



Victoria Government Gazette

No. S 12 Thursday 7 April 1994
By Authority L. V. North, Government Printer Melbourne

SPECIAL

Local Government Act 1989
**ORDER CONSTITUTING THE GREATER
BENDIGO CITY COUNCIL AND
ABOLISHING THE MUNICIPAL
DISTRICTS OF THE CITY OF BENDIGO,
THE RURAL CITY OF MARONG, THE
BOROUGH OF EAGLEHAWK, THE SHIRE
OF HUNTLY AND THE SHIRE OF
STRATHFIELDSAYE**

Whereas—

A. On 10 September 1993 the Minister for Local Government, Mr Roger Murray Hallam (the Minister), required the Local Government Board to conduct a review under Part 10B of the *Local Government Act 1989* (the Act), on the most appropriate local government structure for the area comprising the municipal districts of the City of Bendigo, the Rural City of Marong, the Borough of Eaglehawk and the Shires of Huntly and Strathfieldsaye.

B. As required by section 220M of the Act, the Local Government Board has submitted a final report on the review to the Minister.

C. As required by sections 220M and 220P of the Act, the Minister has considered the report and has recommended to the Governor in Council that an Order in Council be made in the following terms.

Now therefore, the Governor in Council acting under Part 10C of the Act orders that:

I. Definitions

In this Order—

“Act” means the *Local Government Act 1989*.

“appointed day” means the day on which this Order comes into operation.

“City Council” means the Greater Bendigo City Council constituted by clause 3 (a).

“Commissioner” means a person appointed under clause 3 (f) of this Order to administer the City Council during the period of administration.

“former Council” means a council specified in clause 3 (c).

“period of administration” means the period commencing on the appointed day and ending at 9 a.m. on the day on which the first meeting of the City Council is held under clause 8.

2. Commencement

This Order comes into operation on the day it is published in the *Government Gazette*.

3. Constitution of the Greater Bendigo City Council

On the appointed day—

- (a) there is constituted a body corporate constituted as a City Council by the name of the Greater Bendigo City Council;
- (b) the boundaries of the municipal district of the City Council shall be fixed as described in Schedule 1;
- (c) the following Councils cease to exist—
 - (i) City of Bendigo
 - (ii) Rural City of Marong
 - (iii) Borough of Eaglehawk
 - (iv) Shire of Huntly
 - (v) Shire of Strathfieldsaye
- (d) the persons holding Office as Councillors of a former Council cease to hold such office; and
- (e) the Order in Council made on 20 July 1993 entitled “Suspension of Councillors and Appointment of an Administrator” in relation to the Shire of Strathfieldsaye and printed in the *Government Gazette* on 6 January 1994 is revoked;
- (f) the persons suspended as Councillors during the period of operation of the above Order do not resume office and their terms expire;
- (g) Mr Peter Ross Edwards, Mr Les Crofts and Mr Gordon McKern are appointed to administer the City Council during the period of administration;
- (h) Mr Peter Ross Edwards is appointed the Chairperson of the Commissioners.

4. Holding of the first election

(1) The first general election of Councillors of the City Council is to be held on 5 August 1995.

(2) For the purposes of holding the first election of Councillors, the City Council is deemed to have decided under section 35 of the Act to hold triennial elections and sub-sections (2) and (3) of that section do not apply in respect of that decision.

(3) Except as provided by this clause, the provisions of Part 3 of the Act apply to and in respect of the first and subsequent elections.

5. Greater Bendigo City Council is Successor in Law

(1) On the appointed day--

- (a) all property, rights and assets of the former Councils are vested in the City Council;
- (b) all liabilities of the former Councils are liabilities of the City Council;
- (c) the City Council is the successor in law of the former Councils.

(2) Where, immediately before the appointed day, proceedings to which a former Council was a party were pending or existing in any court or tribunal, then, on and after the appointed day the City Council is substituted for the former Council as a party to the proceedings and has the same rights in the proceedings as the former Council had.

