders (Part 3 of Chapter 7),
 - b. management plan (Part 2 of Chapter 13).
- (2) Each of the following codes, policies and plans of the former Tumut Shire Council apply, as far as practicable, to the new Council:
- a. code of conduct (section 440),
 - b. code of meeting practice (Division 1 of Part 2 of Chapter 12),
 - c. expenses and facilities policy (Division 5 of Part 2 of Chapter 9),
 - d. EEO management plan (Part 4 of Chapter 11).
- (3) Subclauses (1) & (2) cease to have effect in relation to a code, policy or plan of the new Council when the new Council adopts a new code, policy or plan under the relevant provisions of the Act.

12 Fees

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

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

13 Organisation Structure

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

14 Transfer of Senior Staff

(1) Any position that, immediately before the proclamation date, was a senior staff position of:

- (a) the former Tumut Shire Council is transferred to the Council of the Area of Tumut.
- (b) the former Yarrowlumla Shire Council is transferred to a Council of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut and Eastern Capital City Regional.

(2) The senior staff of each former Council are taken to be the senior staff of the new Council as determined with reference to subclause (1).

(3) This clause ceases to have effect when a new organisation structure is determined by the new Council under Part 1 of Chapter 11 of the Act.

15 Transfer of other staff

(1) It is intended that the making of any determinations as to the transfer of staff (other than senior staff) by virtue of the constitution of the new Area made in this Proclamation is to be in accordance with this clause:

- (a) each member of staff of the former Tumut Shire Council (a transferred staff member) is transferred to the Council of the Area of Tumut.
- (b) each member of staff of the former Yarrowlumla Shire Council (a transferred staff member) is transferred to a Council of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut or Eastern Capital City Regional as determined by agreement between the new Councils of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut and Eastern Capital City Regional.

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

16 Additional employment protection

- (1) For the period between 11 February 2004 and 1 May 2004 staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission may not be unreasonably based outside the general locality in which they were based immediately before the transfer without their approval.
- (2) For the period between 11 February 2004 and 1 May 2004, no staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission are to be made redundant without their approval.

17 Transfer of assets, rights and liabilities

- (1) The assets, rights and liabilities of:
 - a. The former Tumut Shire Council are transferred to a Council of the Area of Tumut.
 - b. The former Yarrowlumla Shire Council are transferred to the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan, Yass Valley, Tumut and Eastern Capital City Regional.
- (2) The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclause (1):
 - a. The assets of the former Councils vest in the new Council by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
 - b. The rights or liabilities of the former Councils become, by virtue of this clause, the rights and liabilities of the new Council,
 - c. All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Councils or a predecessor of any of the former Councils, and pending immediately before the transfer, are taken to be proceedings pending by or against the new Council,
 - d. Any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Councils or a predecessor of any of the former Councils is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Council.
 - e. Anything that was commenced by a former Council and uncompleted at the proclamation date may be completed by the new Council as if it had been commenced by the new Council. This includes but is not limited to any application for approval or consent under the Act or any other Act.

- f. In so doing, the new Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the relevant former Council, until such time as the new Council makes a new code, policy or plan in relation to that matter in accordance with the Act or any other Act.
 - g. Anything that was done by a former Council, and that had effect immediately before the proclamation date, or that was commenced by a former Council and completed by the new Council as a result of this Proclamation, continues to have effect and may be enforced by the new Council as if it had been done by the new Council.
 - h. Without limiting subclause (2)(g) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect and for all the purposes of the Act or any other Act shall be deemed to have been given or made by the new Council.
 - i. Any decision of the Land and Environment Court in an appeal from a decision of a former Council determined by the Court after the proclamation date shall be deemed to be a decision of the new Council.
- (3) During the transitional period no arrangements, without agreement between the new Council and the Minister, are to be entered into in relation to:
- a. the sale or purchase of property or of any assets involving an amount exceeding \$20,000
 - b. the leasing of property for a period exceeding five years
 - c. entering into new contracts for works involving an amount exceeding \$100,000
 - d. varying any budget allocation for any function.

(4) In this clause:

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

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

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

18 General provisions with respect to transfers

- (1) A transfer affected by this Schedule takes effect on the proclamation date.
- (2) The Minister may, by notice in writing, confirm a transfer affected by this Schedule.
- (3) Such a notice is conclusive evidence of the transfer.

19 Effect of transfer on third party rights

- (1) The operation of clause 17 (Transfer of assets, rights and liabilities) is not to be regarded:
 - a. As an event of default under any contract or other instrument, or
 - b. As a breach of contract or confidence or otherwise as a civil wrong, or
 - c. As a breach of contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - d. As giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (2) No attornment to the new Council by a lessee from a former Council is required in relation to a transfer affected by clause 17.
- (3) No compensation is payable to any person or body in connection with a transfer affected by clause 17.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between a former Council and that person or body.

20 Reports and reviews of the new Council

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

21 Auditor

The Auditor, Dawson and Partners will be the Auditor of the new Council unless the Council appoints another Auditor in accordance with Division 3 of Part 3 of Chapter 13 of the Act.

