



# *Government Gazette*

of the State of

New South Wales

**Number 69**

**Wednesday, 28 June 2017**

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# GOVERNMENT NOTICES

## LOCAL GOVERNMENT ACT 1993 - PROCLAMATION

DAVID HURLEY, Governor  
I, General The Honourable David Hurley AC ASC (Ret'd), Governor of New South  
Wales, with the advice of the Executive Council, and in pursuance of section 397 of  
the *Local Government Act 1993*, do hereby declare that on and from the beginning of  
1 July 2017 MidCoast County Council is dissolved with its functions and operations  
subsumed by Mid-Coast Council in line with the provisions in the schedule below.

Signed and sealed at Sydney, this 28th day of June 2017.

By His Excellency's Command

Gabrielle Upton MP  
Minister for Local Government

GOD SAVE THE QUEEN

## Schedule

### 1. Definitions

In this Schedule:

**'clause'** means a clause in this schedule.

**'former County Council'** means the former MidCoast County Council.

**'the Act'** means the *Local Government Act 1993*

**'the Minister'** means the Minister for Local Government.

**'the Regulation'** means the *Local Government (General) Regulation 2005*.

**'the transfer date'** means 1 July 2017.

### 2. Transfer of senior staff

- (1) Any person who was the holder of a senior staff position in the former County Council immediately before the transfer date is taken to be the holder of a senior staff position in Mid-Coast Council.
- (2) This clause is subject to any determination of an organisation structure by Mid-Coast Council.
- (3) Clause 406C of the Regulation (Entitlements of senior staff on transfer following amalgamation or boundary alteration) applies, with any necessary adaptations, as if this Proclamation was made under Chapter 9 of the Act and effected an amalgamation.
- (4) For the avoidance of doubt, for the purposes of clause 406C(7)(b) of the Regulation, the first election for the new council shall be the first election for Mid-Coast Council on 9 September 2017.

### 3 Transfer of other staff

- (1) Each member of staff (other than senior staff) of the former County Council immediately before the transfer date is transferred to Mid-Coast Council.
- (2) With the exception of section 354I of the Act, Part 6 of Chapter 11 of the Act (employment protection) applies, with any necessary adaptations, as if this Proclamation effected a boundary alteration.

#### **4. Delegations**

A delegation by the former County Council that was in force immediately before the transfer date is taken to be a delegation by Mid-Coast Council and may be revoked or amended accordingly.

#### **5. Plans, programs and strategies**

- (1) The following plans, programs and strategies of Mid-Coast Council under Part 2 of Chapter 13 of the Act are to be, as far as practicable, a composite of that plan, program and strategy and the corresponding plan, program and strategy of the former County Council:
  - (a) resourcing strategy (section 403 of the Act),
  - (b) delivery program (section 404 of the Act),
  - (c) operational plan (section 405 of the Act).
- (2) Subclause (1) ceases to have effect in relation to a plan, program or strategy of Mid-Coast Council when Mid-Coast Council adopts a new plan, program or strategy under the relevant provisions of the Act.

#### **6. Activities of former County Council**

- (1) Anything done or omitted to be done by the former County Council that had any effect immediately before the transfer date continues to have effect as if it had been done or omitted to be done by Mid-Coast Council.
- (2) Anything that was commenced by the former County Council may be completed by Mid-Coast Council as if it had been commenced by Mid-Coast Council.
- (3) Without limiting subclauses (1) or (2), any approval, order, notice or certificate that was given or made by the former County Council, and that had effect immediately before the transfer date, continues to have effect as if it had been done or made by Mid-Coast Council.
- (4) This clause does not:
  - (a) limit any other provision of this Proclamation, or
  - (b) apply to the extent to which it is inconsistent with any other provision of this Proclamation.

## **7. Transfer of assets, rights and liabilities**

- (1) The assets, rights and liabilities of the former County Council are transferred to Mid-Coast Council.
- (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 County Council vest in Mid-Coast 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 County Council become, by virtue of this clause, the rights or liabilities of Mid-Coast Council.
  - (c) All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former County Council or a predecessor of the former County Council and pending immediately before the transfer, are taken to be proceedings pending by or against Mid-Coast 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 County Council or a predecessor of the former County Council is (to the extent to which that act, matter or thing has any force or effect) taken to be done or omitted by, to or in respect of Mid-Coast Council.
  - (e) Anything that was commenced by the former County Council and uncompleted at the date of transfer may be completed by Mid-Coast Council as if it had been commenced by Mid-Coast Council. This includes but is not limited to any application for approval or consent under the Act or any other Act.
  - (f) In doing so, Mid-Coast Council must make any determinations required to be made in accordance with any relevant code, policy or plan of the former County Council until such time as Mid-Coast Council makes a new code, policy or plan in relation to that matter in accordance with the Act or such other Act as the case requires.
  - (g) Anything that was done by the former County Council, and that had effect immediately before the transfer, or that was commenced by the former County Council and completed by Mid-Coast Council as a result of this Proclamation, continues to have effect and may be enforced by Mid-Coast Council as if it had been done by Mid-Coast Council.
  - (h) Without limiting subclause (2) (g) any approval, order or notice that was given or made by the former County Council, and that had effect immediately before the transfer, continues to have effect and may be enforced by Mid-Coast Council as if had been done by Mid-Coast Council.

