

# City of Greater Bendigo

No.

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## SCHEDULE 1

Boundaries of the Municipal District of the Greater Bendigo City Council

**SCHEDULE 2**  
**Revocation of Local Laws**

# LEGISLATIVE ASSEMBLY

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Read 1° 30 March 1994

*(Brought in by Mr Maclellan (Pakenham) and Mr Gude)*

## A BILL

to constitute the City of Greater Bendigo and for other purposes.

### City of Greater Bendigo Act 1994

The Parliament of Victoria enacts as follows:

#### PART 1—PRELIMINARY

##### ***1. Purpose***

The purpose of this Act is to—

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- (a) restructure certain Councils in the Bendigo region; and
  - (b) constitute the City of Greater Bendigo; and
  - (c) appoint Commissioners to administer the City of Greater Bendigo until an election is held; and

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  - (d) provide for consequential and transitional matters to enable the effective implementation of the restructuring provided for by this Act.

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Section headings appear in bold italics and are not part of the Act.  
(See **Interpretation of Legislation Act 1984.**)

**2. Commencement**

This Act comes into operation on the day it receives Royal Assent.

**3. Definitions**

(1) In this Act— 5

“**appointed day**” means the day on which this Act receives the Royal Assent;

“**Commissioner**” means a Commissioner appointed under section 7;

“**financial year**” means the period of 12 months ending on 30 September each year; 10

“**former Council**” means any of the Councils specified in section 5 (1) (c);

“**Order in Council**” means an Order made by the Governor in Council; 15

“**Period of administration**” means the period commencing at the beginning of the appointed day and ending at 9 a.m. on the day on which the first meeting of the Greater Bendigo City Council is held under section 14. 20

(2) Unless inconsistent with the context or subject-matter, words and expressions defined in the **Local Government Act 1989** have the same meaning in this Act.

**4. Construction of Act** 25

This Act must be read and construed as one with the **Local Government Act 1989** but the provisions of this Act prevail over the provisions of the **Local Government Act 1989** to the extent of any inconsistency. 30

**PART 2—CITY OF GREATER BENDIGO**

**5. Constitution of City of Greater Bendigo**

(1) On the appointed day—

- 5 (a) there is deemed to have been constituted under the **Local Government Act 1989** a body corporate constituted as a City Council by the name of Greater Bendigo City Council;
- 10 (b) the boundaries of the municipal district of the Greater Bendigo City Council shall be fixed as described in Schedule 1;
- (c) the following Councils cease to exist by virtue of this Act—
- 15 (i) City of Bendigo;
  - (ii) Rural City of Marong;
  - (iii) Borough of Eaglehawk;
  - (iv) Shire of Huntly;
  - (v) Shire of Strathfieldsaye;
- 20 (d) the persons holding office as Councillors of a former Council cease to hold office by virtue of this Act;
- 25 (e) subject to this Act, the Commissioners appointed under section 7 are deemed to be the Councillors of the Greater Bendigo City Council and together shall be deemed to constitute the Greater Bendigo City Council as Councillors and may perform the functions and exercise the powers conferred on the Commissioners by this Act.

30 (2) The boundaries fixed under sub-section (1) (b) are deemed to have been fixed under an Order in Council made under Part 10C of the **Local Government Act 1989**.

35 (3) The Order in Council made on 20 July 1993 and entitled “Suspension of Councillors and Appointment of an Administrator” in respect of the Shire of

*City of Greater Bendigo*

Strathfieldsaye and printed in the Government Gazette on 6 January 1994 is revoked.

**6. *Greater Bendigo City Council is successor in law***

- (1) On the appointed day—
  - (a) all property, rights and assets of the former Councils are by virtue of this Act vested in the Greater Bendigo City Council; 5
  - (b) all liabilities of the former Councils are by virtue of this Act liabilities of the Greater Bendigo City Council; 10
  - (c) the Greater Bendigo 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 Greater Bendigo 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. 15  
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- (3) On and after the appointed day, any reference in any Act, regulation, local law, subordinate instrument or other document whatsoever to a former Council is to be construed as a reference to the Greater Bendigo City Council, unless the contrary intention appears. 25