22 References to former Areas and Councils

In any Act, in any instrument made under any Act or in any document of any kind:

- (1) A reference to any of the former Areas, or to a predecessor of any of the former Areas, is taken to include a reference to the new Area and is to be read as a reference to the new Area, and
- (2) A reference to any of the former Councils, or to a predecessor of any of the former Councils, is to be taken as a reference to the new Council and is to be read as a reference to the new Council.

23 Rating Structures

- (1) The new Council's maximum general income for 2004/05 is to be determined by estimating the proportionate amount of general income for 2003/04 from land in the former Areas of Tumut and Yarrowlunla included in the new Area.
- (2) The new Council is to determine its rating structure taking into consideration subclause (1).
- (3) The rating structure is to be reviewed within the first term of the new Council.

24 Matters to be determined by Minister

- (1) In order to give effect to this Proclamation, the Minister may determine from time to time any matter or thing, including, without limitation, the content of the matters set out in clause 11 (1).
- (2) In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by the new Council.
- (3) The Minister may also determine any matter or thing that has not been referred to him by a new Council if the Minister concludes that the matter or thing cannot be determined by agreement between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro or Tumut, or if the Minister is not satisfied with any agreement reached between the aforementioned new Councils, including in relation to subclauses (2) and (4) herein.
- (4) A matter to be determined by the Minister shall be referred to the Director General, and/or another person or persons nominated by the Minister, for advice and recommendation, as appropriate.
- (5) The Director General and/or another person or persons nominated by the Minister, shall, if required by the Minister, convene a meeting between the affected new Councils listed in subclause (3) to assist in the determination of the matter.

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

25 Statement of Intent

- (1) The Minister will consider an application made by the new Council for a Special Variation to increase its General Income.
- (2) There will be meaningful cooperation between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro and Tumut in the sharing of information and agreement of all matters necessary to facilitate the provisions of this Proclamation.
- (3) The new Council should give consideration to establishing precinct areas and committees, which have defined roles and responsibilities.
- (4) The Councillors of the new Council are to consider operating under the basis of portfolio responsibilities and are to exercise community leadership for the whole local government area as set out in the Act.

Schedule F

Land included in the Upper Lachlan Local Government Area

Area about 7,412.44 square kilometres. Commencing at the confluence of the Lachlan and Abercrombie Rivers at Lake Wyangala: and bounded thence by the former river and Old Man Gunyah Creek upwards to the generally western boundary of Portion 139, Parish of Opton, County of King; by that boundary and the generally western boundaries of Portions 151, a line, 141 and 143 generally southerly to the range forming the eastern watershed of Pudman Creek; by that range generally southerly to the generally western boundary of Portion 185, Parish of Blakney; by that boundary and the generally western boundaries of Portions 71, 134 and 182 (part) generally southerly to the eastern prolongation of the generally southern boundary of Portion 64; by that prolongation and part of that boundary generally westerly to the range forming the south-eastern watershed of Pudman Creek; by that range generally south-westerly to the eastern boundary of Lot 2, D.P. 211320; by part of that boundary southerly and part of the southern boundary of that lot westerly to the northern prolongation of the eastern boundary of Portion 68; by that prolongation and boundary southerly and the generally south-eastern boundary of that portion, a line and the generally south-eastern boundary of Portion 69, generally south-westerly, the generally south-eastern and generally south-western boundaries of Portion 27, generally south-westerly and generally north-westerly, the generally southern boundaries of Portions 49, 298, a line and 295, Parish of Crosby, generally westerly, the generally southern and generally western boundaries of Portion 234, generally westerly and generally northerly, the generally western boundary of Portion 264, generally northerly, the generally south-western boundaries of Portions 265, 309 and 48, and a line generally north-westerly, part of the southernmost southern and part of the generally western boundaries of Portion 301, westerly and generally northerly to the range forming the north-eastern watershed of Kangiara Creek; by that range generally north-westerly to the eastern boundary of Portion 224, Parish of Olney; by that boundary and the generally north-eastern boundary of that portion, northerly and generally north-westerly, part of the eastern and the northern boundaries of Portion 211, northerly and westerly, the easternmost eastern boundary of Portion 312, northerly, the southern and part of the western boundaries of Portion 184, westerly and northerly, the generally southern boundaries of Portions 310, 311, 314 and 315, generally westerly, the generally south-eastern boundaries of Portions 150, 317 and Portions 213 and 216, Parish of Taunton, generally south-westerly, part of the northern, the western and part of the southern boundaries of Portion 234, westerly, southerly and easterly, the northern prolongation of the eastern boundary of Portion 146, that boundary and its prolongation, southerly, part of the northern boundary of Portion 156, westerly, part of the eastern and the northern boundaries of Portion 147, northerly and westerly, a line, the northern boundaries of Portions 133 and 161 and their prolongation westerly, part of the eastern and southern boundaries of Portion 9, southerly and westerly, the easternmost eastern, the generally northern and part of the western boundaries of Portion 25, northerly, generally westerly and southerly, the eastern prolongation of the southern boundary of Portion 130, that boundary, the southern boundary of Portion 125 and its prolongation, westerly, part of the north-eastern, the eastern and the southern boundaries of Portion 124, south-easterly, southerly and westerly, the southern boundary of Portion 99 and its prolongation westerly to Boorowa River; by that river downwards to the generally northern boundary of the Parish of Eubindal, County of Harden; by that boundary and part of the generally western boundary of that parish, generally westerly and generally southerly to the range forming the generally south-western watershed of the Boorowa River; by that range generally south-easterly, the range forming the generally south-western watershed of Blakney

