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SPECIAL SUPPLEMENT

LOCAL GOVERNMENT ACT 1993 – PROCLAMATION

JAMES JACOB SPIGELMAN,

By Deputation from Her Excellency the 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 sections 218B and 218C of the Local Government Act 1993, do, by this my Proclamation:

- (a) declare that, on 8 May 2003, the land described in Schedule A hereto is taken from the Area of Leichhardt, as last described by Proclamation in Government Gazette No. 33 of 1996, and transferred to the City of Sydney, as last described by Proclamation in Government Gazette No. 150 of 1998; and
- (b) declare that, on 8 May 2003, the land described in Schedule B hereto is taken from the City of South Sydney, as last described by Proclamation in Government Gazette No. 33 of 1996, and transferred to the City of Sydney, as last described by Proclamation in Government Gazette No. 150 of 1998; and
- (c) declare that, on and from 8 May 2003, the resulting boundaries of the Area of Leichhardt (after taking therefrom the land described in Schedule A hereto) shall be as described in Schedule C hereto, and
- (d) declare that, on and from 8 May 2003, the resulting boundaries of the City of South Sydney (after taking therefrom the land described in Schedule B hereto) shall be as described in Schedule D hereto, and
- (e) declare that, on and from 8 May 2003, the resulting boundaries of the City of Sydney (after adding thereto the land described in Schedules A and B hereto) shall be as described in Schedule E hereto, and
- (f) declare that the provisions set out in Schedule F to this Proclamation are to apply, on and from 21 February 2003, to and in respect of the transfers effected by this Proclamation.

Signed and sealed at Sydney, this 19th day of February 2003.

By Her Excellency's Command,

HARRY WOODS, M.P.,
Minister for Local Government

GOD SAVE THE QUEEN!

Schedule A – Land Transferred from the Area of Leichhardt to the City of Sydney

Area about 2.22 square kilometres. Commencing at the intersection of the north-western prolongation of Wattle Street and the Mean Low Water Mark of the generally southern shore of Port Jackson at Blackwattle Bay; and bounded thence by that shore generally westerly to the generally western boundary of Bicentennial Park; by that boundary southerly to Chapman Road; by that road westerly and The Crescent generally southerly to Johnstons Creek Stormwater Channel; by that stormwater channel upwards to Wigram Road; by that road south-westerly and Booth St south-easterly to Johnstons Creek Stormwater Channel, aforesaid; by that stormwater channel downwards and Orphan School Creek Stormwater Channel upwards to Foss Street; by that street north-easterly, Cross Street south-easterly and Bridge Road south-westerly to the north-western prolongation of the generally north-eastern boundary of Lot 4, DP 532961; by that prolongation and part of that boundary generally south-easterly, the north-western and generally north-eastern boundaries of Lot 2, DP 532961 north-easterly and generally south-easterly, part of the north-western and the south-western boundaries of Lot 1, DP 584394 south-westerly and south-easterly and part of the generally north-western boundary of Lot 1, DP 536400 south-easterly and south-westerly to Orphan School Creek Stormwater Channel, aforesaid; by that channel upwards to the north-western boundary of land in DP 78669; by part of that boundary north-easterly and the north-eastern and part of the generally south-eastern boundaries of that DP south-easterly and generally south-easterly and generally south-westerly to Orphan Creek Stormwater Channel; again by that channel upwards to Parramatta Road, aforesaid; by that road north-easterly, Bay Street north-westerly, William Henry Street north-easterly and Wattle Street and its prolongation aforesaid generally north-westerly to the point of commencement.

