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By Authority L. V. North, Government Printer Melbourne

SPECIAL

Local Government Act 1989

ORDER CONSTITUTING THE CITY OF HOBSONS BAY; ABOLISHING THE MUNICIPAL DISTRICTS OF THE CITIES OF ALTONA AND WILLIAMSTOWN; AND ALTERING THE MUNICIPAL DISTRICTS OF FOOTSCRAY AND WERRIBEE

Whereas:

- A. On 17 December 1993, the Minister for Local Government, the Hon. Roger M. Hallam, MLC (the Minister) required the Local Government Board (the Board) to conduct a review under Part 10b of the **Local Government Act 1989**, on the most appropriate structure for the area comprising 21 councils in inner Melbourne (the review) including the municipal districts of the Cities of Altona, Williamstown and Footscray.
- B. As required by section 220m of the Act, the Board has submitted its final report on the review to the Minister.
- C. As required by sections 220m and 220p of the Act, the Minister 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:

Definitions

1. In this Order—

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

“annexed areas” means the areas severed from the City of Footscray and the City of Werribee and included in the municipal district of the Hobsons Bay City Council;

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

“City Council” means the Hobsons Bay City Council constituted under clause 3 (a);

“Commissioner” means a person appointed by the Governor in Council to administer the City Council;

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

Commencement

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

Constitution of the Hobsons Bay City Council

3. On the appointed day—

- (a) there is constituted a body corporate constituted as a City Council by the name of Hobsons Bay 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 Altona;
 - (ii) City of Williamstown;
- (d) the persons holding Office as Councillors of a former Council cease to hold such office.

Holding of the first election

4. (1) The date for the first general election of Councillors for the City Council is to be fixed by the Minister by a notice published in the Government Gazette.

(2) For the purpose 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.

Hobsons Bay City Council is Successor in Law

5. (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; and
- (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 Councils 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 an instrument or any other document of any kind to a former council is to be construed as a reference to the City Council unless the contrary intention appears.

Commissioners of Hobsons Bay City Council

6. (1) 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.

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

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

Staff of the Hobsons Bay City Council

7. (1) On the appointed day all the members of staff of the former council become members of staff of the Hobsons Bay City Council with the same 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 all delegations made by a former Council or by the Chief Executive Officer of a former Council under section 98 of the Act or any other Act remain in force.

First Meeting of the Councillors of the Hobsons Bay City Council

8. (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

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returning officer declares the result of the first election.

(2) At 9.00 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 elections of the Council assume office as Councillors of the City Council.

Changes to the Boundaries of the City of Footscray

9. (1) On the appointed day the boundaries of the municipal district of the City of Footscray shall be fixed as described in Schedule 3.

(2) Notwithstanding any reconstitution of the City of Footscray effected by this clause, the City of Footscray is deemed to be the same body on and after as before the appointed day and no act, matter or thing is in any way abated or affected by reason of any such reconstitution any such act, matter or thing may be continued and concluded in all respects as if this Order had not been made.

Changes to the Boundaries of City of Werribee

10. (1) On the appointed day—

- (a) the boundaries of the municipal district of the City of Werribee shall be fixed as described in Schedule 4; and
- (b) the municipal district of the Werribee City Council is constituted as an unsubdivided municipal district.

(2) Despite sub-section (1), the Councillors of the Werribee City Council in office immediately before the appointed day continue in office in all respects, as if this Order had not been made, until the next annual election is held at which all the Councillors go out of Office or the Council ceases to exist by virtue of an Order in Council.

(3) Notwithstanding any reconstitution of the City of Werribee effected by this clause, the City of Werribee is deemed to be the same body on and after as before the appointed day and no act, matter or thing is in any way abated or affected by reason of any such reconstitution any such act, matter or thing may be continued and concluded in all respects as if this Order had not been made.

Valuations—Transitional Provisions

11. The City Council may determine to change its system in respect of the 1995–1996 financial year in which case section 157 of the Act does not apply to that determination.

*Rates and Services in Annexed Areas—
Transitional Provision*

12. (1) A ratepayer is in respect of rateable land in the annexed areas liable to pay to the Council of the municipal district from which the area is severed, the general rates, service rates and charges, municipal charge and state deficit levy charge in respect of the 1993–1994 financial year that the ratepayer would have been liable to pay to that Council had the annexed area not been severed.

(2) Subject to sub-clause (3), for the period commencing on the appointed day and ending on 30 September 1994 the Council of the municipal district from which an annexed area is severed must continue to provide the same services to and perform the same functions in the annexed area in the same manner as if the annexed area had not been severed and for that purpose and powers duties or functions imposed or conferred by any Act on the City Council are deemed to be imposed or conferred by that Act on the Council of the municipal district from which the area is severed except as otherwise provided in this Order.

(3) The City Council may enter into an agreement with the Council of the municipal district from which an annexed area is severed specifying services to be provided and the functions to be performed by the City Council.

(4) A Council may with the agreement of another Council, delegate under section 98 of the Act a power, duty or function to a member of staff of the other Council in respect of the period commencing on the appointed date and ending on 30 September 1994.

Rates—Transitional Provisions 1994–1995

13. (1) Any rate or charge declared by a former Council or the Cities of Footscray and Werribee under sections 158 (1), 159 (1) and 162 of the Act for the 1993–1994 financial year is deemed to be a rate or charge declared by the City Council for the 1994–1995 in relation to that part of the municipal district of the City Council that was in the municipal district of

those Councils immediately before the appointed day.

(2) The City Council must not levy any rate or charge in the 1994–95 financial year 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 1993–94 financial year.

(3) Sub-section (2) does not apply to the declaration of a special rate or special charge pursuant to section 163 of the Act.

(4) The minimum rates fixed by the former Councils and the Cities of Footscray and Werribee under section 3 (2) of the **Local Government (Consequential Provisions) Act 1989** for the 1993–1994 financial year are deemed to be the minimum rates fixed by the City Council for the 1994–1995 financial year in relation to that part of the municipal district which was in the municipal district of the former Councils or in the annexed areas as the case may be.

(5) The date on which the City Council adopts its budget for the 1994–95 financial year is deemed to be the date on which any rates or charges are declared or fixed by virtue of sub-clause (1).

*Minimum Rates—Transitional Provisions
1995–1996*

14. In the 1995–96 financial year the City Council may levy a minimum rate in accordance with sub-section 3 (2) of the **Local Government (Consequential Provisions) Act 1989**.

*Differential Rates—Transitional Provisions
1995–1996 and 1996–1997*

15. In the 1995–96 and 1996–97 financial years the City Council may—

- (a) raise any general rate by the application of a differential rate pursuant to section 161 of the Act regardless of the system of valuation it is using;
- (b) apply a differential rate for a type or class of land according to its geographic location;
- (c) declare a different service rate or different annual service charge pursuant to section 162 of the Act in different areas.

Local Laws—Transitional Provisions

16. (1) On the appointed day any local law, or any part of a local law, which deals with the meeting procedures or the common seal of a former council is 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 or by the Cities of Footscray and Werribee 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 date as if the local laws were made by the City Council.

Planning Matters

17. (1) Except where a planning scheme specifies the Minister administering the **Planning and Environment Act 1987** or 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 or the Cities of Footscray and Werribee 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 purpose 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 or the Cities of Footscray and Werribee in relation to the annexed areas may be done, enforced or completed by or in relation to the City Council;
- (b) anything done by or in relation to a former Council or the Cities of Footscray and Werribee that concerns a matter of a continuing nature in relation to its municipal district or the annexed areas, as the case may be, has

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effect as if done by or in relation to the City Council;

- (c) the Cities of Footscray and Werribee must give to the City Council any document that it holds that is relevant to anything done by it as a responsible, referral or planning authority in relation to the annexed areas.

Borrowings—Transitional Provisions

18. 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.