Creek, generally south-easterly, Mudoonen range, generally south-easterly, Cullarin range, generally northerly to the road from Gunning to Collector; by that road, generally easterly and the Federal Highway, generally north-easterly to the range forming the eastern watershed of Collector Creek; by that range and the range forming the watershed between the Lachlan River and Collector Creek, generally north-westerly and generally westerly to the generally eastern boundary of the Parish of Milbang; by that boundary and the generally eastern boundaries of the Parishes of Mutmutbilly and Gurrunda generally northerly to Wollondilly River; by that river upwards and Oxley Creek, upwards to its source in the range forming the generally south-eastern watershed of Pejar Dam; by that range, generally north-easterly to the generally southern boundary of the Parish of Upper Tarlo; by part of that boundary and part of the generally eastern boundary of that parish, generally easterly and generally northerly and the generally northern boundary of the Parish of Rhyana, generally easterly to the Tarlo River; by that river downwards to the generally northern boundary of the Parish of Norrong; by part of that boundary, generally easterly to the Wollondilly River, aforesaid: by that river, downwards and Guineacor; Mares Forest and Wombeyan Creeks upwards to the generally southern boundary of the Parish of St Columba, County of Westmoreland; by part of that boundary easterly and part of the generally eastern boundary of that parish generally northerly to the western prolongation of the northern boundary of Portion 60, Parish of Guineacor; by that prolongation easterly to the generally northern boundary of the parish; by part of that boundary generally easterly to Murruin Creek; by that creek, Shivering Creek and an eastern branch of Shivering Creek upward to the source of the last mentioned creek at Mount Shivering; by a ridge from that mount north-easterly and Murruin Range generally north-westerly to the eastern corner of Portion 2, Parish of Banshea; by the south-eastern boundaries of that portion and Portion 1 southerly to the generally south-western boundary of that parish; by part of that boundary and part of the generally south-western boundary of the Parish of Abercorn generally north-westerly to the western corner of Portion 8; by a line southerly to the source of a northern branch of Abercrombie River, aforesaid, and by that branch and river downwards to the point of commencement.

1 Definitions

In this Schedule:

clause means a clause in this schedule.

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

former Area means any or all of the following:

- that part of the former Area of Gunning which, by this Proclamation, is constituted the Upper Lachlan Council
- that part of the former Area of Crookwell which, by this Proclamation, is constituted the Upper Lachlan Council
- that part of the former Area of Mulwaree which, by this Proclamation, is constituted the Upper Lachlan Council
- that part of the former Area of Yass which, by this Proclamation, is constituted the Upper Lachlan Council

former Council means any of the former Councils Yass, Crookwell, Mulwaree or Gunning.

Minister means the Minister for Local Government.

new Area means the new Area of Upper Lachlan.

new Council means the Upper Lachlan Council.

proclamation date means 11 February 2004.

the Act means the Local Government Act 1993.

2 First election

- (1) The date of the first election of the Councillors of the new Council is 1 May 2004.
- (2) Unless otherwise required by the Act or the context, the provisions relating to ordinary elections shall be taken to apply to the first election of the councillors.
- (3) For the purposes of:
 - a) the entitlements of persons to be enrolled as electors for the new Area and to vote at the election, and
 - b) the entitlements of persons to be nominated for election as Councillors for the new Area at the election, and
 - c) the conduct of the election by the State Electoral Commissioner, and
 - d) any other matter relating to the election,

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

3 Administration of new Council for interim period

- (1) For the interim period between 11 February 2004 and the declaration of the first election, one Administrator is appointed and is Mr Brian McCormack (former Mayor of the former Crookwell Shire Council) to direct and control the affairs of the new Council.
- (2) If Mr Brian McCormack declines to be appointed as the Administrator, then the Minister may appoint an alternate person as the Administrator.

- (3) The Administrator will be paid \$34,000 per annum on a pro-rata basis for the interim period.
- (4) For the purposes of the Local Government Act 1993, the Administrator does not hold an office or a position of profit under the new Council.

4 Appointment of Acting General Manager

- (1) The Acting General Manager of the new Area shall be Mr Philip Harvey (former General Manager of the former Crookwell Shire Council) for a period of six months commencing from 11 February 2004.
- (2) The General Manager of the new Council is to be confirmed at the first meeting of the new Council after the six month period, or otherwise recruitment processes commenced.

5 Number of Councillors

- (1) The number of Councillors to be elected to the new Council at its first election is nine (9).
- (2) Subclause (1) does not limit the power of the new Council to re-determine, after the first election the number of its Councillors under section 224 of the Act.

6 Ward Structure

- (1) The new Council shall not be divided into wards for the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to obtain approval to divide its Area into wards in accordance with Division 1 of Part 1 of Chapter 9 of the Act.

7 Election of Mayor following the first election

- (1) The Mayor of the new Council is to be elected by the Councillors as referred to in sections 227(a), 282 and 290 (1) (c) of the Act at the new Councils first meeting following the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to determine the basis on which the Mayor attains office in accordance with Division 2 of Part 2 of Chapter 9 of the Act.