Schedule B – Land transferred from the City of South Sydney to the City of Sydney

Area 1: Area about 1.71 square kilometres. Commencing at the intersection of Cleveland Street and Regent Street; and bounded thence by the latter street generally northerly, Wellington Street westerly, Balfour Street generally northerly, O'Connor Street south-westerly, Abercrombie and Wattle Streets north-westerly, William Henry Street south-westerly, Bay Street south-easterly and Broadway and Parramatta Road generally south-westerly to Orphan School Creek Stormwater Channel; by that channel downwards to the generally south-eastern boundary of land in DP 78669; by part of that boundary generally north-easterly and the north-eastern and part of the north-western boundaries of that DP north-westerly and south-westerly to Orphan School Creek Stormwater Channel; again by that channel downwards to the generally north-western boundary of Lot 1, DP 536400; by part of that boundary north-easterly and north-westerly, the south-western and part of the north-western boundaries of Lot 1, DP 584394 north-westerly and north-easterly, the generally north-eastern and north-western boundaries of Lot 2, DP 532961 generally north-westerly and south-westerly and part of the generally north-eastern boundary of Lot 4, DP 532961 and its prolongation generally north-westerly to Bridge Road; by that road north-easterly, Cross Street north-westerly and Foss Street and its prolongation south-westerly to Orphan School Creek Stormwater

Channel, aforesaid; by that channel downwards and Johnstons Creek Stormwater Channel upwards to Booth Street; by that street and Mallett Street south-easterly, Salisbury Road north-easterly, Church Street south-easterly, Rochester Street north-easterly, Fitzgerald Street south-easterly to the south-western prolongation of the south-eastern boundary of Lot 1000, DP 1011571; by that prolongation and boundary north-easterly, the south-western and south-eastern boundaries of Lot 6, DP 792714 and its prolongation south-easterly and north-easterly to Susan Street; by that street south-easterly, Campbell Street north-easterly to the south-western boundary of Lot 701, DP 822357; by part of that boundary north-westerly, the north-western boundary and part of the north eastern boundary of that lot north-westerly, north-easterly and south-easterly to again Campbell Street; by that street north-easterly to the south-western boundary of Lot 100, DP 106825; by that boundary and its prolongation south-easterly to King Street; by that street south-westerly, Darlington Road north-easterly, Corrington Road south-easterly Abercrombie Street north-easterly, Raglan Street north-westerly, Lander Street and Shepherd Street generally north-easterly, Vine Street and Vine Lane generally south-easterly and north easterly to the north-western prolongation of the north-eastern boundary of Lot 3, DP 606610; by that prolongation, boundary and its prolongation south-easterly to Hudson Street; by that street south-easterly and Hart Street north-easterly to the north-western prolongation of the south-western boundary of SP 61081; by that prolongation, boundary and its prolongation south-easterly to Eveleigh Street; by that street northerly to the western prolongation of the southern boundary of Lot 1, DP 724328; by that prolongation and boundary and the eastmost eastern boundary at that lot easterly and northerly, the southern boundary of Lot 10, DP 809537 and its prolongation easterly to Woodburn Street; by that street southerly to the western prolongation of the southern boundary of Lot 1, DP 1014183; by that prolongation, boundary and the south-eastern boundary of that lot and its prolongation easterly and north-easterly to Cleveland Street, aforesaid; and by that street easterly to the point of commencement.

Area 2: Area about 1.79 square kilometres. Commencing at the intersection of Oxford Street and Barcom Avenue: and bounded thence by that avenue, Boundary Street and Neild Avenue generally north-easterly and New South Head Road westerly to Rushcutters Bay Stormwater Channel; by that channel downwards to the generally western shore of Rushcutters Bay; by that shore generally northerly and the shores of Elizabeth Bay generally north-westerly to the generally north-western boundary of SP 9517 on the western shore of Elizabeth Bay; by that boundary, the north-eastern prolongation of and the south-eastern and southern (and its prolongation) boundaries of SP 2834 generally south-westerly and westerly to Macleay Street; by that street northerly and Wylde Street generally north-westerly to the south-eastern prolongation of the north-eastern boundary of DP78034; by that prolongation and boundary and the south-western boundaries of that DP generally north-westerly and south-easterly and the south-eastern boundaries of DP 440682 and Lot 1, DP581518 and its prolongation generally south-westerly to Grantham Street; by that street southerly, Victoria Street westerly and southerly, McElhone Stairs and Brougham Street westerly, Cowper Wharf Roadway generally westerly, Lincoln Crescent and Sir John Young Crescent generally south-westerly, Crown Street southerly, Cathedral Street westerly and Haig Lane south-westerly to the generally south-eastern boundary of Phillip Park; by part of that boundary

