

**POLICY:** PROCLAMATION – NEW BATHURST REGIONAL COUNCIL

**DATE ADOPTED:** Director Corporate Services & Finance’s Report #9.2.5  
Council 17 May 2023  
Resolution No. ORD2023-120

Director Corporate Services & Finance’s Report #8.3.7  
Council 21 April 2021  
Resolution No. ORD2021-111  
Council 19 May 2021  
Resolution No. ORD2021-133

Director Corporate Services & Finance’s Report #1  
Policy 5 December 2012  
Council 6 February 2013  
Minute Book No. 11477

**ORIGINAL ADOPTION:** General Manager’s Report #1  
Council 16 June 2004  
Minute Book No. 9252

**FILE REFERENCE:** 11.00001

**OBJECTIVE:** To document the origins of Bathurst Regional Council

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Both Bathurst City Council and Evans Shire Council have been involved in an amalgamation to form the new Bathurst Regional Council. This change occurred on 26 May 2004 when an Administrator was appointed by the State Government. The Bathurst Regional Local Government Boundary may be altered from time-to-time through subsequent government gazettal’s.

The proclamation governed the operations of Council, in the short term, under the appointment of an Administrator.

Following is a copy of the Proclamation.

## LOCAL GOVERNMENT ACT 1993 - PROCLAMATION

MARIE BASHIR, Governor

I, Professor MARIE BASHIR, A.C., Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of Part 1, Chapter 9 and Part 5, Chapter 12 of the Local Government Act 1993, do, by this my Proclamation declare that:

- (a) on 26 May 2004, the Areas of the City of Bathurst, City of Lithgow, Evans, Merriwa, Mudgee, Oberon, Rylstone and Upper Hunter Shire are amalgamated so as to constitute new Areas having the names of the Bathurst Regional, City of Lithgow, Oberon, Mid-Western Regional and Upper Hunter Shire as described in Schedules A to E hereto;
- (b) on 26 November 2004, the Area of Coolah is amalgamated with the Area of Mid-Western Regional so as to constitute the new Area of Mid-Western Regional as described in Schedule D hereto;
- (c) on 26 May 2004, the Proclamations in force constituting or varying the constitution of the Mid-Western County Council are amended by omitting the former Mudgee Shire Council and Rylstone Shire Council as constituent Councils of the County Council and by inserting the new Mid-Western Regional Council as a constituent Council of the County Council;
- (d) on 26 November 2004, the Mid-Western County Council is dissolved with its operations subsumed into the new Area of Mid-Western Regional in accordance with the provisions set out in Schedule D hereto;
- (e) on 26 May 2004, the Proclamations in force constituting or varying the constitution of the Upper Macquarie County Council are amended by:
  - (i) omitting the former Bathurst City Council, Evans Shire Council, Lithgow City Council and Oberon Council as constituent Councils of the County Council and by inserting the new Bathurst Regional Council, Lithgow City Council and Oberon Council as constituent Councils of the County Council; and
  - (ii) providing that there are 10 members on the County Council's governing body to be elected by the constituent Councils following the declaration of the first election as follows:
 

Bathurst Regional Council	4 members
Blayney Shire Council	2 members
Lithgow City Council	2 members
Oberon Council	2 members
- (f) on 26 May 2004, the Proclamations in force constituting or varying the constitution of the Upper Hunter County Council are amended by:
  - (i) excluding the former Upper Hunter Shire Council as a constituent Council of the County Council and by including the new Upper Hunter Shire Council as a constituent Council of the County Council; and
  - (ii) the County Council's area of operations increases to include those parts of the former Area of Merriwa that is included in the new Council as described in Schedule E hereto; and
  - (iii) providing that two persons are to be elected as members by the Upper Hunter Shire Council to the County Council's governing body following the declaration of the first election.
- (g) the provisions set out in Schedules A, B, C, D and E hereto apply on and from 26 May 2004 (unless another date is stated), to the new Areas effected by this Proclamation, where applicable.

Signed and sealed at Sydney, this 26th day of May 2004.

By Her Excellency's Command,

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

GOD SAVE THE QUEEN!