8 Appointment of the General Manager and other senior staff

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

9 Activities of former Councils

- (1) Anything that was done or omitted to be done by a former Council and that had effect immediately before the proclamation date continues to have effect as if it had been done or omitted to be done by the new Council.
- (2) Anything that was commenced by a former Council may be completed by the new Council as if it had been commenced by the new Council.
- (3) Without limiting subclause (1) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect as if it had been done or made by the new Council.

10 Delegations

- (1) Any delegation from a former Council that was in force immediately before the proclamation date is taken to be a delegation from the new council and may be revoked or amended accordingly.
- (2) Subclause (1) ceases to have effect when the new Council adopts new delegations under the relevant provisions of the Act.

11 Codes, policies and plans

- (1) The following policy and plan of the new Council are, as far as practicable, to be a composite of the corresponding policies and plans of each of the former Councils:
 - a. local policies for approvals and orders (Part 3 of Chapter 7),
 - b. management plan (Part 2 of Chapter 13).
- (2) Each of the following codes, policies and plans of the former Crookwell Shire Council apply, as far as practicable, to the new Council:
 - a. code of conduct (section 440),
 - b. code of meeting practice (Division 1 of Part 2 of Chapter 12),
 - c. expenses and facilities policy (Division 5 of Part 2 of Chapter 9),
 - d. EEO management plan (Part 4 of Chapter 11).

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

12 Fees

- (1) The annual fee paid to each Councillor of the new Council and the annual fee paid to the Mayor of the new Council is to be equal to the highest of the corresponding fees paid by the former Councils.
- (2) Subclause (1) ceases to have effect in relation to an annual fee when the new Council fixes the annual fee in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

13 Organisation Structure

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

14 Transfer of Senior Staff

- (1) Any position that, immediately before the proclamation date, was a senior staff position of:
- (a) the former Crookwell Shire Council is transferred to the Council of the Area of Upper Lachlan.
 - (b) the former Gunning Shire Council is transferred to a Council of the Areas of Yass Valley, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Yass Valley, Upper Lachlan and Eastern Capital City Regional.
 - (c) the former Yass Shire Council is transferred to a Council of the Areas of Yass Valley or Upper Lachlan as determined by agreement between the Councils of the Areas of Yass Valley and Upper Lachlan.
 - (d) the former Mulwaree Shire Council is transferred to a Council of the Areas of Greater Argyle, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Greater Argyle, Upper Lachlan or Eastern Capital City Regional.
- (2) The senior staff of each former Council are taken to be the senior staff of the new Council as determined with reference to subclause (1).
- (3) This clause ceases to have effect when a new organisation structure is determined by the new Council under Part 1 of Chapter 11 of the Act.

15 Transfer of other staff

- (1) It is intended that the making of any determinations as to the transfer of staff (other than senior staff) by virtue of the constitution of the new Area made in this Proclamation is to be in accordance with this clause:
 - (a) each member of staff of the former Crookwell Shire Council (a transferred staff member) is transferred to the new Council of the Area of Upper Lachlan.
 - (b) each member of staff of the former Gunning Shire Council (a transferred staff member) is transferred to a Council of the Areas of Yass Valley, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Yass Valley, Upper Lachlan and Eastern Capital City Regional.
 - (c) each member of staff of the former Yass Shire Council (a transferred staff member) is transferred to a Council of the Areas of Yass Valley or Upper Lachlan as determined by agreement between the Councils of the Areas of Yass Valley or Upper Lachlan.
 - (d) each member of staff of the former Mulwaree Shire Council (a transferred staff member) is transferred to a Council of the Areas of Greater Argyle, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Greater Argyle, Upper Lachlan and Eastern Capital City Regional.
- (2) Part 6 of Chapter 11 of the Act (employment protection) applies to the employment of a transferred staff member.

16 Additional employment protection

- (1) For the period between 11 February 2004 and 1 May 2004 staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission may not be unreasonably based outside the general locality in which they were based immediately before the transfer without their approval.
- (2) For the period between 11 February 2004 and 1 May 2004, no staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission are to be made redundant without their approval.

17 Transfer of assets, rights and liabilities

- (1) It is intended that the making of any determinations as to the transfer of assets, rights and liabilities by virtue of the constitution of the new Area made in this Proclamation is to be in accordance with this clause:
 - a. The assets, rights and liabilities of the former Crookwell Shire Council are transferred to the Council of the Area of Upper Lachlan.

- b. The assets, rights and liabilities of the former Gunning Shire Council are transferred to the Councils of the Areas of Yass Valley, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Yass Valley, Upper Lachlan and Eastern Capital City Regional.
 - c. The assets, rights and liabilities of the former Yass Shire Council are transferred to the Councils of the Areas of Yass Valley or Upper Lachlan as determined by agreement between the Councils of the Areas of Yass Valley or Upper Lachlan.
 - d. The assets, rights and liabilities of the former Mulwaree Shire Council are transferred to the Councils of the Areas of Greater Argyle, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Greater Argyle, Upper Lachlan and Eastern Capital City Regional.
- (2) The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclause (1):
- a. The assets of the former Councils vest in the new Council by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
 - b. The rights or liabilities of the former Councils become, by virtue of this clause, the rights and liabilities of the new Council,
 - c. All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Councils or a predecessor of any of the former Councils, and pending immediately before the transfer, are taken to be proceedings pending by or against the new Council,
 - d. Any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Councils or a predecessor of any of the former Councils is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Council.
 - e. Anything that was commenced by a former Council and uncompleted at the proclamation date may be completed by the new Council as if it had been commenced by the new Council. This includes but is not limited to any application for approval or consent under the Act or any other Act.
 - f. In so doing, the new Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the relevant former Council, until such time as the new Council makes a new code, policy or plan in relation to that matter in accordance with the Act or any other Act.