and its prolongation generally south-westerly to Boomerang Street; by that street south-easterly and Yurong Street southerly to the eastern prolongation of the southern boundary of Lot 12, DP 588102; by that prolongation and part of that boundary westerly to the northern prolongation of the western boundary of Lot 1, DP 191898; by that prolongation, boundary and its prolongation southerly to Stanley Street; by that street westerly to the northern prolongation of the western boundary of Lot 1, DP 537399; by that prolongation, boundary and its prolongation southerly to Francis Lane; by that lane westerly, College Lane southerly, Francis Street easterly, Hargrave Street southerly, Liverpool Street westerly, Oxford Street south-easterly, Riley Street southerly, Reservoir Street easterly, Crown Street northerly to the western prolongation of the southern boundary of DP 187457; by that prolongation, boundary and its prolongation easterly to the Little Bloomfield Street; by that street southerly, Bloomfield Street easterly, and Little Bourke Street northerly to the western prolongation of the southern boundary of SP 13644; by that prolongation, boundary and its prolongation easterly to Bourke Street; by that street northerly, Flinders Street generally south-easterly to the north-western prolongation of the north-eastern boundary of Lot 1, DP 819569; by that prolongation and boundary south-easterly, part of the generally north-eastern and part of the generally south-eastern boundaries of Lot 5, DP 9347 south-easterly and south-westerly to Sturt Street; by that street south-easterly and South Dowling Street north-easterly to the point of commencement.

Schedule C – Area of Leichhardt (as altered)

Area about 10.03 square kilometres. Commencing on the Mean Low Water Mark of the generally southern shore of Iron Cove at the entrance to the Hawthorne Canal: and bounded thence by that canal upwards to Parramatta Road; by that road generally north-easterly, Mallett Street and Booth Street north-westerly, Wigram Road north-easterly to Johnstons Creek Stormwater Channel; by that channel downwards to The Crescent; by that road generally northerly and Chapman Road easterly to the generally western boundary of Bicentennial Park; by that boundary northerly to the Mean Low Water Mark of the generally southern shore of Port Jackson; by that shore generally north-easterly, north-westerly, and the generally south-eastern and southern (aforesaid) shores of Iron Cove generally south-westerly and generally westerly to the point of commencement.

Schedule D – City of South Sydney (as altered)

Area about 14.25 square kilometres. Commencing at the intersection of Cleveland and Chalmers Streets: and bounded thence by the former street westerly to the north-eastern prolongation of the south-eastern boundary of Lot 1, DP 1014183; by that prolongation, boundary and the southern boundary of that Lot and its prolongation south-westerly and westerly to Woodburn Street; by that street northerly to the eastern prolongation of the southern boundary of Lot 10, DP 809537; by that prolongation and boundary westerly, the eastmost eastern and southern boundaries of Lot 1, DP 724328 and its prolongation, southerly and westerly to Eveleigh Street; by that street southerly to the south-eastern prolongation of the south-western boundary of SP 61081; by that prolongation, boundary and its prolongation, north-westerly to Hart Street; by that street south-westerly and Hudson Street north-westerly to the south-eastern prolongation of the north-eastern