Corporate Plan—Transitional Provisions

19. For the purposes 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.

Agreement on Division of Assets, Liabilities and Staff of Former Councils

20. The City Council must come to an agreement with the City of Footscray and an agreement with the City of Werribee on the apportionment, settlement, transfer, adjustment or determination of any property, income, assets, liabilities expenses, staff or other matters in relation to the annexed areas by 31 August 1994.

SCHEDULE 1

BOUNDARIES OF HOBSONS BAY CITY COUNCIL ✓

Commencing on Stony Creek at Williamstown Road; thence southerly by that road to the West Gate Freeway; thence westerly by that freeway to the western boundary of Allotment F, Section 9, Parish of Cut-paw-paw; thence northerly by that boundary and Cemetery Road to the Princes Highway; thence south-westerly by that highway and the Princes Freeway to Kororoit Creek Road; thence westerly by that road to Fitzgerald Road; thence south-westerly by that road and Old Geelong Road to a point thereon in line with the eastern boundary of the Laverton R.A.A.F Base; thence generally southerly by that boundary to Maher Road; thence south-westerly by that road to the Geelong and Melbourne Railway; thence south-westerly by that railway to a point in line

with Point Cook Road; thence southerly by a line and that road to the Princes Freeway; thence westerly by that freeway to the western boundary of Allotment 7, Section A, Parish of Truganina; thence southerly by that boundary to the northern boundary of Lot 76 on Plan of Subdivision 307278S; thence westerly by the northern boundaries of that lot, lot 77 and Reserve No. 1 to the western boundary of that reserve; thence southerly by that boundary and the western boundaries of lots 3 to 21, the western boundary of Reserve No. 2 and the western boundaries of lots 22 to 38 to the southern boundary of that lot; thence easterly by that boundary and the southern boundaries of lots 39, 40 and 41 to the western boundary of allotment 7; thence southerly by that boundary to Dunning Road; thence easterly by that road to Point Cook Road; thence southerly by that road to the northern boundary of Allotment 3, Section F, Parish of Duetgam; thence easterly by that boundary to the eastern boundary of Allotment 2B; thence northerly by that boundary to the northern boundary of that allotment; thence easterly by a line in continuation of that northern boundary to Skeleton Creek; thence south-easterly and north-easterly by that creek to the shore of Port Phillip Bay; thence north-easterly and easterly by that shore and north-easterly and north-westerly by the shore of Hobsons Bay to the Yarra River; thence northerly by that river to the point in line with Francis Street; thence westerly by a line and Francis Street to Hyde Street; thence southerly by that street to Stony Creek, and thence westerly by that creek to the point of commencement.

SCHEDULE 2

COMMISSIONERS

1. A Commissioner is entitled to receive—

- (a) an annual remuneration;
- (b) any travelling or subsistence allowances; and
- (c) any other allowances in relation to expenses incurred in the discharge of his or her duties—

that the Minister may from time to time determine in respect of the Commissioner.

2. Such allowances and expenses are to be paid by the City Council.

3. A Commissioner must—

- (a) ensure that the operations of the 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. A Commissioner must exercise his or her powers and perform his or her functions subject to any written directions given by the Minister.

5. 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.

6. 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.

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

8. 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.

9. No person shall be concerned to inquire whether any occasion had arisen requiring or

authorising a person to act in the place of a Commissioner and all acts or things done or omitted to be done by the person, while so acting, shall be as valid and effectual and shall have the same consequence as if the acts or things had been done or omitted to be done by the Commissioner.

10. Where provision is made in any Act, regulation, rule, by-law, local law, instrument or document

- (a) 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 a Commissioner to be that member, representative, trustee or director;
- (b) for a Council to appoint a councillor to be the representative of the Council that provision has effect during the period of administration as if it provided for a commissioner or some other person nominated by a commissioner to be the representative; or
- (c) for a member of a board, council, committee, commission or other body to be appointed from a panel of councillors of municipal councils, that provision has effect during the period of administration as if it provided for a commissioner or some other person nominated by a commissioner to be included in the panel.

11. Sections 71, 74 and 75 of the Act do not apply to a Commissioner.

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

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

SCHEDULE 3

BOUNDARIES OF THE CITY OF FOOTSCRAY

Commencing on Stony Creek at Williamstown Road; thence southerly by that

road to the West Gate Freeway; thence westerly by that freeway to the western boundary of Allotment F, Section 9, Parish of Cut-paw-paw; thence northerly by that boundary and Cemetery Road to the Princes Highway; thence north-easterly by that highway to the western boundary of Portion 4, Allotment J, Section 9; thence northerly by that boundary and the western boundaries of Allotments 1 and 6, Section 13 to Sunshine Road; thence westerly by that road to Ashley Street; thence northerly by that street to Suffolk Street; thence easterly by that street to Church Street; thence north-easterly by that street to Suffolk Street; thence easterly by that street to Summerhill Road; thence northerly by that road and Rosamond Road to Mitchell Street; thence easterly by that street and the northern boundary of Section 15 to the Maribymong River; thence southerly by that river and the Yarra River to a point in line with Francis Street; thence westerly by a line and Francis Street to Hyde Street; thence southerly by that street to Stony Creek, and thence westerly by that creek to the point of commencement.

SCHEDULE 4

BOUNDARIES OF THE CITY OF WERRIBEE

Commencing on the shore of Port Phillip Bay at the Little River; thence north-westerly by that river to the Balliang Creek; thence north-westerly by that creek to the southern boundary of the Parish of Parwan; thence easterly by that boundary and northerly by the eastern boundary of that parish to the Werribee River; thence generally south-easterly by that river, the former course of the Werribee River through the Melton Reservoir and the Werribee River to a point in line with Boundary Road; thence easterly by a line, Boundary Road and a line in continuation to the Kororoit Creek; thence southerly by that creek to the Princes Highway; thence south-westerly by that highway and the Princes Freeway to Kororoit Creek Road; thence westerly by that road to Fitzgerald Road; thence south-westerly by that road and Old Geelong Road to a point thereon in line with the eastern boundary of the Laverton R.A.A.F. Base; thence generally southerly by that boundary to Maher Road; thence south-westerly by that road to the Geelong and Melbourne Railway; thence

south-westerly by that railway to a point in line with Point Cook Road; thence southerly by a line and that road to the Princes Freeway; thence westerly by that freeway to the western boundary of Allotment 7, Section A, Parish of Truganina; thence southerly by that boundary to the northern boundary of Lot 76 on Plan of Subdivision 307278S; thence westerly by the northern boundaries of that lot, lot 77 and Reserve No. 1 to the western boundary of that reserve; thence southerly by that boundary and the western boundaries of lots 3 to 21, the western boundary of Reserve No. 2 and the western boundaries of lots 22 to 38 to the southern boundary of that lot; thence easterly by that boundary and the southern boundaries of lots 39, 40 and 41 to the western boundary of Allotment 7; thence southerly by that boundary to Dunnings Road; thence easterly by that road to Point Cook Road; thence southerly by that road to the northern boundary of Allotment 3, Section F, Parish of Duetgam; thence easterly by that boundary to the eastern boundary of Allotment 2B; thence northerly by that boundary to the northern boundary of that allotment; thence easterly by a line in continuation of that northern boundary to Skeleton Creek; thence south-easterly and north-easterly by that creek to the shore of Port Phillip Bay, and thence south-westerly by that shore to the point of commencement.

Dated: 21 June 1994

Responsible Minister:

ROGER M. HALLAM

Minister for Local Government

DAMIEN O'SHEA

Clerk of the Executive Council

Local Government Act 1989

ORDER CONSTITUTING THE CITIES OF MORELAND, DAREBIN AND YARRA AND ABOLISHING THE MUNICIPAL DISTRICTS OF THE CITIES OF BRUNSWICK, COBURG, PRESTON, NORTHCOTE, COLLINGWOOD, FITZROY AND RICHMOND

Whereas:

A. On 17 December 1993, the Minister for Local Government, the Hon. Roger M. Hallam, MLC (the Minister) required the Local Government Board (the Board) to conduct a review under Part 10B of the

Local Government Act 1989, on the most appropriate structure for the area comprising 21 councils in inner Melbourne (the review) including the municipal districts of the Cities of Brunswick, Coburg, Preston, Northcote, Collingwood, Fitzroy and Richmond.