- g. Anything that was done by a former Council, and that had effect immediately before the proclamation date, or that was commenced by a former Council and completed by the new Council as a result of this Proclamation, continues to have effect and may be enforced by the new Council as if it had been done by the new Council.
 - h. Without limiting subclause (2)(g) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect and for all the purposes of the Act or any other Act shall be deemed to have been given or made by the new Council.
 - i. Any decision of the Land and Environment Court in an appeal from a decision of a former Council determined by the Court after the proclamation date shall be deemed to be a decision of the new Council.
- (3) During the transitional period no arrangements, without agreement between the new Council and the Minister, are to be entered into in relation to:
- a. the sale or purchase of property or of any assets involving an amount exceeding \$20,000
 - b. the leasing of property for a period exceeding five years
 - c. entering into new contracts for works involving an amount exceeding \$100,000
 - d. varying any budget allocation for any function.

(4) In this clause:

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

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

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

18 General provisions with respect to transfers

- (1) A transfer affected by this Schedule takes effect on the proclamation date.
- (2) The Minister may, by notice in writing, confirm a transfer affected by this Schedule.
- (3) Such a notice is conclusive evidence of the transfer.

19 Effect of transfer on third party rights

- (1) The operation of clause 17 (Transfer of assets, rights and liabilities) is not to be regarded:
 - a. As an event of default under any contract or other instrument, or
 - b. As a breach of contract or confidence or otherwise as a civil wrong, or
 - c. As a breach of contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - d. As giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (2) No attornment to the new Council by a lessee from a former Council is required in relation to a transfer affected by clause 17.
- (3) No compensation is payable to any person or body in connection with a transfer affected by clause 17.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between a former Council and that person or body.

20 Reports and reviews of the new Council

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

21 Auditor

The Auditor, Alan Morse & Co. will be the Auditor of the new Council unless the Council appoints another Auditor in accordance with Division 3 of Part 3 of Chapter 13 of the Act.

22 References to former Areas and Councils

In any Act, in any instrument made under any Act or in any document of any kind:

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

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

23 Rating Structures

- (1) The new Council's maximum general income for 2004/05 is to be determined by estimating the proportionate amount of general income for 2003/04 from land in the former Areas of Crookwell, Yass, Mulwaree and Gunning included in the new Area.
- (2) The new Council is to determine its rating structure taking into consideration subclause (1).
- (3) The rating structure is to be reviewed within the first term of the new Council.

24 Matters to be determined by Minister

- (1) In order to give effect to this Proclamation, the Minister may determine from time to time any matter or thing, including, without limitation, the content of the matters set out in clause 11 (1).
- (2) In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by the new Council.
- (3) The Minister may also determine any matter or thing that has not been referred to him by a new Council if the Minister concludes that the matter or thing cannot be determined by agreement between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro or Tumut, or if the Minister is not satisfied with any agreement reached between the aforementioned new Councils, including in relation to subclauses (2) and (4) herein.
- (4) A matter to be determined by the Minister shall be referred to the Director General, and/or another person or persons nominated by the Minister, for advice and recommendation, as appropriate.
- (5) The Director General and/or another person or persons nominated by the Minister, shall, if required by the Minister, convene a meeting between the affected new Councils listed in subclause (3) to assist in the determination of the matter.
- (6) The Director General and/or any person or persons nominated by the Minister under this clause, shall have regard to the Statement of Intent herein and any other principles or guidelines considered appropriate in the circumstances.

25 Statement of Intent

- (1) The Minister will consider an application made by the new Council for a Special Variation to increase its General Income.
- (2) There will be meaningful cooperation between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro and Tumut in the sharing of information and agreement of all matters necessary to facilitate the provisions of this Proclamation.
- (3) The new Council should give consideration to establishing precinct areas and committees, which have defined roles and responsibilities.
- (4) The Councillors of the new Council are to consider operating under the basis of portfolio responsibilities and are to exercise community leadership for the whole local government area as set out in the Act.