boundary of Lot 3, DP 606610; by that prolongation, boundary and its prolongation north-westerly to Vine Lane; by that lane and Vine Street south-westerly and generally north-westerly, Shepherd Street and Lander Street generally south-westerly, Raglan Street south-easterly, Abercrombie Street south-westerly, Corrington Street north-westerly, Darlington Road south-westerly and King Street north-easterly to the south-eastern prolongation of the south-western boundary of Lot 100, DP 106825; by that prolongation and boundary north-westerly to Campbell Street; by that street south-westerly to the north-eastern boundary of Lot 701, DP 822357; by that boundary, the north-western and part of the south-western boundaries of that lot, north-westerly, south-westerly and south-easterly to again Campbell Street; by that street south-westerly and Susan Street north-westerly to the north-eastern prolongation of the south-eastern boundary of Lot 6, DP 792714; by that prolongation boundary and the south-western boundary of that lot south-westerly and north-westerly, and the southern boundary of Lot 1000, DP 1011571 and its prolongation south-westerly to Fitzgerald Street; by that street north-westerly, Rochester Street south-westerly, Church Street south-easterly, King Street generally south-westerly and generally south-easterly, Princes Highway southerly, Barwon Park Road generally southerly and Campbell Road south-easterly to the northern prolongation of the eastern boundary of Lot B, DP 376645; by that boundary, the southern boundary of that DP and its prolongation southerly and south-westerly to the north-eastern prolongation of the north-western boundary of Lot A, DP 391175; by that prolongation, boundary and its prolongation south-westerly to Canal Road; by that road and the bridge across Alexandra Canal generally south-easterly to the southern-eastern side of Alexandra Canal; by that side of that canal generally north-easterly to the western prolongation of Gardeners Road; by that prolongation and road easterly and Southern Cross Drive, Dowling Street and South Dowling Street generally north-westerly and northerly to the western prolongation of the southern boundary of land shown on plan catalogued 2756-3000; by that prolongation, boundary and the southern boundary of Moore Park easterly, the generally western and northernmost northern boundaries of Lot 10, DP 547279 and the northern boundary of Lot 11 generally northerly and easterly to the western side of Boronia Street; by that side of that street northerly and the generally south-westerly side of Anzac Parade generally north-westerly to the southern side of Dacey Avenue; by a line north-easterly to the southernmost angle of the south-eastern side of Martin Road; by that side of that road, the south-western prolongation of the south-eastern side of Cook Road and the south-eastern side of Lan Road and its northern prolongation generally north-easterly to Oxford Street; by that street generally north-westerly, South Dowling Street south westerly and Sturt Street north-westerly to the generally south-eastern boundary of Lot 5, DP 9347; by part of that boundary and part of the generally north-eastern boundary of that lot, north-easterly and north-westerly, the north-eastern boundary of Lot 1, DP 819569 and its prolongation north-westerly to Flinders Street; by that street generally north-westerly and Bourke Street southerly to the eastern prolongation of the southern boundary of SP 13644; by that prolongation, boundary and its prolongation westerly to Little Bourke Street; by that street southerly, Bloomfield Street westerly and Little Bloomfield Street northerly to the eastern prolongation of the southern boundary of DP 187457; by that prolongation, boundary and its prolongation westerly to Crown Street; by that street southerly, Reservoir Street westerly, Riley Street northerly Campbell Street westerly, Mary Street south-easterly and

south-westerly, Foveaux Street north-westerly, Terry Street southerly, Kippax Street south-easterly, Hercules and Hart Streets generally south-westerly, Gladstone Street north-westerly, Holt Street south-westerly, Devonshire Street north-westerly and Chalmers Street, aforesaid, southerly to the point of commencement.

Schedule E – City of Sydney (as altered)