## SCHEDULE A

**Land included in the Bathurst Regional Local Government Area**

Area about 3815.01 square kilometres. Commencing at the confluence of the Macquarie River and Tambaroora Creek, Parish of Aberfoil, County of Bathurst: and bounded thence by that river downwards to the northernmost north-eastern corner of Portion 25; by the generally eastern boundary of that portion and Portion 26 and the generally north-eastern and part of the eastern boundaries of Portion 30 generally southerly, generally south-easterly and southerly to the south-western corner of Portion 29; by part of the southernmost southern boundary of that portion easterly to the north-western corner of Portion 39; Parish of St David; by the generally western boundary of the Parish of St David; by the generally western boundary of the Parish of St David generally southerly to the easternmost south-eastern corner of Portion 35, Parish of Lennox; by the generally southern boundary of that portion generally westerly to Lucky Swamp Creek; by that creek upwards to the south-western corner of Portion 57, Parish of Freemantle; by the generally south-western boundary of Portions 84 and 85 generally south-easterly to the westernmost corner of Portion 79, Parish of Byng; by the range forming the generally south-western boundary of that portion and the generally south-eastern boundary of Portions 64, 29 and 62

NEW SOUTH WALES GOVERNMENT GAZETTE No. 90

generally south-easterly and generally south-westerly to the northern boundary of Portion 94; by part of that boundary and a line along the eastern boundary of that portion and Portion 96 easterly and southerly to the northeastern corner of Portion 105, Parish of Colville; by the eastern and part of the southern boundaries of that portion southerly and westerly to the easternmost north-eastern corner of Portion 180; by the easternmost eastern boundary of that portion southerly to the road from Bathurst to Orange; by that road generally westerly to the easternmost north-eastern corner of portion 128; by the eastern boundary of that portion southerly; by a line south-easterly to the north-eastern corner of Portion 135; by the eastern boundary of that portion and portion 96 southerly; by a line along part of the northern boundary of Portion 91 and the northern boundary of Portions 88, 89 and 132 easterly to the north-western corner of Portion 112; by State Highway No. 7 (Mitchell Highway) generally easterly to the north-western corner of Portion 41, Parish of Vittoria; by the western boundary of that portion and the western and part of the southern boundaries of Portion 45 southerly and easterly to its intersection with a line along the westernmost western boundary of Portion 141; by that line, the southern boundary of that portion, part of the southern boundary of Portion 129 and the generally southern boundary of Portion 161 southerly and generally easterly; by a line easterly to the westernmost south-western corner of Portion 164; by the generally southern boundary of that portion generally easterly; by a line easterly to the westernmost south-western corner of portion 163; by the southern and south-western boundaries of that portion easterly and south-easterly; by part of the generally eastern boundary of the Parish of Torrens generally southerly to the northernmost north-western corner of Portion 139, Parish of Galbraith; by the northernmost northern and part of the easternmost eastern boundaries of that portion and southerly to its intersection with a line parallel to 174.1 metres rectangularly distant northerly from the northern boundary of portion 76; by that line easterly to its intersection with a line along the western boundary of the said portion 76; by that line southerly to the north-western corner of the said portion 76; by a line along the northern boundary of that portion easterly to the western boundary of Portion 125; by part of the generally northern and the generally eastern boundaries of the Parish of Galbraith generally easterly and generally southerly to the south-eastern corner of Portion 120, Parish of Galbraith; by part of the generally northern, the generally eastern and the generally south-eastern boundaries of the Parish of Three Brothers and part of the generally southern boundary of the Parish of Neville generally easterly, generally southerly and generally south-westerly to Graingers Creek; by that creek and Rocky Bridge Creek downwards and the Abercrombie River upwards to the generally western boundary of the Parish of Thompson, County of Georgiana; by part of that boundary, northerly, the eastern and generally north-eastern boundaries of Lot 90, DP 753018, northerly and generally north-westerly, the eastern boundary