**7. *Appointment of Commissioners***

- (1) The Governor in Council may by Order in Council appoint at least 3 but not more than 5 persons to be Commissioners for the purposes of this Act.
- (2) The Governor in Council may at any time by Order in Council appoint an additional Commissioner or Commissioners but so that the total number of Commissioners in office shall not at any time exceed 5. 30

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- (3) The Governor in Council may by Order in Council appoint a person to fill a vacancy in the office of a Commissioner.
  - (4) The Governor in Council may by Order in Council appoint a person to act in place of a Commissioner during the absence from office or illness of that Commissioner and any person so appointed shall while so acting have, exercise and discharge all the responsibilities, liabilities, powers, authorities, duties and functions conferred or imposed on a Commissioner by or under this Act.
  - (5) A Commissioner is entitled to receive such salary, allowances and expenses as are determined by the Governor in Council and such salary, allowances and expenses are to be paid by the Greater Bendigo City Council.
  - (6) A Commissioner—
    - (a) must not, without the consent of the Minister, during continuance 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.
  - (7) 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.

- (8) The Governor in Council must appoint one of the Commissioners to be the Chairperson.
- (9) During the absence from office or illness of the Chairperson, the Chairperson may nominate a Commissioner to act in the place of the Chairperson and while so acting that Commissioner shall have, exercise and discharge all the responsibilities, liabilities, rights, powers, authorities, duties and functions conferred or imposed on the Chairperson by or under this Act.
- (10) 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.
- (11) No person shall be concerned to inquire whether any occasion had arisen requiring or authorising—
  - (a) a Commissioner to act in the place of the Chairperson; or
  - (b) any person to act in the place of a Commissioner—

and all acts or things done or omitted to be done by a Commissioner or such a person, as the case may be, while so acting, shall be as valid and effectual and shall have the same consequence as if those acts or things had been done or omitted to be done by the Chairperson or a Commissioner, as the case may be.

**8. Functions and powers of Commissioners**

- (1) Subject to this section—
  - (a) the Commissioners shall in respect of the Greater Bendigo City Council during the period of administration have, exercise and discharge the responsibilities, liabilities, rights, powers, authorities, duties and functions conferred or imposed—
    - (i) upon a Council, the Greater Bendigo City Council or a former Council by or under any Act; and



(ii) upon the Councillors of the Greater Bendigo City Council or of a former Council by or under any Act; and

(iii) upon the Commissioners by or under this Act;

(b) the Chairperson shall in respect of the Greater Bendigo City Council during the period of administration have, exercise and discharge the responsibilities, liabilities, rights, powers, authorities, duties and functions conferred or imposed upon the Mayor of the Greater Bendigo City Council or a former Council.

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

(3) Despite sub-section (1), sections 71, 74 and 75 of the **Local Government Act 1989** do not apply to the Commissioners.

**9. Meetings**

(1) Despite section 8, during the period of administration the procedure for meetings of the Greater Bendigo City Council may be determined by the Commissioners.

(2) The Chief Executive Officer of the Greater Bendigo City Council shall fix the date and time at which the first meeting of the Greater Bendigo City Council is to be held.

- (3) The call of the first meeting may be made without the giving of any prior public notice.

**10. Duties of Commissioners**

- (1) The Commissioners must during the period of administration— 5
  - (a) ensure that the operations of the Greater Bendigo 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. 10
- (2) The Commissioners must exercise their powers and perform their functions subject to any general or specific directions given by the Minister.

**11. Transitional provision—staff**

- (1) On the appointed day, all the members of staff of the former Councils become members of staff of the Greater Bendigo City Council with the same terms and conditions as those with the former Councils and with the benefit of all accrued rights. 15
- (2) Despite a former Council ceasing to exist, sections 133 and 134 of the **Local Government Act 1989** continue to apply in respect of former Councillors and former members of staff of a former Council. 20
- (3) As from the appointed day—
  - (a) until otherwise determined by the Greater Bendigo City Council, the person appointed by the Minister for the purposes of this sub-section is the person authorised to exercise the powers and perform the duties and functions conferred on a Chief Executive Officer by this Act or any other Act; 25
  - (b) any other authorisation given by a former Council or which is deemed to have been given by a former Council by the **Local Government** 30

(Miscellaneous Amendments) Act 1993 is  
revoked;

- 5 (c) until revoked by the Greater Bendigo City  
Council, all delegations made by a former  
Council or a Chief Executive Officer of a former  
Council under section 98 of the **Local  
Government Act 1958** continue in force.