Area about 11.90 square kilometres. Commencing at the intersection of Cleveland and Chalmers Streets: and bounded thence by the former street westerly to the north-eastern prolongation of the south-eastern boundary of Lot 1, DP 1014183; by that prolongation boundary and the southern boundary of that Lot and its prolongation south-westerly and westerly to Woodburn Street; by that street northerly to the eastern prolongation of the southern boundary of Lot 10, DP 809537; by that prolongation and boundary westerly, the eastmost eastern and southern boundaries of Lot 1, DP 724328 and its prolongation, southerly, and westerly to Eveleigh Street; by that street southerly to the south-eastern prolongation of the south-western boundary of SP 61081; by that prolongation, boundary and its prolongation, north-westerly to Hart Street; by that street south-westerly and Hudson Street north-westerly to the south-eastern prolongation of the north-eastern boundary of Lot 3, DP 606610; by that prolongation boundary and its prolongation north-westerly to Vine Lane; by that lane and Vine Street south-westerly and generally north-westerly, Shepherd Street and Lander Street generally south-westerly, Raglan Street south-easterly, Abercrombie Street south-westerly, Corrington Street north-westerly, Darlington Road south-westerly, and King Street north-easterly to the south-eastern prolongation of the south-western boundary of Lot 100, DP 106825; by that prolongation and boundary north-westerly to Campbell Street; by that street south-westerly to the north-eastern boundary of Lot 701, DP 822357; by that boundary, the north-western and part of the south-western boundaries of that lot, north-westerly, south-westerly and south-easterly to again Campbell Street, aforesaid; by that street south-westerly and Susan Street north-westerly to the north-eastern prolongation south-eastern boundary of Lot 6, DP 792714; by that prolongation boundary and the south-western boundary of that lot south-westerly and north-westerly, and the southern boundary of Lot 1000, DP 1011571 and its prolongation south-westerly to Fitzgerald Street; by that street north-westerly, Rochester Street south-westerly, Church Street north-westerly, Salisbury Street south-westerly, Mallett Street and Booth Street north-westerly, Wigram Road north-easterly to Johnstons Creek Stormwater Channel; by that channel downwards to The Crescent; by that road generally northerly and Chapman Road easterly to the generally western boundary of Bicentennial Park; by that boundary northerly to the Mean Low Water Mark of the generally southern shore of Port Jackson; by that shore generally easterly to Rushcutters Bay Stormwater Canal; by that stormwater canal upwards to New South Head Road; by that road easterly, Neild Avenue, Boundary Street and Barcom Avenue, South Dowling Street generally south-westerly and Sturt Street north-westerly to the generally south-eastern boundary of Lot 5, DP 9347; by part of that boundary and part of the generally north-eastern boundary of that lot, north-easterly and north-westerly, the north-eastern boundary of Lot 1, DP 819569 and its prolongation north-westerly to Flinders Street; by that street generally north-westerly and Bourke Street southerly to the eastern prolongation of the southern boundary of SP 13644; by that prolongation

boundary and its prolongation westerly to Little Bourke Street; by that street southerly, Bloomfield Street westerly and Little Bloomfield Street northerly to the eastern prolongation of the southern boundary of DP 187457; by that prolongation, boundary and its prolongation westerly to Crown Street; by that street southerly, Reservoir Street westerly, Riley Street northerly Campbell Street westerly, Mary Street south-easterly and south-westerly, Foveaux Street north-westerly, Terry Street southerly, Kippax Street south-easterly, Hercules and Hart Streets generally south-westerly, Gladstone Street north-westerly, Holt Street south-westerly, Devonshire Street north-westerly and Chalmers Street, aforesaid, southerly to the point of commencement.

Schedule F

Provisions necessary and/or convenient for giving effect to this Proclamation within the meaning of sections 213 and 218C of the Local Government Act 1993.

1 Definitions

In this Schedule:

Area has the same meaning as in the Local Government Act 1993.

affected Areas means the City of Sydney, the City of South Sydney and the Area of Leichhardt.

affected Councils means the Sydney City Council, South Sydney City Council and Leichhardt Municipal Council.

clause means a clause in this Schedule.

destination Area means the City of Sydney.

destination Council means the Sydney City Council.

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

Minister means the Minister for Local Government.

Proclamation means this Proclamation.

source Areas means the City of South Sydney and the Area of Leichhardt.

source Councils means the South Sydney City Council and the Leichhardt Municipal Council.

the Act means the Local Government Act 1993.

transfer area means the land described in Schedules A or B of this Proclamation.

transfer date means 8 May 2003.

transitional period means the period from 21 February 2003 to 8 May 2003.

2 Transfer of staff, assets, rights and liabilities

- (1) By one or more subsequent determinations by the Minister, the transfer of staff, assets, rights and liabilities will be made to give effect to the boundary alterations made in this Proclamation.
- (2)
 - (a) Commencing from the date of this Proclamation, the relevant source Council and the destination Council shall negotiate the transfer of staff, assets, rights and liabilities to give effect to the boundary alterations made herein.
 - (b) The affected Councils are to advise the Minister of the transfer arrangements no less than three weeks prior to the end of the transitional period. Without in any way limiting the power conferred on him by clause 7 of the transitional arrangements the Minister may then (but need not) make a determination under clause 7.
 - (c) Any matter or thing in relation to the transfer of staff, assets, rights and liabilities that is not able to be determined by agreement between the affected Councils shall be determined by the Minister in accordance with clause 7 herein.
- (3) The relevant date upon which basis the determination of the transfer of staff, assets, rights and liabilities shall be made is 14 November 2001, being the day before the document entitled Principles on Transfer of Staff, Assets and Liabilities was issued to the affected Councils.
- (4) During the transitional period no arrangements, without agreement between the relevant affected Councils or 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; or
 - (e) negotiating or entering into any new enterprise agreement, altering salaries, conditions of employment or other entitlements for staff that would effectively only apply to the transfer area.