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

C. As required by sections 220M and 220P of the Act, the Minister 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:

PART 1—PRELIMINARY

Definitions

1. In this Order—

"Act" means the Local Government Act 1989;

"Alphington area" means that area which was part of the municipal district of the former City of Northcote and which is in the municipal district of the City of Yarra;

"appointed day" means the day on which the Order comes into operation;

"Commissioner" means a person appointed by the Governor in Council to administer a newly constituted Council;

"Elizabeth Street area" means that area which was part of the municipal district of Coburg and which is in the municipal district of the City of Darebin;

"former Council" means in relation to—

(a) the Moreland City Council, the former Cities of Brunswick and Coburg;

(b) the Darebin City Council, the former Cities of Preston and Northcote;

(c) the Yarra City Council, the former Cities of Collingwood, Fitzroy and Richmond;

"newly constituted Council" means the Moreland City Council, the Darebin City Council or the Yarra City Council constituted under clause 3 (a) of this Order;

"North Carlton area" means the area which was severed from the municipal district of the City of Melbourne and included in the municipal district of the City of Fitzroy by virtue of the City of Melbourne Act 1993.

Commencement

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

Constitution of New Councils

3. On the appointed day—

- (a) there is constituted—
 - (i) a body corporate constituted as a City Council by the name of the Moreland City Council;
 - (ii) a body corporate constituted as a City Council by the name of Darebin City Council; and
 - (iii) a body corporate constituted as a City Council by the name of Yarra City Council—
- (b) the following councils cease to exist—
 - (i) City of Brunswick;
 - (ii) City of Coburg;
 - (iii) City of Preston;
 - (iv) City of Northcote;
 - (v) City of Collingwood;
 - (vi) City of Fitzroy; and
 - (vii) City of Richmond—
- (c) the persons holding office as Councillors of a Council referred to in clause 3 (b) cease to hold such office.

Commissioners

4. (1) The Chief Executive Officer of a newly constituted council must call the first meeting of the Council to be held by the Commissioners which must be held within 3 days of the appointed day.

(2) Section 89 (4) of the Act does not apply to the first meeting of a newly constituted Council.

(3) The provisions of Schedule 1 apply to the Commissioners and meetings of the Commissioners.

PART 2—MORELAND CITY COUNCIL

Boundaries

5. On the appointed day the boundaries of the municipal district of the Moreland City

Council shall be fixed as described in Schedule 2.

Moreland City Council is Successor in Law

6. From the appointed day—

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

Staff of the Moreland City Council

7. (1) On the appointed day all the members of staff of the former Councils become members of staff of the Moreland 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 Moreland City Council all delegations made by a former Council or by the Chief Executive Officer of a former Council under section 98 of the Act or any other Act remain in force.

Valuations—Transitional Provisions

8. In respect of the 1994–1995 financial year the Moreland 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.

Rates and Services—Transitional Provisions 1993–1994

9. (1) A ratepayer is in respect of rateable land in the Elizabeth Street area liable to pay the Moreland City Council the general rates, service rates and charges, municipal charge and state deficit levy in respect of the 1993–1994 financial year that the ratepayer would have been liable to pay to the former City of Coburg had this Order not been made.

(2) For the period commencing on the appointed day and ending on 30 September 1994 the Moreland City Council must continue to provide the same services to and perform the same functions in the Elizabeth Street area and in the same manner as if the area was in its municipal district and for that purpose any

powers duties and functions imposed or conferred by any Act on the City of Darebin are deemed to be imposed by that Act on the Moreland City Council except as otherwise provided in this Order.

Rates—Transitional Provisions—1994–1995

10. (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 Moreland City Council for the 1994–1995 financial year in relation to that part of the municipal district of the Moreland City Council that was in the municipal district of the former Councils immediately before the appointed day.

(2) The minimum rate fixed by the former Coburg City Council under section 3 (2) of the **Local Government (Consequential Provisions) Act 1989** for the 1993–1994 financial year is deemed to be the minimum rate fixed by the Moreland City Council for the 1994–1995 financial year in relation to that part of the municipal district which was in the municipal district of the former City of Coburg.

PART 3—DAREBIN CITY COUNCIL

Boundaries of the Darebin City Council

11. The boundaries of the municipal district of the Darebin City Council shall be fixed as described in Schedule 3.

Darebin City Council is Successor in Law

12. On the appointed day—

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

Staff of the Darebin Council

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

(2) On the appointed day, until revoked by the Darebin City Council all delegations made by a former Council or by the Chief Executive

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

Valuations—Transitional Provisions—1994–1995

14. In respect of the 1994–1995 financial year the Darebin City Council must continue to use in that part of its municipal district that was the municipal district of a former council or the City of Coburg, the system of valuation used by those Councils immediately before the appointed day.

Rates and Services—Transitional Provisions—1993–1994

15. (1) A ratepayer in the Alphington area, is liable to pay to the Darebin City Council the general rates, service rates and charges, municipal charge and state deficit levy in respect of the 1993–1994 financial year that the ratepayer would have been liable to pay to the former City of Northcote had this Order not been made.

(2) For the period commencing on the appointed day and ending on 30 September 1994 the Darebin City Council must provide the same services and perform the same functions in the Alphington area and in the same manner as if the whole of area was in its municipal district and for that purpose any powers duties and functions imposed or conferred by any Act on the City of Yarra are deemed to be imposed by that Act on the Darebin City Council except as otherwise provided in this Order.

Rates—Transitional Provisions—1994–1995

16. (1) Any rate or charge declared by a former Council or the City of Coburg 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 Darebin City Council for the 1994–1995 financial year in relation to that part of the municipal district of the Darebin City Council that was in the municipal district of those Councils immediately before the appointed day.

(2) The minimum rate fixed by the former Coburg City Council under section 3 (2) of the **Local Government (Consequential Provisions) Act 1989** for the 1993–1994 financial year is deemed to be the minimum rate fixed by the Darebin City Council for the 1994–1995 financial year in relation to that part

of the municipal district which was in the municipal district of the former City of Coburg.

PART 4—CITY OF YARRA ✓

Boundaries of the City of Yarra

17. The boundaries of the municipal district of the City of Yarra shall be fixed as described in Schedule 4.

City of Yarra is Successor in Law

18. On the appointed day—

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

Staff of the City of Yarra

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

(2) On the appointed day, until revoked by the City of Yarra all delegations made by a former Council or by the Chief Executive Officer of a former Council under section 98 of the Act or any other Act remain in force.

Rates—Transitional Provisions—1994–1995

20. (1) Any rate or charge declared by a former Council or the City of Northcote 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 of Yarra in the 1994–1995 financial year in relation to that part of the municipal district of the City of Yarra that was in the municipal district of a those Councils immediately before the appointed day.

(2) Any rate or charge declared by the City of Melbourne 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 of Yarra in the 1994–1995 financial year in the North Carlton area.

(3) The minimum rate fixed by the former Cities of Collingwood and Fitzroy under section 3 (2) of the **Local Government (Consequential Provisions) Act 1989** for the 1993–1994 financial year is deemed to be the

minimum rate fixed by the City of Yarra for the 1994–1995 financial year in relation to that part of the municipal district of the City of Yarra which was in the municipal district of the former Cities of Collingwood and Fitzroy.

PART 6—GENERAL

Holding of the First Elections

21. (1) The date for the first election of Councillors for a newly constituted Council is to be fixed by the Minister by a notice published in the Government Gazette.

(2) For the purposes of holding the first election of Councillors, a newly constituted 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.