(3) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificates of title or instrument, must make any amendments in the Register that are necessary because of the operation of this Order.

(4) On and after the appointed day, any reference in any Act, regulation, local law, subordinate instrument or any other document whatsoever to a former council is to be construed as a reference to the City Council unless the contrary intention appears.

6. Commissioners of Greater Bendigo City Council

(1) A Commissioner is entitled to receive—

- (a) a pro rata equivalent of the following annual remuneration
 - Chairperson \$80,000
 - Commissioner \$60,000
- (b) travelling and other expenses that may be allowed under any regulations made under the *Public Service Management*

Act 1992 or in the absence of the above expenses that would have been paid to the officers in the Senior Executive Service under Public Service Determination No. 4.

(2) Such salaries and expenses are to be paid by the City Council.

(3) The Commissioners must during their period of administration—

- (a) ensure that the operations of the City Council are carried out in the most efficient and economic manner possible;
- (b) report to the Minister on such matters and at such intervals as the Minister may specify.

(4) The Commissioners must exercise their powers and perform their functions subject to any written directions given by the Minister.

(5) The Chief Executive Officer of the City Council must call the first meeting of the Council to be held by the Commissioners which must be held within three days of the appointed day.

(6) Section 89 (4) of the Act does not apply to the first meeting of the City Council.

(7) The provisions of Schedule 2 apply to the Commissioners and meetings of the Commissioners.

7. Staff of the Greater Bendigo City Council

(1) On the appointed day all the members of staff of the former Councils become members of staff of the City Council with the same terms and conditions as those with the former Councils and with the benefit of all accrued rights.

(2) With effect from the appointed day, until revoked by the City Council--

- (a) Mr Vernon Robson, is the person authorised to exercise the powers and perform the duties and functions conferred or imposed on Chief Executive Officers by this Order, the Act and any other Act, and any other authorisation given by a former Council or deemed to have been given by the *Local Government (Miscellaneous Amendments) Act 1993* has no effect;
- (b) all delegations made by a former Council or by the Chief Executive

Officer of a former Council under section 98 of the Act remain in force.

8. First Meeting of the Councillors of the Greater Bendigo City Council

(1) After the first election of Councillors for the City Council has been held, the Chief Executive Officer of the City Council must call the first meeting of the Council which must be held within 10 days of the day on which the returning officer declares the result of the first election.

(2) At 9 a.m. on the day on which the first meeting of the City Council is held under sub-clause (1)—

- (a) the Commissioners go out of office; and
- (b) the Councillors elected at the first election of the Council assume office as Councillors of the City Council.

9. Valuations—Transitional Provisions

(1) Until 30 September 1995, the City Council must use in relation to rateable land in its municipal district the valuation which applied at the time rates and charges were levied in respect of the 1993-94 financial year unless a supplementary valuation has been made, or is made, under section 13DF of the *Valuation of Land Act 1960* in respect of the land;

(2) For the purposes of sub-clause (1), if a supplementary valuation has been made, or is made, the City Council can use that supplementary valuation.

(3) In respect of the 1994-95 financial year the City Council must continue to use in that part of its municipal district that was the municipal district of a former Council, the system of valuation used by the former council immediately before the appointed day.

(4) The City Council must determine to use a system of valuation that applies to the whole of its municipal district in respect of the 1995-96 financial year and Section 157 of the Act does not apply to the determination.

10. Rates—Transitional Provisions

(1) Any rate or charge declared by a former Council under sections 158 (1), 159 (1) and 162 of the Act for the 1993-1994 financial year is deemed to be the rate or charge declared by the City Council for the 1994-95 financial year in relation to that part of the municipal district of

the City Council that was in the municipal district of the former Council.

(2) The date on which the City Council adopts its budget for the 1994-1995 financial year is deemed to be the date on which any rates or charges are declared or fixed by virtue of this clause.