- (5) Any arrangement entered into by the affected Councils after 14 November 2001, without agreement between the relevant affected Councils and the Minister, 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; or
 - e) negotiating or entering into any new enterprise agreement, altering salaries, conditions of employment or other entitlements for staff that would effectively only apply to the transfer area

will be taken into consideration in any determination of the transfer of staff, assets, rights and liabilities under this Proclamation.

- (6) 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).

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

3 General provisions with respect to the determination of transfers of staff, assets, rights and liabilities

In relation to one or more determinations of the Minister made in pursuance of clauses 2 or 7 herein:

- (1) Unless otherwise provided, a transfer effected by such a Proclamation takes effect at midnight on 7 May 2003.
- (2) The Minister may, by notice in writing, confirm a transfer effected by such a determination.
- (3) A notice under subclause (2) is conclusive evidence of the transfer.
- (4) The operation of such a determination 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 any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets; 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.
- (5) No attornment to the destination Council by a lessee from a source Council is required in relation to a transfer.
- (6) No compensation is payable to any person or body in connection with a transfer, except as may be determined by the Minister in accordance with clause 7 herein.
- (7) Subclause (6) does not affect the rights of any person or body in connection with the early termination of a contract between a source Council and that person or body.

4 Provision of services and facilities in the transfer area during the transitional period

- (1) Subject to subclause (2), the services and facilities provided by the source Councils to residents and ratepayers in the transfer area immediately before 15 November 2001 are to continue to be provided by the source Councils from the funds and resources of the source Councils during the transitional period, at the same level and in the same manner as was provided by those Councils prior to 15 November 2001.
- (2) Any variation to the services and facilities provided to residents and ratepayers in the transfer area may only occur by agreement between the relevant source Council, the destination Council and the Minister.
- (3) Without limiting the operation of subclause (1), and subject to any agreement reached under subclause (2), the services and facilities to be provided in the transfer area by the source Councils in the transitional period include:
 - (a) street cleansing;
 - (b) domestic waste collection;
 - (c) roads and footway management and maintenance;
 - (d) maintenance and management of parks and the public domain;
 - (e) all community services (including the operation of community, recreation and aged care centres, programs for the homeless, libraries, child care centres and swimming pools);
 - (f) contract management in respect of all works in the transfer area;
 - (g) property management and maintenance;
 - (h) the processing and determination of all development applications lodged before the transfer date, except those to which by force of clause 5 hereof are to be determined by the destination Council;

- (i) issuing all certificates (including certificates issued under the Environmental Planning and Assessment Act 1979);
- (j) building compliance inspections; and
- (k) the provision of all goods and services necessary or ancillary to the provision of the above.

5 Activities of affected Councils

In relation to the transfer area:

- (1) Any development application that was received but not determined by a source Council before the transfer date, and that involves development having a value of \$1 million or more, must be determined by the destination Council.
- (2) Subject to subclause (4), any development application that was received but not determined by a source Council before the transfer date, and that involves development having a value of less than \$1 million, may be determined by the destination Council, or the source Council if the destination Council agrees.
- (3) Without limiting subclause (1), anything that was commenced by a source Council and uncompleted at the transfer date may be completed by the destination Council as if it had been commenced by the destination Council.
- (4) In so doing, the destination Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the relevant source Council, until such time as the destination Council makes a new code, policy or plan in relation to that matter in accordance with the Act or any other Act.
- (5) Anything that was done by a source Council, and that had effect immediately before the transfer date, or that was commenced by a source Council and completed by the destination Council as a result of this Proclamation, continues to have effect and may be enforced by the destination Council as if it had been done by the destination Council.
- (6) Without limiting subclause (5), any approval, order or notice that was given or made by a source Council, and that had effect immediately before the transfer 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 destination Council.
- (7) Any decision of the Land and Environment Court in an appeal from a decision of a source Council determined by the Court after the transfer date shall be deemed to be a decision of the destination Council.