First Meeting of the Councillors of a Newly Constituted Council

22. (1) After the first election of Councillors for a newly constituted Council has been held, the Chief Executive Officer of the 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 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 Council.

Valuations—Transitional Provisions

23. (1) Until 30 September 1995 a newly constituted 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 1993–1994 financial year unless a supplementary valuation has been made under section 13 of the **Valuation of Land Act 1960** in respect of that land.

(2) For the purposes of sub-clause (1), if a supplementary valuation has been or is made

the newly constituted Council can use that supplementary valuation.

(3) A newly constituted Council must determine to use a system of valuation for the 1995-1996 financial year that applies to the whole of its municipal district and section 157 of the Act does not apply to that determination.

*Agreements in relation to Services—
Transitional Provisions*

24. (1) A newly constituted Council, required by this Order to provide services and perform functions in an area outside its municipal district, may enter into an agreement with a Council for that Council to provide the services and perform the functions specified in the agreement.

(2) A newly constituted Council may, with the agreement of a Council, delegate under section 98 of the Act a power, duty or function to a member of staff of that Council in respect of the period commencing on the appointed day and ending on 30 September 1994.

Rates—Transitional Provisions 1994-1995

25. (1) The date on which a newly constituted Council adopts its budget for the 1994-95 financial year is deemed to be the date on which any rates or charges are declared or fixed by virtue of clauses 9, 16 and 20.

(2) A newly constituted council must not levy any rate or charge in the 1994-95 financial year 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 1993-94 financial year.

(3) Sub-section (2) does not apply to the declaration of a special rate or special charge pursuant to section 163 of the Act.

*Minimum Rates—Transitional Provisions
1995-1996*

26. In the 1995-96 financial year a newly constituted council may levy a minimum rate in accordance with sub-section 3 (2) of the **Local Government (Consequential Provisions) Act 1989**.

*Differential Rates—Transitional Provisions
1995-1996 and 1996-1997*

27. In the 1995-96 and 1996-97 financial years a newly constituted council may—

- (a) raise any general rate by the application of a differential rate

pursuant to section 161 of the Act regardless of the system of valuation it is using;

- (b) apply a differential rate for a type or class of land according to its geographic location;
- (c) declare a different service rate or different annual service charge pursuant to section 162 of the Act in different areas.

Local Laws—Transitional Provisions

28. (1) On the appointed day any local law, or part of any local law, which deals with the meeting procedures or the common seal of a council, which has ceased to exist by virtue of clause 3 (b), is revoked.

(2) Sections 5 (3) and 91 (1) of the Act do not apply in respect of the common seal and meetings of a newly constituted Council while the newly constituted council is under the administration of Commissioners.

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

(4) A newly constituted council shall be responsible for the enforcement of local laws within its municipal district and for continuing any proceedings for the enforcement of those local laws.

Proceedings—Transitional Provisions

29. Where, immediately before the appointed day, proceedings to which a former Council was a party were pending or existing in any court of tribunal, then, except as otherwise provided in this Order, the Moreland City Council, the Darebin City Council and the Yarra City Council as the case may be, 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.

References—Transitional Provisions

30. From the appointed day, any reference in any instrument or any other document of any kind to a former council is, except as otherwise provided in this Order, to be construed as a

reference to the Moreland City Council, the Darebin City Council and the Yarra City Council as the case may be, unless the contrary intention appears.

Planning Matters—Transitional Provisions

31. (1) Except where a planning scheme specifies the Minister administering the **Planning and Environment Act 1987** or other person to be the responsible authority, the newly constituted Council is the responsible authority for the purposes of the **Planning and Environment Act 1987** 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 a newly constituted Council to another council as a responsible authority for a particular purpose, is to be taken as a reference to the newly constituted 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 council which has ceased to exist by virtue of clause 3 (b), or the City of Melbourne in relation to the North Carlton area, may be done, enforced or completed by the newly constituted council of the municipal district to which the matters relates;
- (b) anything done by or in relation to a council which has ceased to exist by virtue of clause 3 (b), or the City of Melbourne in relation to the North Carlton area, that concerns a matter of a continuing nature has effect as if done by the newly constituted council of the municipal district to which the matter relates.

Borrowings—Transitional Provisions

32. For the purpose of Part 7 of the Act until a new budget is made by a newly constituted 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 newly constituted Council.

Corporate Plan—Transitional Provisions

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

Registrar of Titles

34. 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 Part.

Agreement on Division of Assets, Liabilities and Staff of Former Councils

35. (1) The Moreland City Council and the Darebin City Council must come to an agreement on the apportionment, settlement, transfer, adjustment or determination of any property, income, assets, liabilities, expenses, staff or other matters in relation to the Elizabeth Street area by 31 August 1994.

(2) The Yarra City Council and the Darebin City Council must come to an agreement on the apportionment, settlement, transfer, adjustment or determination of any property, income, assets, liabilities, expenses, staff or other matters in relation to the Alphington area by 31 August 1994.

SCHEDULE 1

COMMISSIONERS
(Clauses 5 (3))

1. A Commissioner is entitled to receive—

- (a) an annual remuneration;
- (b) any travelling or subsistence allowances; and
- (c) any other allowances in relation to expenses incurred in the discharge of his or her duties—

that the Minister may from time to time determine in respect of the Commissioner.

2. Such allowances and expenses are to be paid by the newly constituted Councils.

3. A Commissioner must—

- (a) ensure that the operations of a newly constituted 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. A Commissioner must exercise his or her powers and perform his or her functions subject to any written directions given by the Minister.

5. 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.

6. 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.

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

8. 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.

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

things had been done or omitted to be done by the Commissioner.

10. Where provision is made in any Act, regulation, rule, by-law, local law, instrument or document

- (a) 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 a Commissioner to be that member, representative, trustee or director;
- (b) for a Council to appoint a councillor to be the representative of the Council that provision has effect during the period of administration as if it provided for a commissioner or some other person nominated by a commissioner to be the representative; or
- (c) for a member of a board, council, committee, commission or other body to be appointed from a panel of councillors of municipal councils, that provision has effect during the period of administration as if it provided for a commissioner or some other person nominated by a commissioner to be included in the panel.

11. Sections 71, 74 and 75 of the Act do not apply to a Commissioner.

12. A quorum for a meeting of Commissioners is 2 Commissioners.

13. Except as provided in this Order, the procedure for meetings of newly constituted Councils may be determined by the Commissioners.

SCHEDULE 2

BOUNDARIES OF THE CITY OF MORELAND

Commencing at the junction of Northumberland Road with Gaffney Street; thence westerly by that street and a line to the Moonsee Ponds Creek; thence generally south-easterly by that creek to a point in line with Myrmong Crescent; thence easterly by a

line in continuation of Myrnong Crescent to the western boundary of the Royal Park Psychiatric Hospital; thence northerly by the western boundary of that hospital to Park Street; thence easterly by that street and a line in continuation to the southern boundary of the former Royal Park and Clifton Hill Railway Reserve; thence north-easterly and easterly by that boundary to Nicholson Street; thence northerly by that street to the northern boundary of Lot 2 on Plan of Subdivision 317730U; thence easterly and southerly by the boundary of that lot to the northern boundary of Crown Portion 93, Parish of Jika Jika; thence easterly by that boundary to King Street; thence northerly by that street to May Street; thence easterly by that street to Ida Street; thence southerly by that street to the northern boundary of Crown Portion 93; thence easterly by that boundary to the Merri Creek; thence generally northerly by that creek to Bell Street; thence easterly by that street to Elizabeth Street; thence northerly by that street and a line in continuation to a point thereon in line with Carrington Road; thence westerly by a line in continuation of that road and the southern boundary of Lot 3 on Plan of Subdivision 304408X to the south-western angle thereof; thence further westerly and north-westerly by the southern and south-western boundaries of Plan of Consolidation 107914 to the most southern angle of Plan of Consolidation 102157; thence north-westerly by the south-western boundary of that plan to Newlands Road; thence north-easterly by that road to the most eastern angle of Lot 2 on Plan of Subdivision 96077; thence north-westerly by the north-eastern boundary of that lot and a line to the Merri Creek; thence northerly by that creek to the northern carriageway of Mahoneys Road; thence easterly by that road, Keon Parade and the northern boundary of Portion 14, Parish of Keelbundora to the eastern boundary of Lot 202 on Plan of Subdivision 110906; thence southerly by that boundary and a line in continuation to the Darebin Creek; thence easterly by that creek to the southern boundary of the eastern portion of Section A; thence easterly by that boundary to Plenty Road; thence south-westerly by that road to a point thereon west of and in line with that portion of the northern boundary of Allotment 10B bearing 97°23'20"; thence easterly by a line to that portion of the northern boundary of Allotment 10B; thence generally south-easterly and southerly by the northern and eastern boundaries of that allotment to the south-eastern angle thereof; thence further southerly by a line in continuation of the eastern boundary to the northern boundary of Portion 4; thence westerly by that boundary to the Darebin Creek; thence southerly by that creek to Heidelberg Road, and thence south-westerly by that road to the point of commencement.