of Lot 91, DP 753018, northerly, part of the southern, the eastern and the generally north-eastern boundaries of Lot 63, DP 753032, easterly, northerly and generally north-westerly, the generally north-western boundary of Lot Pt 1, DP 547757, generally north-easterly, a line easterly, the generally north-western boundary of Lot A, DP 401130, generally north-easterly, the generally western, the generally northern and the eastern boundaries of Lot Pt 1, DP 547757, generally northerly, generally easterly and southerly, the generally western and southern boundaries of Lot B, DP 401130, generally southerly and easterly, the southern and part of the eastern boundaries of Lot 2, DP 1025922, easterly and northerly, the southern boundary of Lot 123, DP 753032, easterly, part of the western, the southern and the north-eastern boundaries of Lot 76, DP 753032, southerly, easterly and north-westerly, the generally eastern boundary of Lot 135, DP 753032, generally northerly, a line easterly and the generally northern boundary of Lot 106, DP 655269, generally easterly to the generally south-western side of Schumachers Road; by that side of that road, generally north-westerly to the western prolongation of the generally south-eastern boundary of Lot 2, DP 818313; by that prolongation and boundary, generally north-easterly, a line, the eastern boundary of Lot 892, DP 815567, northerly, part of the southern and the eastern boundaries of Lot 2, DP 791440, easterly and northerly, the eastern boundary of Lot 130, DP 753052, northerly, the generally eastern boundary of Lot Pt 32, DP 753052, generally northerly, a line northerly, part of the generally eastern boundary of Lot Pt 142, DP 752052, generally northerly, the northern boundary of Lot 9, DP 389174, easterly, the northern and the north-eastern boundaries of Lot 1, DP 389174 and its prolongation, easterly and south-easterly to Triangle Creek; by that creek, downwards, to the western boundary of Lot F, DP 159858; by part of that boundary and the northern boundary of that lot, northerly and easterly, the generally northern boundary of Lot 1, DP 655744 and its prolongation, generally easterly to the eastern side of Burruga Road; by that side of that road, north-easterly to the generally south-western boundary of Lot 7, DP 258535; by that boundary, generally south-easterly, part of the southern boundary of Lot 5, DP 111813, westerly to the Campbells River; by that River downwards to the southern boundary of Lot 6, DP 581791; by part of that boundary, the generally western and the generally north-western boundaries of that lot, westerly, generally northerly and generally north-easterly, the generally north-western boundary of Lot 7, DP 591246, generally north-easterly, the generally south-western boundary of Lot 12, DP 608801, generally south-easterly, the south-western and eastern boundaries of Lot 5, DP 231859, south-westerly and northerly, the generally southern boundary of Lot 3, DP 235777, generally easterly, the southern boundaries of Lot 2, DP 235777 and Lot 81, DP 757039 and their prolongation easterly to Sewells Creek; by that creek and Campbells River, downwards to the southern prolongation of the generally north-eastern boundaries of DP 859300; by that prolongation, boundaries and the generally north-eastern boundaries of DP 632418 and their prolongation, generally north-westerly, generally westerly and generally south-westerly to, again, Campbells River; by that river, downwards and Fish River, upwards to the southern prolongation of the western boundary of Portion 5, Parish of Eusdale, County of Roxburgh; by that prolongation, boundary and the northern boundary of that portion, northerly and westerly, part of the western and northern boundaries of Lot 1 DP 798788, northerly and easterly, the eastern boundary of portion 4, parish of Eusdale, County of Roxburgh, northerly to the southernmost southern boundary of Portion 408, Parish of Thornshope; by part of that boundary and the western, generally north-western and northern boundaries of that portion westerly, northerly, generally north-easterly and easterly; by the generally south-eastern and easternmost northern boundaries of Portion 124 generally north-easterly and westerly to the eastern boundary of Portion 58; by part of that boundary, the northern boundary of that portion and the northernmost northern boundary of the said Portion 124 northerly and westerly to the eastern boundary of Portion 2, Parish of Eusdale; by part of that boundary, the eastern and northern boundaries of portion 3 and part of the eastern boundary of Portion 6 northerly, westerly and again northerly to the north-eastern corner of the said Portion 6; by a line northerly to the south-