6 Data and information held by source Councils

In relation to the transfer area:

- (1) On and from the date of this Proclamation, any data or information held by an affected Council concerning the carrying out of any of that Council's functions or its work or activities in respect of the transfer area, or any data or information reasonably necessary for an affected Council to negotiate under clause 2(2) must be provided to the other relevant affected Council.
- (2) The affected Councils must also provide to the Minister or Director General such data and information as the Minister or Director General may authorise or require.
- (3) Without limiting subclause (1), but subject to clause 4(3)(h), any applications referred to in clauses 5(1) and 5(2), or received in relation to the transfer area but not determined by a source Council by the transfer date, shall be provided to the destination Council so that the destination Council can determine those applications, and undertake any work associated with such applications.
- (4) Whenever information is required by the destination Council to provide services and facilities during the transitional period, the relevant source Council must provide copies of documents or other information to the destination Council to satisfy subclauses (1) and (2).

7 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.
- (2) In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by any of the affected Councils.
- (3) The Minister may also determine any matter or thing that has not been referred to him by any of the affected Councils if the Minister concludes that the matter or thing cannot be determined by agreement between the relevant source Council and the destination Council, or if the Minister is not satisfied with any agreement reached between the relevant source Council and the destination Council, including in relation to clauses 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 recommendations, 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 source Council and the destination Council to assist in the determination of the matter.
- (6) The Director General and/or any person or persons nominated by the Minister under this clause, shall have regard to the matters set out in clauses 10, 11 and 12 hereof.

8 Wards

- (1) The North Ward and the South Ward of the City of South Sydney, after taking therefrom the land described in Schedule B hereto, remain as wards of the City of South Sydney, and the boundaries of the wards are hereby altered so that the ward boundary prolongs along the boundary of the City of South Sydney as described in Schedule D hereto.
- (2) The Glebe/Annandale Ward of the Area of Leichhardt, after taking therefrom the land described in Schedule A hereto, remains as a ward of the Area of Leichhardt, and the boundaries of the ward are hereby altered so that the ward boundary prolongs along the boundary of the Area of Leichhardt as described in Schedule C hereto.
- (3) The ward boundaries of each source council must be reviewed and new ward boundaries must be made in accordance with sections 210A and 211(2) of the Act by the respective source Councils so that the new ward boundaries shall apply for the next ordinary election of those Councils.

9 By-elections

Despite section 292 of the Act, a by-election must not be held if a casual vacancy occurs in the office of Councillor of the source Councils in a ward from which land has been transferred in Schedules A or B prior to the next ordinary election, unless the number of Councillors remaining in that ward is less than two.

10 Making of determinations as to transfer of staff

- (1) It is intended that the making of any determination as to the transfer of staff under this Proclamation is to be in accordance with this clause:
 - (a) The selection of staff to be transferred from a source Council to the destination Council will be determined by the Minister, in consultation with

the affected Councils, having regard to the following principles wherever practicable:

- (i) a person proposed for transfer is to be wholly or predominantly providing services in, or for, the transfer area; and
 - (ii) the person must be willing to be transferred to the destination Council.
- (b) The transfer date for transferring staff (“the staff transfer date”) will be 8 May 2003.
- (c) Subject to subclause (d), the terms and conditions of employment (including terms and conditions as to remuneration and allowances) of transferring staff shall, upon transfer to the destination Council, be the same as those on which the transferring staff member was employed by the relevant source Council, as determined by any applicable industrial awards and/or registered enterprise agreements as at 14 November 2001, until the award or enterprise agreement ceases to apply.
- (d) A source Council must not amend the terms and conditions of employment of any employee who may be determined to be transferring staff because of this Proclamation, on or after the staff transfer date.
- (e) The destination Council’s liability for transferring staff in respect of all terms and conditions of employment, including all forms of leave, and superannuation entitlements or any other statutory entitlement, including but not limited to workers compensation, will form part of the determination of the transfer of staff, assets, rights and liabilities under this Proclamation.
- (f) Subject to the terms of any industrial award or registered enterprise agreement, whether arising before or after the staff transfer date:
- (i) a moratorium on compulsory staff redundancies shall apply at all affected Councils, but the moratorium does not apply to senior staff positions;
 - (ii) the terms and conditions on which a transferring staff member is employed by the destination Council are not to be varied so as to render them less advantageous to the staff member, when taken as a whole, than the terms and conditions referred to in subclause (c) upon transfer, except at the request, or with the consent, of the transferring staff member concerned; and
 - (iii) the terms of this clause will apply for 3 years from the staff transfer date.