SCHEDULE 3

BOUNDARIES OF THE CITY OF DAREBIN

Commencing on the Merri Creek at Heidelberg Road; thence generally northerly by that creek to Bell Street; thence easterly by that street to Elizabeth Street; thence northerly by that street and a line in continuation to a point thereon in line with Carrington Road; thence westerly by a line in continuation of that road

and the southern boundary of Lot 3 on Plan of Subdivision 304408X to the south-western angle thereof; thence further westerly and north-westerly by the southern and south-western boundaries of Plan of Consolidation 107914 to the most southern angle of Plan of Consolidation 102157; thence north-westerly by the south-western boundary of that plan to Newlands Road; thence north-easterly by that road to the most eastern angle of Lot 2 on Plan of Subdivision 96077; thence north-westerly by the north-eastern boundary of that lot and a line to the Merri Creek; thence northerly by that creek to the northern carriageway of Mahoneys Road; thence easterly by that road, Keon Parade and the northern boundary of Portion 14, Parish of Keelbundora to the eastern boundary of Lot 202 on Plan of Subdivision 110906; thence southerly by that boundary and a line in continuation to the Darebin Creek; thence easterly by that creek to the southern boundary of the eastern portion of Section A; thence easterly by that boundary to Plenty Road; thence south-westerly by that road to a point thereon west of and in line with that portion of the northern boundary of Allotment 10B bearing 97°23'20"; thence easterly by a line to that portion of the northern boundary of Allotment 10B; thence generally south-easterly and southerly by the northern and eastern boundaries of that allotment to the south-eastern angle thereof; thence further southerly by a line in continuation of the eastern boundary to the northern boundary of Portion 4; thence westerly by that boundary to the Darebin Creek; thence southerly by that creek to Heidelberg Road, and thence south-westerly by that road to the point of commencement.

SCHEDULE 4

BOUNDARIES OF THE CITY OF YARRA

Commencing on the Yarra River at the Darebin Creek; thence generally south-westerly, generally south-easterly and westerly by the Yarra River to Punt Road; thence northerly by that road and Hoddle Street to Victoria Parade; thence westerly by that parade to Nicholson Street; thence northerly by that street to Princes Street; thence westerly by that street to Lygon Street; thence northerly by that street to Macpherson Street; thence westerly by that street to Garton Street; thence northerly by that

street to Bowen Crescent; thence north-westerly by that crescent to Park Street; thence easterly by that street and a line in continuation to the southern boundary of the former Royal Park and Clifton Hill Railway Reserve; thence north-easterly and easterly by that boundary to Nicholson Street; thence northerly by that street to the northern boundary of Lot 2 on Plan of Subdivision 317730U; thence easterly and southerly by the boundary of that lot to the northern boundary of Crown Portion 93, Parish of Jika Jika; thence easterly by that boundary to King Street; thence northerly by that street to May Street; thence easterly by that street to Ida Street; thence southerly by that street to the northern boundary of Crown Portion 93; thence easterly by that boundary to the Merri Creek; thence south-easterly by that creek to Heidelberg Road; thence north-easterly by that road to the Darebin Creek, and thence generally south-easterly by that creek to the point of commencement.

Dated: 21 June 1994

Responsible Minister:

ROGER M. HALLAM

Minister for Local Government

DAMIEN O'SHEA

Clerk of the Executive Council

Local Government Act 1989

ORDER CONSTITUTING THE CITY OF BOROONDARA AND ABOLISHING THE MUNICIPAL DISTRICTS OF THE CITIES OF CAMBERWELL, HAWTHORN AND KEW

Whereas:

- A. On 17 December 1993, the Minister for Local Government, the Hon. Roger M. Hallam, MLC (the Minister) required the Local Government Board (the Board) to conduct a review under Part 10b of the Local Government Act 1989, on the most appropriate structure for the area comprising 21 councils in inner Melbourne (the review) including the municipal districts of the Cities of Camberwell, Hawthorn and Kew.
- B. As required by section 220M of the Act, the Board has submitted its final report on the review to the Minister.
- C. As required by sections 220M and 220P of the Act, the Minister 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:

Definitions

1. 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 Boroondara City Council constituted under clause 3 (a);

“Commissioner” means a person appointed by the Governor in Council to administer the City Council;

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

Commencement

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

Constitution of the Boroondara City Council

3. On the appointed day—

- (a) there is constituted a body corporate constituted as a City Council by the name of Boroondara 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 Camberwell;
 - (ii) City of Hawthorn;
 - (iii) City of Kew—
- (d) the persons holding Office as Councillors of a former Council cease to hold such office;
- (e) the Order in Council made on 22 June 1993 entitled “Suspension of Councillors and Appointment of an Administrator” in relation to the City of Camberwell 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.

Holding of the first election

4. (1) The date for the first general election of Councillors of the City Council is to be fixed

by the Minister by a notice published in the Government Gazette.

(2) For the purpose 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.

Boroondara City Council is Successor in Law

5. (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; and
- (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 Councils 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 instrument or document of any kind to a former council is to be construed as a reference to the City Council unless the contrary intention appears.

Commissioners of Boroondara City Council

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

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

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

Staff of the Boroondara City Council

7. (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 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 all delegations made by a former Council or by the Chief Executive Officer of a former Council under section 98 of the Act or any other Act remain in force.

First Meeting of the Councillors of the Boroondara City Council

8. (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 9.00 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 elections of the Council assume office as Councillors of the City Council.

Valuations—Transitional Provisions

9. (1) Until 30 September 1995, the City Council must use in relation to rateable land in the municipal district the valuation which applied at the time rates and charges were levied in respect of the 1993–1994 financial year unless a supplementary valuation has been or is made under section 13B of the **Valuation of Land Act 1960** in respect of that 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 1994–1995 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 1995–1996 financial year and section 157 of the Act does not apply to that determination.

Rates—Transitional Provisions 1994–1995

10. (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 a rate or charge declared by the City Council for the 1994–1995 in relation to that part of the municipal district of the City Council that was in the municipal district of the former councils immediately before the appointed day.

(2) The minimum rates fixed by the former Cities of Hawthorn and Kew under section 3 (2) of the **Local Government (Consequential Provisions) Act 1989** for the 1993–1994 financial year are deemed to be the minimum rates fixed by the City Council for the 1994–1995 financial year in relation to that part of the municipal district which was in the municipal district of the Cities of Hawthorn and Kew.

(3) The City Council must not levy any rate or charge in the 1994–95 financial year 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 1993–94 financial year.

(4) Sub-section (3) does not apply to the declaration of a special rate or special charge pursuant to section 163 of the Act.

(5) The date on which the City Council adopts its budget for the 1994–95 financial year is deemed to be the date on which any rates or charges are declared or fixed by virtue of sub-clause (1).