Schedule G

Land included in the Yass Valley Local Government Area

Area about 3635.04 square kilometres. Commencing at the intersection of the Murrumbidgee River and the boundary between the State of New South Wales and the Australian Capital Territory, near Cusacks Crossing; and bounded thence by that boundary, generally south-westerly to the source of Fastigata Creek; by a line westerly to Webbs Ridge; by that ridge generally north-easterly to the north-eastern corner of Lot 3, DP 751811; by part of the eastern boundary of Lot 4, DP 751811 northerly to the western prolongation of the eastmost northern boundary of the Parish of Cooree, County of Cowley; by that prolongation westerly to the Goodradigbee River; by that river downwards to Nottingham Creek; by that creek upwards to the south-eastern corner of Portion 19, Parish of Weejasper, County of Buccleuch; by the southern boundary of that portion, part of an eastern and the southernmost boundary of Portion 27, and the southern boundary of Portion 26, easterly, southerly and again westerly to the south-western corner of the said Portion 26; by the generally western boundary of the Parishes of Weejasper and West Goodradigbee generally northerly to the Murrumbidgee River; by that river downwards to the generally western boundary of the Parish of Talmo, County of Harden; by part of that boundary generally northerly, the western, southern and eastern boundaries of Lot A, D.P. 358100 southerly, easterly and northerly, again the generally western boundary of the Parish of Talmo generally northerly to the north-western corner of Portion 96; by the southernmost western boundary of Portion 347, Parish of Bookham and the former generally western boundary of that Parish generally northerly to the road forming part of the western boundary of Portion 344; by that road, part of the generally western boundary of that Parish and part of the generally western boundary of the Parish of Mylora generally northerly to the north-western corner of Portion 201; by part of the northern boundary of that Portion easterly to its intersection with a line along the western boundary of Portion 189; by that line and that boundary, and part of the southern and the western boundaries of Portion 80, northerly, westerly and again northerly to Jugiong Creek; by that creek downwards to the generally western boundary of the Parish of Mylora; by part of that boundary northerly, the southern, the western and part of the northern boundaries of Lot 102, D.P. 753618 westerly, northerly and easterly, the generally western and generally north-western boundaries of the Parish of Binalong generally northerly and generally north-easterly, part of the generally western boundary of the Parish of Eubindal, generally northerly to the range forming the generally south-western watershed of the Boorowa River; by that range generally south-easterly, the range forming the generally south-western watershed of Blakney Creek, generally south-easterly, Muntoonen range, generally south-easterly, Cullarin range, generally northerly to the road from Gunning to Collector; by that road, generally easterly and the Federal Highway, generally south-westerly to the generally north-eastern boundary between the State of New South Wales and the Australian Capital Territory; by that boundary, and the north-western, aforesaid, boundary, generally north-westerly and south-westerly to the point of commencement.

1 Definitions

In this Schedule:

clause means a clause in this schedule.

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

former Area means any or all of the following:

- that part of the former Area of Gunning which, by this Proclamation, is constituted the Yass Valley Council
- that part of the former Area of Yarrawlumla which, by this Proclamation, is constituted the Yass Valley Council
- that part of the former Area of Yass which, by this Proclamation, is constituted the Yass Valley Council

former Council means any of the former Councils Yass, Yarrawlumla or Gunning.

Minister means the Minister for Local Government.

new Area means the new Area of Yass Valley.

new Council means the Yass Valley Council.

proclamation date means 11 February 2004.

the Act means the Local Government Act 1993.

2 First election

- (1) The date of the first election of the Councillors of the new Council is 1 May 2004.
- (2) Unless otherwise required by the Act or the context, the provisions relating to ordinary elections shall be taken to apply to the first election of the councillors.
- (3) For the purposes of:
 - a) the entitlements of persons to be enrolled as electors for the new Area and to vote at the election, and
 - b) the entitlements of persons to be nominated for election as Councillors for the new Area at the election, and
 - c) the conduct of the election by the State Electoral Commissioner, and
 - d) any other matter relating to the election,

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

3 Administration of new Council for interim period

- (1) For the interim period between 11 February 2004 and the declaration of the first election, one Administrator is appointed and is Mr Nic Carmody (former Mayor of the former Yass Shire Council) to direct and control the affairs of the new Council.
- (2) If Mr Nic Carmody declines to be appointed as the Administrator, then the Minister may appoint an alternate person as the Administrator.
- (3) The Administrator will be paid \$48,000 per annum on a pro-rata basis for the interim period.
- (4) For the purposes of the Local Government Act 1993, the Administrator does not hold an office or a position of profit under the new Council.

4 Appointment of Acting General Manager

- (1) The Acting General Manager of the new Area shall be Mr Greg Smith (former General Manager of the former Yass Shire Council) for a period of six months commencing from 11 February 2004.
- (2) The General Manager of the new Council is to be confirmed at the first meeting of the new Council after the six month period, or otherwise recruitment processes commenced.

5 Number of Councillors

- (1) The number of Councillors to be elected to the new Council at its first election is nine (9).
- (2) Subclause (1) does not limit the power of the new Council to re-determine, after the first election the number of its Councillors under section 224 of the Act.

6 Ward Structure

- (1) The new Council shall not be divided into wards for the first election.
- (2) Nothing in subclause (1) limits the power of the new Council following the first election to hold a constitutional referendum to obtain approval to divide its Area into wards in accordance with Division 1 of Part 1 of Chapter 9 of the Act.

7 Election of Mayor following the first election

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

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

8 Appointment of the General Manager and other senior staff

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

9 Activities of former Councils

- (1) Anything that was done or omitted to be done by a former Council and that had effect immediately before the proclamation date continues to have effect as if it had been done or omitted to be done by the new Council.
- (2) Anything that was commenced by a former Council may be completed by the new Council as if it had been commenced by the new Council.
- (3) Without limiting subclause (1) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect as if it had been done or made by the new Council.