(3) The City Council must not levy any rate or charge in relation to any rateable land in its municipal district which is additional to the rates and charges levied in respect of that land for the 1993-1994 financial year.

11. Local Laws—Transitional Provisions

(1) On the appointed day the local laws made by a former Council which are specified in Schedule 3 are revoked.

(2) Sections 5 (3) and 91 (1) of the Act do not apply in respect of the common seal and meetings of the City Council during the period of administration.

(3) Unless amended or revoked by an Order in Council or by the City Council, the local laws made by a former Council and in force immediately before the appointed day continue to apply in the relevant part of the municipal district of the City Council for a period of 12 months from the appointed day as if the local laws were made by the City Council.

12. Planning Matters—Transitional

(1) Except where a planning scheme specifies the Minister administering the *Planning and Environment Act 1987*, or any other person to be the responsible authority, the City Council is the responsible authority in relation to the planning schemes in force in its municipal district.

(2) Any reference in a planning scheme in force in the municipal district of the City Council to a former Council as a responsible authority for a particular purpose, is to be taken as a reference to the City Council in relation to the relevant part of its municipal district.

(3) For the purposes of the *Planning and Environment Act 1987* and the administration, amendment or enforcement of each of the planning schemes referred to in sub-clause (1)—

- (a) anything of a continuing nature (including a contract, agreement or proceeding) done, commenced or made by or in relation to a former council in relation to its municipal district may be

done, enforced or completed by or in relation to the City Council; and

- (b) anything done by or in relation to a former Council that concerns a matter of a continuing nature in relation to its municipal district has effect as if done by or in relation to the City Council.

13. Borrowings—Transitional Provisions

For the purpose of Part 7 of the Act until a new budget is made by the City Council any proposed borrowings included in a budget or revised budget of a former Council are deemed to have been included in a budget or revised budget made by the City Council.

14. Corporate Plan—Transitional Provisions

For the purpose of section 153A of the Act the City Council must prepare a corporate plan for the three year period commencing 1 October 1994 by 30 November 1994.

SCHEDULE 1 BOUNDARIES OF THE MUNICIPAL DISTRICT OF THE GREATER BENDIGO CITY COUNCIL

Clause 3 (b)

Commencing at a point on the Loddon River, at the south-western angle of the County of Bendigo; thence easterly by the southern boundary of the County of Bendigo to the Calder Highway; thence south-easterly by that highway to the road forming the southern boundary of allotment 41, section 1, Parish of Ravenswood; thence north-easterly by that road to the Northern Railway; thence south-easterly by that railway to a point in line with the south-eastern boundary of allotment 26A, section 2; thence north-easterly by a line and the south-eastern boundary of allotment 26A, section 2 to the road forming the eastern boundary of that allotment; thence south-easterly by that road to the road forming the southern boundary of allotment 5, section 27; thence easterly by that road and the road forming the southern boundary of allotment 4 and further easterly by the road forming the southern boundary of the parish to the western boundary of the Parish of Sutton Grange; thence northerly, easterly and southerly by that parish boundary to Myrtle Creek; thence generally northerly and south-easterly by that creek to the Coliban River; thence generally northerly by that river and the former bed of the Campaspe River through Lake Eppalock to the Campaspe River; thence northerly by that river to the road forming the