Minimum Rates—Transitional Provisions 1995–1996

11. In the 1995–96 financial year the City Council may levy a minimum rate in accordance with sub-section 3 (2) of the **Local Government (Consequential Provisions) Act 1989**.

Differential Rates—Transitional Provisions 1995–1996 and 1996–1997

12. In the 1995–96 and 1996–97 financial years the City Council may—

- (a) raise any general rate by the application of a differential rate pursuant to section 161 of the Act

regardless of the system of valuation it is using;

- (b) apply a differential rate for a type or class of land according to its geographic location;
- (c) declare a different service rate or different annual service charge pursuant to section 162 of the Act in different areas.

Local Laws—Transitional Provisions

13. (1) On the appointed day any local law, or any part of a local law, which deal with the meeting procedures or the common seal of a former council is 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 while the City Council is under the administration of Commissioners.

(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 date as if the local laws were made by the City Council.

Planning Matters

14. (1) Except where a planning scheme specifies the Minister administering the **Planning and Environment Act 1987** or 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.

Borrowings—Transitional Provisions

15. 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.

Corporate Plan—Transitional Provisions

16. For the purposes 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 BOROONDARA CITY COUNCIL

Commencing on Gardiners Creek at the Warrigal Highway; thence south-westerly and north-westerly by that creek to Dunlop Street; thence south-westerly by that street to the former course of Gardiners Creek; thence north-westerly by that former course to its junction with the present course of Gardiners Creek; thence north-westerly by the present course to the Yarra River; thence generally north-westerly and north-easterly by that river to the Koonung Koonung Creek; thence easterly by that creek to the northern alignment of Thompsons Road; thence southerly by a line to the point where the south-eastern alignment of Thompsons Road meets the northern boundary of the Eastern Freeway Reserve; thence easterly and south-easterly by the northern boundary of that freeway reserve to Doncaster Road; thence southerly by a line to the southern alignment of Doncaster Road at the Koonung Koonung Creek; thence south-easterly by that creek to a point in line with Sweyn Street; thence south-westerly by a line and Sweyn Street to Winfield Road; thence generally southerly by that road, Evelina Street, Kerry Parade and Kinsale Crescent, south-westerly by Carrick Street, easterly by Carlyle Crescent, southerly by Barloa Road and westerly by Whitehorse Road to York Street; thence southerly by that

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street and easterly by Mont Albert Road to Wilson Street; thence southerly by that street, a line and the eastern boundary of the Surrey Hills Railway Station ground to Windsor Crescent; thence south-westerly by that crescent to Alexandra Crescent; thence southerly by that crescent and easterly by Canterbury Road to Warrigal Road, and thence southerly by that road and Warrigal Highway to the point of commencement.

SCHEDULE 2

COMMISSIONERS

1. A Commissioner is entitled to receive—

- (a) an annual remuneration;
- (b) any travelling or subsistence allowances; and
- (c) any other allowances in relation to expenses incurred in the discharge of his or her duties—

that the Minister may from time to time determine in respect of the Commissioner.

2. Such allowances and expenses are to be paid by the City Council.

3. A Commissioner must—

- (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. A Commissioner must exercise his or her powers and perform his or her functions subject to any written directions given by the Minister.

5. 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.

6. 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.

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

8. 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.

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

10. Where provision is made in any Act, regulation, rule, by-law, local law, instrument or document

- (a) 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 a Commissioner to be that member, representative, trustee or director;
- (b) for a Council to appoint a councillor to be the representative of the Council that provision has effect during the period of administration as if it provided for a commissioner or some other person nominated by a commissioner to be the representative; or

- (c) for a member of a board, council, committee, commission or other body to be appointed from a panel of councillors of municipal councils, that provision has effect during the period of administration as if it provided for a commissioner or some other person nominated by a commissioner to be included in the panel.

11. Sections 71, 74 and 75 of the Act do not apply to a Commissioner.

12. A quorum for a meeting of the Commissioners is two Commissioners.

13. Except as provided in this Order, the procedure for meetings of the Council may be determined by the Commissioners.

Dated: 21 June 1994

Responsible Minister:

ROGER M. HALLAM

Minister for Local Government

DAMIEN O'SHEA

Clerk of the Executive Council

Local Government Act 1989

ORDER CONSTITUTING THE CITY OF STONNINGTON AND ABOLISHING THE MUNICIPAL DISTRICTS OF THE CITIES OF PRAHRAN AND MALVERN

Whereas:

- A. On 17 December 1993, the Minister for Local Government, the Hon. Roger M. Hallam, MLC (the Minister) required the Local Government Board (the Board) to conduct a review under Part 10B of the **Local Government Act 1989**, on the most appropriate structure for the area comprising 21 councils in inner Melbourne (the review) including the municipal districts of the Cities of Prahran and Malvern.
- B. As required by section 220M of the Act, the Board has submitted its final report on the review to the Minister.
- C. As required by sections 220M and 220P of the Act, the Minister 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:

Definitions

1. In this Order—

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

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

“City Council” means the Stonnington City Council constituted under clause 3 (a);

“Commissioner” means a person appointed by the Governor in Council to administer the City Council;

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

Commencement

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

Constitution of the Stonnington City Council

3. On the appointed day—

- (a) there is constituted a body corporate constituted as a City Council by the name of the Stonnington City Council;
- (b) the boundaries of the municipal district of the Stonnington City Council shall be fixed as described in Schedule 1;
- (c) the following councils cease to exist—
 - (i) City of Prahran; and
 - (ii) City of Malvern;
- (d) the persons holding office as Councillors of a Council referred to in clause 3 (c) cease to hold such office.

Holding of the First Elections

4. (1) The date for the first general election of Councillors for the City Council is to be fixed by the Minister by a notice published in the Government Gazette.

(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.

Stonnington City Council is Successor in Law

5. (1) From the appointed day—

- (a) all property, rights and assets of the former Councils are vested in the Stonnington City Council;

- (b) all liabilities of the former Councils are liabilities of the Stonnington City Council;

- (c) the Stonnington 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 of tribunal, then, except as otherwise provided in this Order 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 Part.

(4) On the appointed day, any reference in any instrument or any other document of any kind to a former council is, except as otherwise provided in this Order, to be construed as a reference to the City Council unless the contrary intention appears.

Commissioners of Stonnington City Council

6. (1) 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.

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

(3) The provisions of Schedule 2 apply to the Commissioners and meeting of the Commissioners.

Staff of the Stonnington City Council

7. (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, all delegations made by a former Council or by the Chief Executive Officer of a former Council under section 98 of the Act or any other Act remain in force.

*First Meeting of the Councillors of the
Stonnington City Council*

8. (1) After the first election of Councillors for the City Council has been held, the Chief Executive Officer of the 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 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 City Council assume office as Councillors of the Council.

Valuations—Transitional Provisions

9. (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 1993–1994 financial year unless a supplementary valuation has been made under section 130F of the **Valuation of Land Act 1960** in respect of that land.

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

(3) In respect of the 1994–1995 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 for the 1995–1996 financial year that applies to the whole of its municipal district and section 157 of the Act does not apply to that determination.

Rates—Transitional Provisions—1994–1995

10. (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 1994–1995 financial year in relation to that part of the municipal district of the Stonnington City Council that was in the municipal district of a former Council immediately before the appointed day.

(2) The minimum rate fixed by a former Council under section 3 (2) of the **Local Government (Consequential Provisions) Act 1989** for the 1993–1994 financial year is deemed to be the minimum rate fixed by the City Council for the 1994–1995 financial year in relation to that part of the municipal district which was in the municipal district of a former Council.

(3) The City Council must not levy any rate or charge in the 1994–95 financial year 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 1993–94 financial year.

(4) Sub-section (3) does not apply to the declaration of a special rate or special charge pursuant to section 163 of the Act.