12. *Transitional provision—local laws*

- 10 (1) Sections 5 (3) and 91 (1) of the **Local Government  
Act 1989** do not apply in respect of the common seal  
and meetings of the Greater Bendigo City Council  
during the period of administration.
- 15 (2) On the appointed day the local laws made by a former  
Council which are specified in Schedule 2 are  
revoked.
- 20 (3) Unless amended or revoked by an Order in Council or  
by the Greater Bendigo 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 Greater  
Bendigo City Council for a period of 12 months from  
the appointed day as if the local laws were local laws  
made by the Greater Bendigo City Council.

**PART 3—RESTORATION OF ELECTED COUNCIL**

25 13. *Provisions relating to election of Councillors*

- (1) Despite anything to the contrary in the **Local  
Government Act 1989** the first general election of  
the Greater Bendigo City Council is to be held on 5  
August 1995.
- 30 (2) The matter specified in sub-section (1) is deemed to  
have been specified in an Order in Council made  
under Part 10C of the **Local Government Act 1989**.

- (3) Despite anything to the contrary in the **Local Government Act 1989**, the Governor in Council may by Order in Council—
- (a) specify the number of Councillors, being the whole number of Councillors assigned to the Greater Bendigo City Council to be returned at the first election; 5
  - (b) specify the number of wards for the municipal district, the name of each ward, and the number of Councillors to represent each ward at the first election for the purposes of the **Local Government Act 1989**; 10
  - (c) give such directions or provide for any other matters or things as may appear to the Governor in Council to be necessary or expedient with respect to the holding of the first election. 15
- (4) An Order in Council under sub-section (3) is deemed to have been made under Part 10c of the **Local Government Act 1989**.
- (5) For the purposes of the holding of the first election of Councillors for the Greater Bendigo City Council the Council is deemed to have decided under section 35 of the **Local Government Act 1989** to hold triennial elections and sub-sections (2) and (3) of that section do not apply in respect of that decision. 20  
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- (6) Except as provided by or under this section, the provisions of Part 3 of the **Local Government Act 1989** apply to and in respect of the first election of the Greater Bendigo City Council.
- 14. First meeting of elected Council** 30
- (1) The chief executive officer of the Greater Bendigo 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 candidates elected at the first election of the Council. 35

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- (2) At 9 a.m. on the day on which the first meeting of the Greater Bendigo City Council is held under sub-section (1)—
- (a) the Commissioners go out of office;
  - (b) the Councillors elected at the first election of the Council assume office as Councillors of the Greater Bendigo City Council.
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- (3) The Governor in Council may by Order in Council give such directions or provide for any matters or things as may appear to the Governor in Council to be necessary or expedient with respect to any of the matters referred to in sub-section (2).

#### PART 4—GENERAL PROVISIONS

##### 15. *Matters which may be included in Order*

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- (1) The Governor in Council may by Order in Council provide for any matter necessary or convenient to give effect to this Act or to any other Order in Council under this Act and to enable the effective implementation of the restructuring provided for by this Act.
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- (2) Without limiting the generality of sub-section (1), the Order in Council may provide for—
- (a) any property, income, assets, rights, liabilities, expenses or other matters to be apportioned, settled, transferred, adjusted or determined;
  - (b) the resolution of any dispute relating to any apportionment, settlement or adjustment;
  - (c) any party to a dispute to bear the costs of resolving the dispute;
  - (d) the application, continuation, amendment or revocation of any existing local law;
  - (e) transitional provisions in relation to any act, matter or thing done or required to be done by or in relation to any Council affected by the Order in Council.
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**16. General provisions relating to Orders**

- (1) An Order in Council made under this Act—
  - (a) must specify a day or days upon which the Order in Council comes into operation;
  - (b) upon being published in the Government Gazette has the like force and effect as if it were expressly enacted in this Act; 5
  - (c) may be amended or revoked by another Order in Council;
  - (d) has full force and effect despite any non-compliance with any of the matters required by this Act as preliminary to the making of the Order. 10
  
