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Schedule

1. Definitions

In this Schedule:

'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.

'clause' means a clause in this Schedule.

'fixed asset' of the County Council means:

- (a) land, whether built on or not, or
- (b) a building of any description or part of it and appurtenances to it.

'former County Council' means the former Central Murray County Council.

'liabilities' means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable) and includes liabilities in relation to criminal acts.

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

'the Minister' means the Minister for Local Government.

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

'the transfer date' means 1 July 2019.

2. Transfer of non-senior staff

- (1) Each full-time member of staff (other than senior staff) of the former County Council immediately before the transfer date is transferred:
 - (a) in the case of staff whose work base at that time is at Finley, to Berrigan Shire Council, and
 - (b) in the case of staff whose work base at that time is at Deniliquin, to Edward River 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) A delegation by the former County Council that was in force immediately before the transfer date is taken to be a delegation by Berrigan Shire Council and Edward River Council and may be revoked or amended accordingly.
- (2) Subclause (1) ceases to have effect when Berrigan Shire Council or Edward River Council as the case may be adopts new delegations under the relevant provisions of the legislation pursuant to which the delegations referred to in subclause (1) were made.
- (3) Nothing in this clause affects a delegation made by Berrigan Shire Council or Edward River Council that was in force immediately before the transfer date.

4. Plans, programs and strategies

- (1) The following plans, programs and strategies of Berrigan Shire Council, Edward River Council and Murray River 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 Berrigan Shire Council, Edward River Council or Murray River Council when Berrigan Shire Council, Edward River Council or Murray River 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 Berrigan Shire, Edward River or Murray River that had effect immediately before the transfer date continues to have effect as if it had been done or omitted to be done by Berrigan Shire Council, Edward River Council or Murray River 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 Berrigan Shire, Edward River or Murray River may be completed by Berrigan Shire Council, Edward River Council or Murray River Council as if it had been commenced by Berrigan Shire Council, Edward River Council or Murray River 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 Berrigan Shire Council, Edward River Council or Murray River 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 fixed assets and any associated rights and liabilities of the former County Council that are located in the area of Berrigan Shire Council, Edward River Council or Murray River Council are transferred to Berrigan Shire Council, Edward River Council or Murray River Council respectively.
- (2) The other assets, rights and liabilities of the former County Council are transferred to Berrigan Shire Council, Edward River Council or Murray River Council as determined by agreement between Berrigan Shire Council, Edward River Council and Murray River Council.
- (3) The following provisions have effect in relation to any assets, rights or liabilities that are transferred by operation of subclauses (1) and (2):
 - (a) the assets of the former County Council vest in Berrigan Shire Council, Edward River Council or Murray River 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 or liabilities of Berrigan Shire Council, Edward River Council or Murray River 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 Berrigan Shire Council, Edward River Council or Murray River 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 Berrigan Shire Council, Edward River Council or Murray River 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 Berrigan Shire Council, Edward River Council or Murray River Council, as the case may be, as if it had been commenced by Berrigan Shire Council, Edward River Council or Murray River 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, Berrigan Shire Council, Edward River Council or Murray River 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 Berrigan Shire Council, Edward River Council or Murray River 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 Berrigan Shire Council, Edward River Council or Murray River Council as a result of this Proclamation, continues to have effect and may be enforced by Berrigan Shire Council, Edward River Council or Murray River Council as the case may be as if it had been done by Berrigan Shire Council, Edward River Council or Murray River 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 Berrigan Shire Council, Edward River Council or Murray River Council as the case may be as if it had been given or made by Berrigan Shire Council, Edward River Council or Murray River 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 Berrigan Shire Council, Edward River Council or Murray River Council as the case requires.
- (j) Berrigan Shire Council, Edward River Council and Murray River 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.

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 any 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 Berrigan Shire Council, Edward River Council or Murray River 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 Berrigan Shire Council, Edward River Council or Murray River 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. Obligations of relevant councils

Berrigan Shire Council, Edward River Council and Murray River 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 each other.

11. Matters or things 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, including, without limitation, the content of the matters set out in clause 4.
- (2) In pursuance of this clause, if Berrigan Shire Council, Edward River Council or Murray River 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 more 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 Berrigan Shire Council, Edward River Council or Murray River Council if the Minister concludes that the matter or thing cannot be determined by agreement between Berrigan Shire Council, Edward River Council or Murray River Council or if the Minister is not satisfied with any agreement reached between the aforementioned Councils.
- (4) The Minister may delegate any function of the Minister under this clause to the Chief Executive of the Office of Local Government.
- (5) The Chief Executive may sub-delegate to any person any function delegated to the Chief Executive under this clause.

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