(5) The date on which the City Council adopts its budget for the 1994–95 financial year is deemed to be the date on which any rates or charges are declared or fixed by virtue of sub-clause (1).

*Minimum Rates—Transitional Provisions
1995–1996*

11. In the 1995–96 financial year the City Council may levy a minimum rate in accordance with sub-section 3 (2) of the **Local Government (Consequential Provisions) Act 1989**.

*Differential Rates—Transitional Provisions
1995–1996 and 1996–1997*

12. In the 1995–96 and 1996–97 financial years the City Council may—

- (a) raise any general rate by the application of a differential rate pursuant to section 161 of the Act regardless of the system of valuation it is using;
- (b) apply a differential rate for a type or class of land according to its geographic location; and
- (c) declare a different service rate or different annual service charge pursuant to section 162 of the Act in different areas.

Local Laws—Transitional Provisions

13. (1) On the appointed day any local law, or part of any local law, which deals with the meeting procedures or the common seal of a former council is 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 while the City Council is under the administration of Commissioners.

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

Planning Matters—Transitional Provisions

14. (1) Except where a planning scheme specifies the Minister administering the **Planning and Environment Act 1987** or other person to be the responsible authority, the City Council is the responsible authority for the purposes of the **Planning and Environment Act 1987** 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 another 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 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.

Borrowings—Transitional Provisions

15. 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.

Corporate Plan—Transitional Provisions

16. 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 STONNINGTON CITY COUNCIL

Commencing on the Yarra River at Punt Road; thence southerly by that road to Queens Way; thence easterly by Queens Way and easterly and south-easterly by Dandenong Road to the Warrigal Highway; thence northerly by that highway to Gardiners Creek; thence south-westerly and north-westerly by that creek to Dunlop Street; thence south-westerly by that street to the former course of Gardiners Creek; thence north-westerly by that former course to its junction with the present course of Gardiners Creek; thence north-westerly by the present course to the Yarra River, and thence westerly by that river to the point of commencement.

SCHEDULE 2

COMMISSIONERS

1. A Commissioner is entitled to receive—

- (a) an annual remuneration;
- (b) any travelling or subsistence allowances; and
- (c) any other allowances in relation to expenses incurred in the discharge of his or her duties—

that the Minister may from time to time determine in respect of the Commissioner.

2. Such allowances and expenses are to be paid by the City Council.

3. A Commissioner must—

- (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. A Commissioner must exercise his or her powers and perform his or her functions subject to any written directions given by the Minister.

5. 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.
6. 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.
7. During the absence from office or illness of a Commissioner, a person nominated by the Minister shall act in the place of the Commissioner and while so acting shall have, exercise and discharge all the responsibilities, liabilities, rights, powers authorities, duties and functions conferred or imposed on the Commissioner by or under this Order.
8. 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.
9. No person shall be concerned to inquire whether any occasion had arisen requiring or authorising a person to act in the place of a Commissioner and all acts or things done or omitted to be done by the person, while so acting, shall be as valid and effectual and shall have the same consequence as if the acts or things had been done or omitted to be done by the Commissioner.
10. Where provision is made in any Act, regulation, rule, by-law, local law, instrument or document
- (a) 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 a Commissioner to be that member, representative, trustee or director;

- (b) for a Council to appoint a councillor to be the representative of the Council that provision has effect during the period of administration as if it provided for a commissioner or some other person nominated by a commissioner to be the representative; or
- (c) for a member of a board, council, committee, commission or other body to be appointed from a panel of councillors of municipal councils, that provision has effect during the period of administration as if it provided for a commissioner or some other person nominated by a commissioner to be included in the panel.

11. Sections 71, 74 and 75 of the Act do not apply to a Commissioner.

12. A quorum for a meeting of the commissioners is 2 Commissioners.

13. Except as provided in this Order, the procedure for meetings of a newly constituted Council may be determined by the Commissioners.

Dated: 21 June 1994

Responsible Minister:

ROGER M. HALLAM

Minister for Local Government

DAMIEN O'SHEA

Clerk of the Executive Council

Local Government Act 1989

ORDER CONSTITUTING THE CITY OF PORT PHILLIP AND ABOLISHING THE MUNICIPAL DISTRICTS OF THE CITIES OF PORT MELBOURNE, SOUTH MELBOURNE AND ST. KILDA

Whereas:

- A. On 17 December 1993, the Minister for Local Government, the Hon. Roger M. Hallam, MLC (the Minister) required the Local Government Board (the Board) to conduct a review under Part 10b of the *Local Government Act 1989*, on the most appropriate structure for the area comprising 21 councils in inner Melbourne (the review) including the

municipal districts of the Cities of Port Melbourne, South Melbourne, St Kilda and Prahran.

- B. As required by section 220M of the Act, the Board has submitted its final report on the review to the Minister.
- C. As required by sections 220M and 220P of the Act, the Minister 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:

Definitions

- 1. 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 Port Phillip City Council constituted under clause 3 (a);

“Commissioner” means a person appointed by the Governor in Council to administer the City Council;

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

“Wellington Street area” means that area which was part of the municipal district of the former City of Prahran and which is in the municipal district of the City of Port Phillip.

Commencement

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

Constitution of the Port Phillip City Council

- 3. On the appointed day—

- (a) there is constituted a body corporate constituted as a City Council by the name of Port Phillip 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 Port Melbourne;
 - (ii) City of South Melbourne;
 - (iii) City of St. Kilda—
- (d) the persons holding Office as Councillors of a former Council cease to hold such office.

Holding of the first election

- 4. (1) The date for the first general election of Councillors of the City Council is to be fixed

by the Minister by a notice published in the Government Gazette.

(2) For the purpose 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.

Port Phillip City Council is Successor in Law

- 5. (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; and
- (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 Councils 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 instrument or any other document of any kind to a former council is to be construed as a reference to the City Council unless the contrary intention appears.

Commissioners of Port Phillip City Council

6. (1) 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.

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

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

Staff of the Port Phillip City Council

7. (1) On the appointed day all the members of staff of the former Councils become members of staff of the Port Phillip City Council with the same 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 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.

First Meeting of the Councillors of the Port Phillip City Council

8. (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 9.00 a.m. on the day on which the first meeting of the City Council is held under subclause (1)—

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

Valuations—Transitional Provisions

9. The City Council may determine to change its system of valuation in respect of the 1995–1996 financial year and section 157 of the Act does not apply to that determination.

Rates and Services in the Wellington Area 1993–1994

10. (1) A ratepayer in the Wellington Street area is liable to pay to the City of Stonnington the general rates, service rates and charges, municipal charge and state deficit levy in respect of the 1993–1994 financial year that the ratepayer would have been liable to pay to the former City of Prahran had this Order not been made.

(2) For the period commencing on the appointed day and ending on 30 September 1994 the City of Stonnington must continue to provide the same services and perform the same functions in the Wellington Street area and in the same manner as if the Wellington Street area was in its municipal district and for that purpose

any powers, duties or functions imposed or conferred by any Act on the City of Port Phillip are deemed to be imposed by that Act on the Stonnington City Council except as otherwise provided in this Order.

Rates—Transitional Provisions 1994–1995

11. (1) Any rate or charge declared by a former Council or the former City of Prahran under sections 158 (1), 159 (1) and 162 of the Act for the 1993–1994 financial year is deemed to be a rate or charge declared by the City Council for the 1994–1995 in relation to that part of the municipal district of the City Council that was in the municipal district of those councils immediately before the appointed day.

(2) The minimum rates fixed by the former Cities of South Melbourne, St Kilda and Prahran under section 3 (2) of the **Local Government (Consequential Provisions) Act 1989** for the 1993–1994 financial year are deemed to be the minimum rates fixed by the City Council for the 1994–1995 financial year in relation to that part of the municipal district which was in the municipal district of those Councils.

(3) The City Council must not levy any rate or charge in the 1994–95 financial year 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 1993–94 financial year.

