



New South Wales

# Local Government (Armidale and Inverell— Alteration of Boundaries) Proclamation 2019

under the

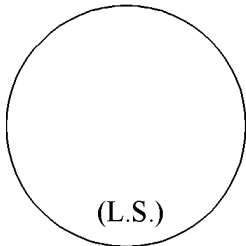
Local Government Act 1993 No 30

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 218B of the *Local Government Act 1993*, make the following Proclamation.

Signed and sealed at Sydney, this 6th day of February 2019.

By His Excellency's Command,



GABRIELLE UPTON, MP  
Minister for Local Government

GOD SAVE THE QUEEN!

## Explanatory note

The object of this Proclamation is to alter the boundaries between the local government areas of Armidale Regional and Inverell, so that the localities known as Tingha, Bassendean, Howell, Stanborough, Bundarra, Georges Creek, New Valley and The Basin (collectively referred to as Tingha) which comprise approximately 800 square kilometres, and which currently lie within the Armidale Regional local government area adjacent to that boundary, become part of the Inverell local government area.

This Proclamation also contains savings and transitional provisions consequential on that alteration.

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## Local Government (Armidale and Inverell—Alteration of Boundaries) Proclamation 2019

under the

Local Government Act 1993 No 30

### Part 1 Preliminary

#### 1 Name of Proclamation

This Proclamation is the *Local Government (Armidale and Inverell—Alteration of Boundaries) Proclamation 2019*.

#### 2 Commencement

This Proclamation commences on the day on which it is published on the NSW legislation website.

#### 3 Definitions

(1) In this Proclamation:

***alteration day*** means 1 July 2019.

***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, choses in action and documents.

***fixed asset*** of a council means:

- (a) land, whether built on or not, or
- (b) a building of any description or any part of it and appurtenances to it, or
- (c) plant, equipment or any other thing that is located only at one place.

***liabilities*** means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).

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

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

***transferred land area*** means the land that was part of the Armidale Regional area immediately before the alteration day and became part of the Inverell area as a result of the alteration of boundaries effected by clause 4.

***transitional period*** means the period commencing on the date of commencement of this Proclamation and ending at the beginning of 1 July 2019.

**Note.** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Proclamation.

(2) Notes included in this Proclamation do not form part of this Proclamation.

## Part 2 Boundary alterations

### 4 Boundary alterations

- (1) On the alteration day, the boundaries for the Armidale Regional area and the Inverell area are altered in accordance with this clause.
- (2) The boundaries for the Armidale Regional area, and the Inverell area, as altered by this Proclamation, are the boundaries shown on the maps kept in the register of public surveys on the alteration day and having the identifier numbers specified in the Table to this subclause.

#### Table

Column 1	Column 2
Areas altered	Map identifier numbers
Armidale Regional	PP4966-1
Inverell	PP5025

- (3) In this clause:  
*register of public surveys* means the register of that name kept under the *Surveying and Spatial Information Act 2002*.

### 5 Obligations of relevant councils

- (1) Armidale Regional Council and Inverell Council are each to use their best endeavours to facilitate the operation of this Proclamation, including sharing information, agreeing about required matters and working co-operatively with the other council.
- (2) Armidale Regional Council and Inverell Council must each make available to the other council any records or other information in their possession that relates to the transfer, by virtue of this Proclamation, of staff, assets, rights or liabilities of, or of any part of the area of, Armidale Regional Council to Inverell Council.
- (3) Any such records or information that relate solely to the transfer, by virtue of this Proclamation, of staff, assets, rights or liabilities of, or any part of the area of, Armidale Regional Council to Inverell Council are to be transferred as soon as practicable after the alteration day.