- (i) Any decision of the Land and Environment Court in an appeal from a decision of the former County Council, determined after the transfer, shall be deemed to be a decision of Mid-Coast Council.
  - (j) Mid-Coast Council has all the entitlements and obligations of the former County Council in relation to those assets, rights and liabilities that the former County Council would have had but for the transfer, whether or not those entitlements or obligations were actual or potential at the time of transfer.
- (3) In this clause:

Assets means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) 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, whether vested or contingent and whether personal or assignable) and includes liabilities relating to criminal acts.

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

## **8. General provisions with respect to transfers**

- (1) A transfer effected by this Schedule takes effect on the transfer 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.

## **9. Effect of transfer on third party rights**

- (1) The operation of clause 7 (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 Mid-Coast Council by a lessee from the former County Council is required in relation to a transfer effected by clause 7.
- (3) No compensation is payable to any person or body in connection with a transfer effected by clause 7.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between the former County Council and that person or body.

#### **10. References to former County Council**

In any Act, in any instrument made under any Act or in any document of any kind a reference to the former County Council or to a predecessor of the former County Council, unless the context otherwise required, is to be taken as a reference to Mid-Coast Council.

#### **11. Matters to be determined by the Minister**

- (1) For the purposes of giving effect to this Proclamation, the Minister may from time to time determine any matter or thing at the Minister's discretion or if Mid-Coast Council refers any matter or thing requiring determination to the Minister for that purpose.
- (2) The Minister may delegate any function of the Minister under this clause to the Departmental Chief Executive.
- (3) The Departmental Chief Executive may sub-delegate to any person any function delegated to the Departmental Chief Executive under this clause.

## LOCAL GOVERNMENT ACT 1993 – PROCLAMATION

DAVID HURLEY, Governor  
I, General The Honourable David Hurley AC DSC (Ret'd), Governor of New South Wales, with the advice of the Executive Council, and in pursuance of section 397 of the *Local Government Act 1993*, do hereby declare that on and from the beginning of 1 July 2017 Southern Slopes County Council is dissolved with its functions and operations in the local government areas of Hilltops and Yass Valley subsumed by Hilltops Council and Yass Valley Council respectively in line with the provisions in the Schedule below.

Signed and sealed at Sydney, this 28th day of June 2017.

By His Excellency's Command,

Gabrielle Upton MP  
Minister for Local Government

GOD SAVE THE QUEEN!



## Schedule

### 1. Definitions

In this Schedule:

**'clause'** means a clause in this Schedule.

**'former County Council'** means the former Southern Slopes County Council.

**'the Minister'** means the Minister for Local Government.

**'the Act'** means the Local Government Act 1993.

**'the transfer date'** means 1 July 2017.

### 2. Transfer of staff

- (1) Each member of staff (other than senior staff) of the former County Council immediately before the transfer date is transferred to Hilltops Council.
- (2) Except for section 354I of the Act, Part 6 of Chapter 11 of the Act (employment protections) applies, with any necessary adaptations, as if this Proclamation effected a boundary alteration.

### 3. Delegations

- (1) Any delegation by the former County Council that was in force immediately before the transfer date is taken to be a delegation by Hilltops Council and may be revoked or amended accordingly.
- (2) Subclause (1) ceases to have effect when Hilltops Council adopts new delegations under the relevant provisions of the legislation pursuant to which the delegations referred to in subclause (1) were made.

### 4. Plans, programs and strategies

- (1) The following plans, programs and strategies of Hilltops Council and Yass Valley Council under Part 2 of Chapter 13 of the Act are to be, as far as practicable, a composite of that plan, program and strategy and the corresponding plan, program and strategy of the former County Council:
  - (a) resourcing strategy (section 403 of the Act),
  - (b) delivery program (section 404 of the Act),
  - (c) operational plan (section 405 of the Act).
- (2) Subclause (1) ceases to have effect in relation to a plan, program or strategy of Hilltops Council or Yass Valley Council when Hilltops Council or Yass Valley Council as the case requires adopts a new plan, program or strategy under the relevant provisions of the Act.