eastern corner of Portion 28, Parish of Castleton; by a line along the eastern boundary of that portion northerly to the westernmost southern boundary of Portion 83, Parish of Falnash; by part of that boundary and the westernmost western and part of the northernmost northern boundaries of that portion westerly, northerly and easterly to the south-western corner of Portion 40; by a line along the western boundary of that portion northerly to the southernmost southern boundary of Portion 82; by part of that boundary and part of the generally western boundary of that portion westerly and generally northerly to the southern side of the road forming part of the southern boundary of Portion 64, Parish of Castleton; by a line north to the said southern boundary of Portion 64; by part of that boundary and part of the northernmost northern boundary of Portion 236 westerly to the southernmost southern-eastern corner of Portion 248; by the generally eastern boundary of that portion and part of the western boundary of Portion 228 generally northerly to the south-western corner of portion 62; by the southern and eastern boundaries of that portion easterly and northerly; by the road forming the generally northern boundary of Portion 86, parish of Falnash, north-easterly to its intersection with a line along the eastern boundary of Portion 74, Parish of Castleton; by that line northerly to the southern boundary of portion 241; by part of that boundary and the western and part of the northern boundaries of that portion westerly, northerly and easterly to its intersection with the said line along the eastern boundary of portion 74; by that line northerly to the north-eastern corner of the said portion 74; by part of the generally eastern and part of the generally north-eastern boundaries of the Parish of Castleton, generally northerly and generally north-westerly to the westernmost north-western corner of Portion 57, Parish of Turon; by the westernmost northern and western boundaries of that portion, the generally western boundary of Portion 55, the westernmost western boundary of Portion 39 and part of the western boundary of Portion 16 easterly and generally northerly to the south-eastern corner of Portion 70; by the southern boundary of that portion and the southernmost southern boundary of Portion 77 westerly to Palmers Oak Creek; by that creek downwards to the south-eastern corner of Portion 159, Parish of Jesse; by the eastern and generally northern boundaries of that portion and part of the north-eastern boundary of Portion 166 northerly, generally westerly and north-westerly to a point south of the easternmost south-eastern corner of Portion 165; by a line north to that corner; by the generally northern boundary of the said Portion 165 and Portion 134 and the northernmost northern boundary of Portion 138 generally westerly; by a line westerly to the easternmost north-eastern corner of Portion 155; by the generally north-eastern boundary of that portion generally north-westerly to the northernmost corner of that portion; by the prolongation north-westerly of the northernmost north-eastern boundary of that portion north-westerly to the south-eastern boundary of Portion 62; by part of that boundary and the generally eastern boundary and the northern boundary of that portion north-easterly, generally northerly and westerly to the road from Bathurst to Upper Turon; by that road generally northerly to the Turon River; by that river downwards and Cunninghams or Crudine Creek upwards to the generally northern boundary of the Parish of Cunningham, County of Wellington; by that boundary, generally westerly to Green Valley Creek; by that creek, downwards to the generally south-eastern side of the road from Hill End to Hargraves; by that side of that road, generally south-westerly to the north-eastern prolongation of the north-western boundary of Lot 78, DP 756873; by that prolongation, boundary and part of the south-western boundary of that lot, south-westerly and south-easterly to a point 50 metres offset on the south-western side of Dixons Long Point Road; by that 50 metres offset generally north-westerly to the northern boundary of Hill End - Tambaroora Common; by that boundary and the generally western boundary of that Common westerly and generally southerly to Tambaroora Creek, aforesaid, and by that creek 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 the City of Bathurst which, by this Proclamation, is constituted as the Bathurst Regional Council
- that part of the former Area of Evans Shire which, by this Proclamation, is constituted as the Bathurst Regional Council

*former Council* means any of the former Councils of the City of Bathurst or Evans Shire.

*Minister* means the Minister for Local Government.

*new Area* means the Area of Bathurst Regional.

*new Council* means the Bathurst Regional Council.

*proclamation date* means 26 May 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 24 September 2005.
- (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 26 May 2004 and the declaration of the first election, one Administrator is appointed and is Ms Kath Knowles (former Mayor of former Bathurst City Council) to direct and control the affairs of the new Council.
- (2) If Ms Kath Knowles declines to be appointed as the Administrator, then the Minister may appoint an alternate person as the Administrator.
- (3) The Administrator will be paid \$82,000 per annum on a pro-rata basis for the interim period.
- (4) Any matters before the new Council with respect to the local development process or any other matter in which the Administrator has a pecuniary interest within the meaning of the Local Government Act 1993 is to be determined by a substitute Administrator appointed by the Minister for that limited purpose.
- (5) The Administrator is to complete and lodge with the Acting General Manager within 21 days, a disclosure of interests written return in accordance with Division 2, Part 2, Chapter 14 of the Act in the form prescribed by the regulations.
- (6) 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 David Sherley (former Acting General Manager of the former Bathurst City Council) commencing on 26 May 2004 until the first meeting of the new Council held after the first election.
- (2) The Acting General Manager of the new Council may be confirmed as the General Manager at the first meeting following the first election, or otherwise recruitment processes commenced.
- (3) If the new Council resolves to commence recruitment processes for a General Manager, the term of the Acting General Manager named in subclause (1) is extended until the General Manager commences with the new Council.