(4) Sub-section (3) does not apply to the declaration of a special rate or special charge pursuant to section 163 of the Act.

(5) The date on which the City Council adopts its budget for the 1994–95 financial year is deemed to be the date on which any rates or charges are declared or fixed by virtue of sub-clause (1).

Minimum Rates—Transitional Provisions 1995–1996

12. In the 1995–96 financial year the City Council may levy a minimum rate in accordance with sub-section 3 (2) of the **Local Government (Consequential Provisions) Act 1989**.

Differential Rates—Transitional Provisions 1995–1996 and 1996–1997

13. In the 1995–96 and 1996–97 financial years the City Council may—

- (a) raise any general rate by the application of a differential rate pursuant to section 161 of the Act regardless of the system of valuation it is using;
- (b) apply a differential rate for a type or class of land according to its geographic location;
- (c) declare a different service rate or a different annual service charge pursuant to section 162 of the Act in different areas.

Local Laws—Transitional Provisions

14. (1) On the appointed day any local law, or part of any local law, which deals with the meeting procedures or the common seal of a former council is 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 or the former City of Prahran 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 date as if the local laws were made by the City Council.

Planning Matters

15. (1) Except where a planning scheme specifies the Minister administering the **Planning and Environment Act 1987** or 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 or the former City of Prahran 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 or the former City of Prahran in relation to the Wellington Street area 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 or the former City of Prahran 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.

(4) The City of Stonnington must give to the City Council any document that it holds that is relevant to anything done by it as a relevant authority, referral or planning authority in relation to the Wellington Street area.

Borrowings—Transitional Provisions

16. 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.

Corporate Plan—Transitional Provisions

17. For the purposes 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.

Agreement on Division of Assets, Liabilities and Staff of Former Councils

18. The Port Phillip City Council and the Stonnington City Council must come to an agreement on the apportionment, settlement, transfer, adjustment or determination of any property, income, assets, liabilities, expenses, staff or other matters in relation to the Wellington Street area by 31 August 1994.

**SCHEDULE 1
BOUNDARIES OF PORT PHILLIP CITY
COUNCIL**

Commencing on the shore of Port Phillip Bay at a point in line with Head Street; thence easterly by that street to St. Kilda Street; thence northerly by that street and easterly by Glen Huntly Road to Brighton Road; thence northerly by that road to Hotham Street; thence northerly by that street to Inkerman Street; thence easterly by that street to Orrong Road;

thence northerly by that road to Dandenong Road; thence westerly by that road and Queens Way to Punt Road; thence northerly by that road to High Street; thence westerly by that street to St. Kilda Road; thence north-westerly by that road to Dorcas Street; thence westerly by that street to Kings Way; thence north-westerly by Kings Way to the southern boundary of the West Gate Freeway reservation, near Market Street; thence westerly by that freeway reservation boundary to Todd Road; thence southerly by that road to the access road to White Reserve; thence southerly by that access road to the northern boundary of White Reserve; thence south-westerly and southerly by the boundary of that reserve and a line in continuation to the shore of Hobsons Bay, and thence easterly and south-easterly by that shore and southerly by the shore of Port Phillip Bay to the point of commencement.

SCHEDULE 2 COMMISSIONERS

1. A Commissioner is entitled to receive—
 - (a) an annual remuneration;
 - (b) any travelling or subsistence allowances; and
 - (c) any other allowances in relation to expenses incurred in the discharge of his or her duties—that the Minister may from time to time determine in respect of the Commissioner.
2. Such allowances and expenses are to be paid by the newly constituted Councils.
3. A Commissioner must—
 - (a) ensure that the operations of a newly constituted 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. A Commissioner must exercise his or her powers and perform his or her functions subject to any written directions given by the Minister.
5. 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.
6. 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.

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

8. 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.

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

10. Where provision is made in any Act, regulation, rule, by-law, local law, instrument or document

- (a) 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 a Commissioner to be that member, representative, trustee or director;

(b) for a Council to appoint a councillor to be the representative of the Council that provision has effect during the period of administration as if it provided for a commissioner or some other person nominated by a commissioner to be the representative; or

(c) for a member of a board, council, committee, commission or other body to be appointed from a panel of councillors of municipal councils, that provision has effect during the period of administration as if it provided for a commissioner or some other person nominated by a commissioner to be included in the panel.

11. Sections 71, 74 and 75 of the Act do not apply to a Commissioner.

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

13. Except as provided in this Order, the procedure for meetings of newly constituted Councils may be determined by the

Commissioner or Commissioners as the case may be.

Dated: 21 June 1994

Responsible Minister:

ROGER M. HALLAM

Minister for Local Government

DAMIEN O'SHEA

Clerk of the Executive Council

Local Government Act 1989
ORDER APPOINTING RETURNING
OFFICER TO CONDUCT THE 1994
MUNICIPAL ELECTIONS IN THE
BOROUGH OF QUEENSCLIFF

The Governor in Council acting under section 43 of the **Local Government Act 1989** directs that Mr Alistair Robb, conduct the 1994 municipal elections in the Borough of Queenscliff and for this purpose Mr Alistair Robb has all the powers, functions and duties conferred and imposed on a returning officer under the **Local Government Act 1989**.

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

Dated: 21 June 1994

Responsible Minister:

ROGER M. HALLAM

Minister for Local Government

DAMIEN O'SHEA

Clerk of the Executive Council

Office of Local Government
Melbourne (92/0614)

Local Government Act 1989

ORDER APPOINTING THE COMMISSIONERS AND CHIEF EXECUTIVE OFFICERS OF
THE CITIES OF HOBSONS BAY, MORELAND, DAREBIN, YARRA, BOROONDARA,
STONNINGTON AND PORT PHILLIP

Whereas seven new City Councils have been constituted by Orders in Council under Part 10c of the **Local Government Act 1989** (the Act) the Minister has recommended to the Governor in Council that an Order be made, pursuant to section 220q (o) of the Act, in the following terms.

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

Definitions

1. In this Order—

“former council” means the Cities of Altona, Williamstown, Brunswick, Coburg, Preston, Northcote, Collingwood, Fitzroy, Richmond, Camberwell, Hawthorn, Kew, Prahran, Malvern, Port Melbourne, South Melbourne and St Kilda.

Commencement

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

Commissioners

3. (1) The persons specified in column 1 of the Schedule are appointed to administer the Council specified in column 2 of the Schedule from the day this Order comes into operation until 9:00 a.m. on the day on which the first meeting of the Council specified in column 2 is held following the first election of councillors for the Council.

(2) The person specified in column 3 of the Schedule is appointed the Chairperson of the Commissioners.

Chief Executive Officers

4. (1) The person specified in column 4 of the Schedule is the person authorised to exercise the powers and perform the duties and functions conferred or imposed on Chief Executive Officers by any other Order, the Act and any other Act until revoked by the council specified in column 2 of the Schedule.

(2) Any authorisation given by a former Council under section 5 of the **Local Government (Miscellaneous Amendments) Act 1993** has no effect.

SCHEDULE

<i>Column 1 Commissioners</i>	<i>Column 2 Councils</i>	<i>Column 3 Chairperson</i>	<i>Column 4 Acting CEO</i>
Don Gillies Ernest Barr Maureen Breen	HOBSONS BAY	Don Gillies	Kenneth McNamara
John Warburton Graham Upton Dimitry Reed	MORELAND	John Warburton	Jude Munro
John Lester Brian Baquie Kenneth Dowling	DAREBIN	John Lester	Kelvin Spiller
Julian Walmsley Barbara Champion Frank Thompson	YARRA	Julian Walmsley	Barry Ferguson
David Thomas Marion Macleod David Glanville	BOROONDARA	David Glanville	Kevin Woods
Neil Smith Anne Murphy Reginald Weller	STONNINGTON	Neil Smith	Gregory Maddock
Des Clark Lynne Wenig Geoff Vincent	PORT PHILLIP	Des Clarke	Jon Hickman





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