## **5. Activities of former County Council**

- (1) Anything that was done or omitted to be done by the former County Council in relation to the local government areas, or any part thereof, of Hilltops or Yass Valley that had effect immediately before the transfer date continues to have effect as if it had been done or omitted to be done by Hilltops Council or Yass Valley Council as the case requires.
- (2) Anything that was commenced by the former County Council in relation to the local government areas, or any part thereof, of Hilltops or Yass Valley may be completed by Hilltops Council or Yass Valley Council as if it had been commenced by Hilltops Council or Yass Valley Council as the case requires.
- (3) Without limiting subclauses (1) or (2), any approval, order, notice or certificate that was given or made by the former County Council, and that had effect immediately before the transfer date, continues to have effect as if it had been given or made by Hilltops Council or Yass Valley Council as the case requires.
- (4) This clause does not:
  - (a) limit any other provision of this Proclamation, or
  - (b) apply to the extent to which it is inconsistent with any other provision of this Proclamation.

## **6. Transfer of assets, rights and liabilities**

- (1) The assets, rights and liabilities of the former County Council are transferred to Hilltops Council or Yass Valley Council as determined by agreement between Hilltops Council and Yass Valley Council.
- (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 County Council vest in Hilltops Council or Yass Valley Council as the case may be 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 County Council become, by virtue of this clause, the rights and liabilities of Hilltops Council or Yass Valley Council as the case may be.
  - (c) All proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the former County Council or a predecessor of the former County Council and pending immediately before the transfer, are taken to be proceedings pending by or against Hilltops Council or Yass Valley Council as the case may be.
  - (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 County Council or a predecessor of the former County Council 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 Hilltops Council or Yass Valley Council as the case may be.

- (e) Anything that was commenced by the former County Council and uncompleted at the date of transfer may be completed by Hilltops Council or Yass Valley Council, as the case may be, as if it had been commenced by Hilltops Council or Yass Valley Council respectively. This includes, but is not limited to any application for approval or consent under the Act or any other Act.
  - (f) In so doing, Hilltops Council or Yass Valley Council as the case may be must make any determinations required to be made in accordance with any relevant code, policy or plan of the former County Council as the case requires, until such time as Hilltops Council or Yass Valley Council makes a new code, policy or plan in relation to that matter in accordance with the Act or such other Act as the case requires.
  - (g) Anything that was done by the former County Council, and that had effect immediately before the transfer, or that was commenced by the former County Council and completed by Hilltops Council or Yass Valley Council as a result of this Proclamation, continues to have effect and may be enforced by Hilltops Council or Yass Valley Council as the case may be as if it had been done by Hilltops Council or Yass Valley Council.
  - (h) Without limiting subclause (2) (g), any approval, order or notice that was given or made by the former County Council, and that had effect immediately before the transfer date, continues to have effect and may be enforced by Hilltops Council or Yass Valley Council as the case may be as if it had been given or made by Hilltops Council or Yass Valley Council.
  - (i) Any decision of the Land and Environment Court in an appeal from a decision of the former County Council, determined by the Court after the transfer date, shall be deemed to be a decision of Hilltops Council or Yass Valley Council as the case requires.
  - (j) Hilltops Council and Yass Valley Council have all the entitlements and obligations of the former County Council in relation to those assets, rights and liabilities that the former County Council would have had but for the transfer, whether or not those entitlements and obligations were actual or potential at the time of transfer.
- (3) In this clause:

Assets means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) 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).

## **7. General provisions**

- (1) A transfer effected by this Schedule takes effect on the transfer 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.

## **8. Effect of Transfer on third party rights**

- (1) The operation of clause 6 (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 Hilltops Council or Yass Valley Council by a lessee from the former County Council is required in relation to a transfer effected by clause 6.
- (3) No compensation is payable to any person or body in connection with a transfer effected by clause 6.
- (4) Subclause (3) does not affect the rights of any person or body in connection with the early termination of a contract between the former County Council and that person or body.

## **9. References to former County Council**

In any Act, in any instrument made under any Act or in any document of any kind a reference to the former County Council or to a predecessor of the former County Council, unless the context otherwise requires, is to be taken as a reference to whichever of Hilltops Council or Yass Valley Council has responsibility for those matters relating to the former County Council or a predecessor of that Council to which the Act, instrument or document relates.

## **10. Matters to be determined by the 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 4.

- (2) In pursuance of this clause, if Hilltops Council and Yass Valley Council are unable to agree between themselves about any matter relating to the assets, rights and liabilities relating to the former County Council that are to be transferred from the former County Council to any of them as a result of this Proclamation, then any one or both of them may apply to the Minister to determine the assets, rights and liabilities of the former County Council that are to be transferred from the former County Council to any of them.
- (3) The Minister may also determine any matter or thing that has not been referred to the Minister by Hilltops Council or Yass Valley Council if the Minister concludes that the matter or thing cannot be determined by agreement between Hilltops Council and Yass Valley Council or if the Minister is not satisfied with any agreement reached between the aforementioned Councils.
- (4) In making a determination under this clause, the Minister may refer the matter to the Departmental Chief Executive for advice and recommendation as appropriate.
- (5) Despite subclause (4), the Minister may delegate any function of the Minister under this clause to the Departmental Chief Executive.
- (6) The Departmental Chief Executive may sub-delegate to any person any function delegated to the Departmental Chief Executive under this clause.