10 Delegations

- (1) Any delegation from a former Council that was in force immediately before the proclamation date is taken to be a delegation from the new council and may be revoked or amended accordingly.
- (2) Subclause (1) ceases to have effect when the new Council adopts new delegations under the relevant provisions of the Act.

11 Codes, policies and plans

- (1) The following policy and plan of the new Council are, as far as practicable, to be a composite of the corresponding policies and plans of each of the former Councils:
 - a. local policies for approvals and orders (Part 3 of Chapter 7),
 - b. management plan (Part 2 of Chapter 13).
- (2) Each of the following codes, policies and plans of the former Yass Shire Council apply, as far as practicable, to the new Council:
 - a. code of conduct (section 440),

- b. code of meeting practice (Division 1 of Part 2 of Chapter 12),
- c. expenses and facilities policy (Division 5 of Part 2 of Chapter 9),
- d. EEO management plan (Part 4 of Chapter 11).

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

12 Fees

- (1) The annual fee paid to each Councillor of the new Council and the annual fee paid to the Mayor of the new Council is to be equal to the highest of the corresponding fees paid by the former Councils.
- (2) Subclause (1) ceases to have effect in relation to an annual fee when the new Council fixes the annual fee in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

13 Organisation Structure

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

14 Transfer of Senior Staff

- (1) Any position that, immediately before the proclamation date, was a senior staff position of:
 - (a) the former Gunning Shire Council is transferred to a Council of the Areas of Yass Valley, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the new Councils of the Areas of Yass Valley, Upper Lachlan and Eastern Capital City Regional.
 - (b) the former Yass Shire Council is transferred to a Council of the Areas of Yass Valley, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the new Councils of the Areas of Yass Valley, Upper Lachlan and Eastern Capital City Regional.
 - (c) the former Yarrowlumla Shire Council is transferred to a Council of the Areas of Cooma-Monaro, Greater Queanbeyan, Tumut, Yass Valley or Eastern Capital City Regional as determined by agreement between the new Councils

of the Areas of Cooma-Monaro, Greater Queanbeyan, Tumut, Yass Valley and Eastern Capital City Regional.

- (2) The senior staff of each former Council are taken to be the senior staff of the new Council as determined with reference to subclause (1).
- (3) This clause ceases to have effect when a new organisation structure is determined by the new Council under Part 1 of Chapter 11 of the Act.

15 Transfer of other staff

- (1) It is intended that the making of any determinations as to the transfer of staff (other than senior staff) by virtue of the constitution of the new Area made in this Proclamation is to be in accordance with this clause:
 - (a) each member of staff of the former Gunning Shire Council (a transferred staff member) is transferred to the Council of the Areas of Yass Valley, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the new Councils of the Areas of Yass Valley, Upper Lachlan and Eastern Capital City Regional.
 - (b) each member of staff of the former Yass Shire Council (a transferred staff member) is transferred to the Council of the Areas of Yass Valley or Upper Lachlan as determined by agreement between the new Councils of the Areas of Yass Valley and Upper Lachlan.
 - (c) each member of staff of the former Yarrowlumla Shire Council (a transferred staff member) is transferred to the Council of the Areas of Cooma-Monaro, Greater Queanbeyan, Tumut, Yass Valley or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan, Tumut, Yass Valley and Eastern Capital City Regional.
- (2) Part 6 of Chapter 11 of the Act (employment protection) applies to the employment of a transferred staff member.

16 Additional employment protection

- (1) For the period between 11 February 2004 and 1 May 2004 staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission may not be unreasonably based outside the general locality in which they were based immediately before the transfer without their approval.
- (2) For the period between 11 February 2004 and 1 May 2004, no staff employed under an award wage or other industrial instrument approved by the Industrial Relations Commission are to be made redundant without their approval.

17 Transfer of assets, rights and liabilities

- (1) It is intended that the making of any determinations as to the transfer of assets, rights and liabilities of the former Councils by virtue of the constitution of the new Area made in this Proclamation is to be in accordance with this clause:
- a. The assets, rights and liabilities of the former Gunning Shire Council are transferred to the Councils of the Areas of Yass Valley, Upper Lachlan or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Yass Valley, Upper Lachlan and Eastern Capital City Regional.
 - b. The assets, rights and liabilities of the former Yass Shire Council are transferred to the Councils of the Areas of Yass Valley or Upper Lachlan as determined by agreement between the new Councils of the Areas of Yass Valley and Upper Lachlan.
 - c. The assets, rights and liabilities of the former Yarrawlumla Shire Council are transferred to the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan, Tumut, Yass Valley or Eastern Capital City Regional as determined by agreement between the Councils of the Areas of Cooma-Monaro, Greater Queanbeyan, Tumut, Yass Valley and Eastern Capital City Regional.
- (2) The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclause (1):
- a. The assets of the former Councils vest in the new Council by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
 - b. The rights or liabilities of the former Councils become, by virtue of this clause, the rights and liabilities of the new Council,
 - c. All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former Councils or a predecessor of any of the former Councils, and pending immediately before the transfer, are taken to be proceedings pending by or against the new Council,
 - d. Any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the former Councils or a predecessor of any of the former Councils is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Council.
 - e. Anything that was commenced by a former Council and uncompleted at the proclamation date may be completed by the new Council as if it had been commenced by the new Council. This includes but is not limited to any application for approval or consent under the Act or any other Act.