### 6 Matters or things to be determined by 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 Armidale Regional Council or Inverell Council refers any matter or thing requiring determination to the Minister for that purpose.
- (2) The Minister may determine any matter or thing that is required to be or may be the subject of an agreement between Armidale Regional Council and Inverell Council under this Proclamation if the councils fail to agree or the Minister is not satisfied with any agreement between the councils.
- (3) Without limiting subclause (2), the Minister may determine a matter relating to the payment of outstanding rates, or to the transfer of staff, assets, rights and liabilities, from Armidale Regional Council to Inverell Council, if the matter has not been agreed within 6 months after the alteration day.

## Part 3 Transfer of certain staff, assets, rights and liabilities

### 7 Transfer of non-senior staff of altered council

- (1) Armidale Regional Council and Inverell Council may agree to the transfer of staff (other than senior staff) from Armidale Regional Council to Inverell Council as a consequence of a boundary alteration effected by this Proclamation.
- (2) The staff are transferred to Inverell Council in accordance with that agreement.
- (3) A transfer under subclause (2) (or as determined by the Minister under clause 6) is taken to have effect on and from the alteration day.

### 8 Transfer of assets, rights and liabilities

- (1) The fixed assets and any associated rights and liabilities of Armidale Regional Council that are located on land that will become part of the Inverell area as a result of the boundary alterations effected by this Proclamation are transferred to Inverell Council.
- (2) Any specified assets, rights and liabilities of Armidale Regional Council that are agreed between Armidale Regional Council and Inverell Council to be transferred to Inverell Council are transferred in accordance with that agreement.
- (3) A transfer under this clause (or as determined by the Minister under clause 6) is taken to have effect on and from the alteration day.

### 9 Provisions relating to transfers of assets, rights and liabilities

- (1) When any assets, rights or liabilities are transferred pursuant to this Proclamation from Armidale Regional Council (the *transferor*) to Inverell Council (the *transferee*), the following provisions have effect:
  - (a) the assets of the transferor vest in the transferee by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
  - (b) the rights or liabilities of the transferor become, by virtue of this clause, the rights or liabilities of the transferee,
  - (c) 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 transferor or a predecessor of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted to be done by, to or in respect of the transferee,
  - (d) the transferee has all the entitlements and obligations of the transferor in relation to those assets, rights and liabilities that the transferor would have had but for the transfer, whether or not those entitlements and obligations were actual or potential at the time of the transfer.
- (2) The operation of this clause is not to be regarded:
  - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
  - (c) 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, or
  - (d) as an event of default under any contract or other instrument.
- (3) The Minister may, by notice in writing, confirm a transfer of particular assets, rights or liabilities. The notice is conclusive evidence of that transfer.

- (4) No attornment to the transferee by a lessee from the transferor is required.

**10 Continuation or institution of proceedings by or against transferees**

- (1) Proceedings that were instituted by or against a transferor before the alteration day, or that could have been instituted by or against the transferor but for the alteration of boundaries and other matters effected by other provisions of this Proclamation, may be continued or instituted by or against the transferee if:
- (a) the proceedings relate to or arise out of or are connected with staff, assets, rights or liabilities transferred pursuant to this Proclamation, or
  - (b) the proceedings relate to a matter for which responsibility is transferred to the transferee pursuant to or as a result of this Proclamation.
- (2) For that purpose:
- (a) proceedings instituted by or against the transferor are taken to be proceedings instituted by or against the transferee, and
  - (b) anything done by or in relation to the transferor is taken to have been done by or in relation to the transferee.
- (3) In this clause:  
***proceedings*** means criminal proceedings, civil proceedings, civil penalty proceedings or other legal proceedings (including the issue of penalty notices for alleged offences and proceedings arising out of the issue of any such penalty notice).