- (g) Any position that, immediately before the transfer of an employee from a source Council to the destination Council, was a senior staff position in relation to the source Council, is taken to be a senior staff position in relation to the destination Council after that transfer.
- (h) No transferring staff member shall be required to submit an application by way of a bid or other application for his or her position by way of a competitive tender process.
- (i) Upon the transfer of transferring staff, a transferring staff member shall work, as far as is practicable, according to the same work duties, applying similar skills and at an equivalent level of accountability as that at the source Council.
- (j) No transferring staff member is entitled to receive multiple benefits of the same kind in respect of the same period of service by virtue of the operation of this Proclamation or anything herein.

11 Making of determinations as to transfer of staff, assets, rights and liabilities

- (1) The matters in subclause (2) have regard to the document Principles of Transfer of Staff and Liabilities referred to in clause 2(3).
- (2) In making determinations as to the transfer of staff, assets, rights and liabilities under this Proclamation the Minister shall take into account the following matters:
 - a. Identification of relevant assets and liabilities should be achieved by negotiation by the councils.
 - b. The process for identification of staff members who may be transferred should also include participation by staff of the councils who may be subject to or directly affected by the boundary change.
 - c. Identification of relevant staff, assets, rights and liabilities should be based on arrangements that existed as of the date of the referral of the boundary changes to the Local Government Boundaries Commission. This is to minimise asset stripping.
 - d. During the transitional period no arrangements, without agreement of the councils or Minister, should be entered into in relation to:
 - i. The sale or purchase of property or of any assets exceeding \$20,000;
 - ii. The leasing of property for a period exceeding five years;
 - iii. The entry into new contracts for works exceeding \$100,000;

- iv. The varying any budget allocation for any function; and
- v. Negotiations or entries into any new enterprise agreement or alteration of salaries or other entitlements for staff that would effectively only apply to the transferred area.

Assets and liabilities

- e. Fixed assets in the affected area are expected to be transferred as are associated borrowings. Liability for borrowings for general capital works within the council area are to be transferred pro rata according to expenditure sourced from loans.
- f. Other assets used directly within the area, for example trucks and equipment, should be divided in proportion to use in the affected area.
- g. Other current liabilities should be divided in a similar manner.
- h. Where a facility such as a depot or facility is contained within the transferred area, arrangements will need to be agreed between the councils as to use or sharing of the facilities.
- i. Provisions and reserves (such as depreciation reserves, developer contributions reserves) will need to be apportioned. In respect of non-current assets, the written down value of the asset will be transferred and consequential changes will be made in the depreciation reserves for the transferred assets. Developer contributions in respect of the affected area will need to be transferred along with matching asset value for unexpended portions of the contribution reserve.
- j. Appropriate copies of records, such as asset registers and loan records, will need to be prepared in association with the transfer of balance sheet items.

Staffing

- k. The affected Councils should identify any staff directly affected by the transfer of the transfer area.
- l. The affected Councils should identify any staff whose employment involves a significant proportion of their activity in the affected area such as those in waste collection, building management and environmental health.

- m. Once the staff referred to in subclauses (2)(l) and (m) for have been identified, appropriate transfer of balance sheet items are required such as provision for entitlements and matching assets.
- n. The transfer of the transfer area should not have any adverse impact on transferred staff. That is, forced redundancy or loss of award rights, contributions or entitlements should not occur as a result of the transfer of the transfer area within 3 years of the transfer.

12 Statement of Intent

Nothing in this Proclamation is to be construed as affecting the continuation in office of councillors of the affected Councils.

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