### **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 Council's 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 policies 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).
  - (c) social or community plan (clause 30 of the Local Government (General) Regulation 1999).
- (2) Where the former councils do not have a current social or community plan as referred to in subclause (1)(c), the new Council shall adopt a new plan in accordance with the Guidelines, within a reasonable period determined by the Director General.
- (3) Each of the following codes, policies and plans of the former Bathurst 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).
- (4) Subclauses (1) & (3) 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 Bathurst City Council is transferred to the Council of the Area of Bathurst Regional.
  - (b) the former Evans Shire Council is transferred to the Council of the Area of Bathurst Regional.
- (2) The senior staff of each former Council are taken to be the senior staff of the new Council.
- (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.
- (4) A senior staff member of a former Council can be confirmed in a senior staff position in the new Council, that has an equivalent level of responsibility and remuneration, when the organisation structure is determined by the new Council in accordance with subclause (3), or otherwise recruitment processes commenced.

**15 Transfer and maintenance 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 Areas made in this proclamation is to be in accordance with this clause:
- (a) Each member of staff of the former Bathurst City Council (a transferred staff member) is transferred to the Council of the Area of Bathurst Regional.
  - (b) Each member of staff of the former Evans Shire Council (a transferred staff member) is transferred to the Council of the Area of Bathurst Regional.
- (2) Section 218CA (maintenance of staff numbers in rural centres) and Part 6, Chapter 11 of the Act (employment protection) applies to the employment of a transferred staff member.

**16 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 Bathurst City Council are transferred to the Council of the Area of Bathurst Regional.
  - (b) The assets, rights and liabilities of the former Evans Shire Council are transferred to the Council of the Area of Bathurst Regional or the City of Lithgow as determined by agreement between the new Councils of the Areas of Bathurst Regional and City of Lithgow.
- (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 (to the extent to which that act, matter or thing has any force or effect) is 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) 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).

**17 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.

**18 Effect of transfer on third party rights**

- (1) The operation of clause 16 (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 a 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 16.
- (3) No compensation is payable to any person or body in connection with a transfer affected by clause 16.
- (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.

**19 Reports and reviews of the new Council**

- (1) 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.
- (2) Until 30 June 2004 the records and statutory reporting of the new Council are to be kept as a continuation of the records and statutory reports of each of the former Councils and the new Council's financial transactions are to be apportioned between the various accounting records in such a manner as the new Council determines.
- (3) The new Council's financial and statutory reports for the year ended 30 June 2004 are to be prepared in the form of separate reports for each set of records of the former Councils for the whole of that year.

**20 Auditor**

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

**21 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.

**22 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 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 year of the new Council.

**23 Upper Macquarie County Council**

For the interim period between 26 May 2004 and the election of members of the County Council by the Bathurst Regional Council following the declaration of the first election, the Administrator of the Bathurst Regional Council is entitled to four votes at meetings of the County 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.



- (2) In pursuance of this clause, any matter or thing requiring determination may be referred to the Minister by the new Council or Lithgow City Council.
- (3) The Minister may also determine any matter or thing that has not been referred to him by the new Council if the Minister concludes that the matter or thing cannot be determined by agreement between the new Council and Lithgow City Council or if the Minister is not satisfied with any agreement reached between the aforementioned new Council and Lithgow City Council, including in relation to subclauses (2) and (4) herein.
- (4) A matter to be determined by the Minister may 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 new Council and Lithgow City 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 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 Councils of the Areas of the Bathurst Regional and the City of Lithgow in the sharing of information and agreement of all matters necessary to facilitate the provisions of this proclamation.
- (3) The Councillors of the new Council are to exercise community leadership for the whole local government area as set out in the Act.