## Part 4 Savings and transitional provisions

### 11 Arrangements during the transitional period

- (1) Armidale Regional Council is not to do any of the following during the transitional period unless either Inverell Council or the Minister has agreed:
  - (a) enter into any restricted arrangement,
  - (b) vary any budget allocation for any function that would effectively only apply to the transferred land area,
  - (c) negotiate or enter into any new enterprise agreement, or alter salaries, conditions of employment or other entitlements for staff (other than senior staff) that would effectively only apply to duties carried out by those staff on the transferred land area.
- (2) Inverell Council is not to do any of the following during the transitional period, unless either Armidale Regional Council or the Minister has agreed:
  - (a) vary any budget allocation for any function that would effectively only apply to the transferred land area after the alteration day,
  - (b) negotiate or enter into any new enterprise agreement, or alter salaries, conditions of employment or other entitlements for staff (other than senior staff) that would effectively only apply to duties carried out by those staff on the transferred land area after the alteration day.
- (3) Any restricted arrangement, variation of budget allocation, negotiation, agreement or other conduct entered into or carried out in contravention of this clause is to be taken into consideration for the purposes of any agreement to transfer staff, assets, rights and liabilities under this Proclamation and the value of staff entitlements, assets, rights and liabilities transferred is to be adjusted accordingly.
- (4) In this clause:

*restricted arrangement* means any of the following:

  - (a) the sale or purchase of property or of any assets located in the transferred land area involving an amount exceeding \$20,000,
  - (b) the leasing of any property located in the transferred land area for a period exceeding 5 years,
  - (c) entering into new contracts for works on the transferred land area involving an amount exceeding \$100,000.

### 12 Provision of services and facilities in the transferred land area during the transitional period

- (1) The services and facilities provided by Armidale Regional Council to residents and ratepayers in the transferred land area immediately before the date of commencement of this Proclamation are to continue to be provided by Armidale Regional Council, from the funds and resources of Armidale Regional Council, during the transitional period, at the same level and in the same manner as was provided by Armidale Regional Council immediately before that date of commencement.
- (2) However, the services and facilities provided to residents and ratepayers in the transferred land area may be varied if Inverell Council or the Minister agree to the variation.
- (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 transferred land area by Armidale Regional Council in the transitional period include the following:

- (a) street cleansing,
- (b) domestic waste collection,
- (c) roads and foot-way management and maintenance,
- (d) management and maintenance of parks,
- (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 transferred land area,
- (g) property management and maintenance,
- (h) issuing all certificates (including certificates issued under the *Environmental Planning and Assessment Act 1979*),
- (i) building compliance inspections,
- (j) the provision of all goods and services necessary or ancillary to the provision of the above.

**13 Payment of outstanding rates, charges and fees in accordance with arrangements**

- (1) Armidale Regional Council and Inverell Council may agree on arrangements for any rates, annual charges or other fees payable to Armidale Regional Council in respect of any land that will become part of the Inverell area as a result of the boundary alterations effected by this Proclamation, that were not paid before the alteration day or for which payment is due after that day.
- (2) Those rates, annual charges or other fees are to be payable in accordance with that agreement.
- (3) A payment under this clause (or as determined by the Minister under clause 6) is taken to be payable on and from the alteration day or any other date required by the Act.

**14 County councils**

- (1) To avoid doubt, the constitution and operation of a county council, as existing immediately before the alteration day, is not affected by any changes to council areas effected by this Proclamation.
- (2) This clause does not prevent a change being made to the constitution or operation of a county council or the dissolution of a county council in accordance with the Act at any time during or after the transitional period.

**15 References to councils and area of altered council**

A reference in an Act or instrument to:

- (a) Armidale Regional Council is taken to be a reference to Inverell Council to the extent to which it relates to land or a matter for which responsibility is transferred to Inverell Council pursuant to this Proclamation, or
- (b) the area of Armidale Regional Council is taken to be a reference to the area of Inverell Council to the extent to which it relates to land incorporated in the area of Inverell Council by this Proclamation.



## **Part 5 General**

### **16 Delegation**

- (1) The Minister may delegate any function of the Minister under this Proclamation to the Chief Executive of the Office of Local Government.
- (2) The Chief Executive may sub-delegate to any person any function delegated to the Chief Executive under this clause.