- f. In so doing, the new Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the relevant former Council, until such time as the new Council makes a new code, policy or plan in relation to that matter in accordance with the Act or any other Act.
 - g. Anything that was done by a former Council, and that had effect immediately before the proclamation date, or that was commenced by a former Council and completed by the new Council as a result of this Proclamation, continues to have effect and may be enforced by the new Council as if it had been done by the new Council.
 - h. Without limiting subclause (2)(g) any approval, order or notice that was given or made by a former Council, and that had effect immediately before the proclamation date, continues to have effect and for all the purposes of the Act or any other Act shall be deemed to have been given or made by the new Council.
 - i. Any decision of the Land and Environment Court in an appeal from a decision of a former Council determined by the Court after the proclamation date shall be deemed to be a decision of the new Council.
- (3) During the transitional period no arrangements, without agreement between the new Council and the Minister, are to be entered into in relation to:
- a. the sale or purchase of property or of any assets involving an amount exceeding \$20,000
 - b. the leasing of property for a period exceeding five years
 - c. entering into new contracts for works involving an amount exceeding \$100,000
 - d. varying any budget allocation for any function.

(4) In this clause:

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

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

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

18 General provisions with respect to transfers

- (1) A transfer affected by this Schedule takes effect on the proclamation date.
- (2) The Minister may, by notice in writing, confirm a transfer affected by this Schedule.
- (3) Such a notice is conclusive evidence of the transfer.

19 Effect of transfer on third party rights

- (1) The operation of clause 17 (Transfer of assets, rights and liabilities) is not to be regarded:
 - a. As an event of default under any contract or other instrument, or
 - b. As a breach of contract or confidence or otherwise as a civil wrong, or
 - c. As a breach of contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - d. As giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (2) No attornment to the new Council by a lessee from a former Council is required in relation to a transfer affected by clause 17.
- (3) No compensation is payable to any person or body in connection with a transfer affected by clause 17.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between a former Council and that person or body.

20 Reports and reviews of the new Council

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

21 Auditor

The Auditor, James Murphy & Co. will be the Auditor of the new Council unless the Council appoints another Auditor in accordance with Division 3 of Part 3 of Chapter 13 of the Act.

22 References to former Areas and Councils

In any Act, in any instrument made under any Act or in any document of any kind:

- (1) A reference to any of the former Areas, or to a predecessor of any of the former Areas, is taken to include a reference to the new Area and is to be read as a reference to the new Area, and
- (2) A reference to any of the former Councils, or to a predecessor of any of the former Councils, is to be taken as a reference to the new Council and is to be read as a reference to the new Council.

23 Southern Slopes County Council

- (1) The former Yass Shire Council is excluded as a constituent Council of the Southern Slopes County Council and the new Council is included as a constituent Council of the County Council.
- (2) The County Council's area of operations increases to include those parts of the former Yarrowlumla Shire and Gunning Shire that are included in the new Council as described in this Schedule.
- (3) The small portion of the former Yass Shire Council that is north of the northern boundary of the Murrumbidgee Catchment Management Authority boundary, that is now part of the Area of Upper Lachlan, is excluded from the area of operations of the County Council.
- (4) Two persons are to be elected by the new Council to the County Council's governing body.

24 Rating Structures

- (1) The new Council's maximum general income for 2004/05 is to be determined by estimating the proportionate amount of general income for 2003/04 from land in the former Areas of Yass, Yarrowlumla and Gunning included in the new Area.
- (2) The new Council is to determine its rating structure taking into consideration subclause (1).
- (3) The rating structure is to be reviewed within the first term of the new Council.

25 Matters to be determined by Minister

- (1) In order to give effect to this Proclamation, the Minister may determine from time to time any matter or thing, including, without limitation, the content of the matters set out in clause 11 (1).

- (2) In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by the new Council.
- (3) The Minister may also determine any matter or thing that has not been referred to him by a new Council if the Minister concludes that the matter or thing cannot be determined by agreement between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro or Tumut, or if the Minister is not satisfied with any agreement reached between the aforementioned new Councils, including in relation to subclauses (2) and (4) herein.
- (4) A matter to be determined by the Minister shall be referred to the Director General, and/or another person or persons nominated by the Minister, for advice and recommendation, as appropriate.
- (5) The Director General and/or another person or persons nominated by the Minister, shall, if required by the Minister, convene a meeting between the affected new Councils listed in subclause (3) to assist in the determination of the matter.
- (6) The Director General and/or any person or persons nominated by the Minister under this clause, shall have regard to the Statement of Intent herein and any other principles or guidelines considered appropriate in the circumstances.

26 Statement of Intent

- (1) The Minister will consider an application made by the new Council for a Special Variation to increase its General Income.
- (2) There will be meaningful cooperation between the new Councils of the Areas of Yass Valley, Upper Lachlan, Greater Argyle, Eastern Capital City Regional, Greater Queanbeyan, Cooma-Monaro and Tumut in the sharing of information and agreement of all matters necessary to facilitate the provisions of this Proclamation.
- (3) The new Council should give consideration to establishing precinct areas and committees, which have defined roles and responsibilities.
- (4) The Councillors of the new Council are to consider operating under the basis of portfolio responsibilities and are to exercise community leadership for the whole local government area as set out in the Act.