north-eastern boundary of allotment 1C, Parish of Diggorra; thence north-westerly by that road and a line to the Northern Railway; thence north-easterly by that railway to a point in line with South Boundary Road; thence westerly by a line and South Boundary Road and further westerly by a line in continuation to the western boundary of allotment 118, Parish of Warragamba; thence southerly by that boundary to the Elmore-Mitiamo Road; thence north-westerly by that road to the most northern angle of former allotment 61A, Parish of Kamarooka; thence south-westerly by the north-western boundary of that former allotment and a line in continuation to the road forming the northern boundary of allotment 33A; thence westerly by that road to the western boundary of allotment 12A; thence northerly by that boundary to the northern boundary of allotment 12E; thence westerly by that boundary to the eastern boundary of allotment 12B; thence northerly and generally north-westerly by that boundary to the road forming the northern boundary of the said allotment; thence westerly by that road to the road forming the western boundary of allotment 12F; thence southerly by that road and the Kamarooka West Boundary Road to Raywood Road; thence westerly by that road, the road forming the northern boundary of the Parish of Neilborough and the road forming the southern boundaries of section 14A and section 15, Parish of Yallock and further westerly by a line in continuation to the road forming the western boundary of the Parish of Yallock; thence southerly by that road to a point in line with the road forming the southern boundary of allotment 10, section 14, Parish of Salisbury; thence westerly by a line and that road to the Loddon River, and thence southerly by that river to the point of commencement.

SCHEDULE 2 COMMISSIONERS Clause 6 (7)

1. A Commissioner—

- (a) must not, without the consent of the Minister, while in office directly or indirectly engage in any paid employment outside the duties of his or her office;
- (b) may resign the office in writing signed by him or her and delivered to the Governor in Council;

(c) may at any time be removed from office by the Governor in Council.

2. If a Commissioner—

(a) becomes bankrupt or his or her property becomes in any manner subject to control under the law relating to bankruptcy;

(b) is convicted of an indictable offence or of an offence which, if committed in Victoria, would be an indictable offence;

(c) becomes incapable of performing the duties of office;

(d) is removed from office or resigns the office; or

(e) dies—

the office as a Commissioner becomes vacant.

3. During the absence from office or illness of the Chairperson, a Commissioner nominated by the Chairperson shall act in the place of the Chairperson and while so acting shall have, exercise and discharge all the responsibilities, liabilities, rights, powers, authorities, duties and functions conferred or imposed on the Chairperson by or under this Order.

4. An act or decision of a Commissioner is not invalid by reason only of a defect or irregularity in or in connection with the appointment of a Commissioner or that Commissioner, as the case may be.

5. No person shall be concerned to inquire whether any occasion had arisen requiring or authorising a Commissioner to act in the place of the Chairperson and all acts or things done or omitted to be done by the Commissioner, while so acting, shall be as valid and effectual and shall have the same consequence as is the acts or things had been done or omitted to be done by the Chairperson.

6. Where provision is made in any Act, regulation, rule, by-law, local law, instrument or document for the Mayor, a councillor or the Chairperson or a member of a committee of the City Council or a former Council, to be a member of or to be represented on a board, council, committee, commission or other body, or to be a trustee, or to be a member or director of a company, that provision has effect during the period of administration as if it provided for a Commissioner or some other person appointed by the Commissioners to be that member, representative, trustee or director.

7. Sections 71, 74 and 75 do not apply to the Commissioners.

8. A quorum for a meeting of the Commissioners is 2 Commissioners.

9. Except as provided in this Order, the procedure for meeting of the City Council may be determined by the Commissioners.

SCHEDULE 3
REVOCATION OF LOCAL LAWS
(Clause 11 (1))

City of Bendigo

Local Law No. 137—Meeting Procedure

Local Law No. 138—Common Seal

Local Law No. 139—Election of Mayor

Rural City of Marong

Local Law No. 1

Borough of Eaglehawk

Local Law 1/89—Common Seal

Local Law 2/89—Meeting Procedures

Local Law 3/89—Election of Mayor

Shire of Huntly

Local Law No. 2—Common Seal of the Shire

of Huntly

Local Law No. 5—Meeting Procedures

Shire of Strathfieldsaye

Local Law No. 1—Procedures of Municipal

Government (Procedures for Meeting)

Dated: 22 March 1994

Responsible Minister

ROGER M. HALLAM

Minister for Local Government

KATHY WILSON

Acting Clerk of the Executive Council





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