- (2) An Order in Council made under this Act may—
  - (a) apply generally or be limited in its application by reference to specified matters or things; 15
  - (b) apply differently according to different factors or subject to specified exceptions;
  - (c) leave any matter or things to be from time to time determined, applied, dispensed with or regulated by a person or body specified in the Order; 20
  - (d) confer powers or impose duties in connection with the Order on a person or body specified in the Order; 25
  - (e) apply, adopt or incorporate, with or without modification, the provisions of any Act or of any regulations made under any Act;
  - (f) contain provisions of a savings and transitional nature consequent on the making of the Order, including providing for the construction of references in any instrument or in any other document of any kind. 30
  
- (3) The provisions of section 15 and this section are in addition to and not in derogation from Part 10C of the **Local Government Act 1989**. 35

**17. Valuations—transitional**

- 5 (1) Until 30 September 1995, the Greater Bendigo City Council must use in relation to rateable land in its municipal district the valuation which applied at the time rates and charges were levied in respect of the 1993–94 financial year unless a supplementary valuation has been made, or is made, under section 13DF of the **Valuation of Land Act 1960** in respect of the land.
- 10 (2) For the purposes of sub-section (1), if a supplementary valuation has been made, or is made, the Greater Bendigo City Council can use that supplementary valuation.
- 15 (3) In respect of the 1994–95 financial year the Greater Bendigo 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.
- 20 (4) The Greater Bendigo City Council must determine to use a system of valuation that applies to the whole of its municipal district in respect of the 1995–96 financial year.
- 25 (5) Section 157 of the **Local Government Act 1989** does not apply to a determination under sub-section (4).

**18. Rates—transitional**

- 30 (1) Any rate or charge declared by a former Council under sections 159 (1), 159 (1) and 162 of the **Local Government Act 1989** for the 1993–1994 financial year is deemed to be the rate or charge declared by the Greater Bendigo City Council for the 1994–95 financial year in relation to that part of the municipal district of the Greater Bendigo City Council that was in the municipal district of the former Council.
- 35 (2) The date on which the Greater Bendigo City Council adopts its budget for the 1994–1995 financial year is

deemed to be the date on which any rates or charges are declared or fixed by virtue of this section.

- (3) The Greater Bendigo City Council must not levy any rate or charge for the 1994–1995 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 1993–1994 financial year. 5

**19. Planning matters—transitional**

- (1) Except where a planning scheme specifies the Minister administering the **Planning and Environment Act 1987** or any other person to be the responsible authority, the Greater Bendigo City Council is the responsible authority in relation to the planning schemes in force in its municipal district. 10

- (2) Any reference in a planning scheme in force in the municipal district of the Greater Bendigo City Council to a former Council as a responsible authority for a particular purpose, is to be taken as a reference to the Greater Bendigo City Council in relation to the relevant part of its municipal district. 15  
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- (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-section (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 Greater Bendigo City Council; and 25  
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- (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 Greater Bendigo City Council. 35



20. *Borrowings—transitional*

5 For the purpose of Part 7 of the **Local Government Act 1989** until a new budget is made by the Greater Bendigo 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 Greater Bendigo City Council.

21. *Corporate plan—transitional*

10 For the purpose of section 153A of the **Local Government Act 1989** the Greater Bendigo City Council must prepare by 30 November 1994 a corporate plan for the three year period commencing 1 October 1994.

22. *Transitional provision—Registrar of Titles*

15 The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument, must make any amendments in the Register that are necessary because of the operation of this Act.

23. *Legal proceedings excluded*

No proceedings—

25 (a) seeking the grant of any relief or remedy in the nature of certiorari, prohibition, mandamus or quo warrant to, or the grant of a declaration of right or an injunction; or

(b) seeking an order under the **Administrative Law Act 1978**—

30 may be brought against any person in respect of, or calling into question, any action taken or purported to have been taken or proposed to be taken pursuant to section 7 (1), (2), (3) or (4), 13 (3), 14 (3) or 15 of this Act.

**24. *Supreme Court—limitation of jurisdiction***

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court from entertaining applications referred to in section 23.

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

Commencing at a point on the Loddon River, at the south-western angle of the County of Bendigo; thence easterly by the southern boundary of the County of Bendigo to the Calder Highway; thence south-easterly by that highway to the road forming the southern boundary of allotment 41, section 1, Parish of Ravenswood; thence north-easterly by that road to the Northern Railway; thence south-easterly by that railway to a point in line with the south-eastern boundary of allotment 26A, section 2; thence north-easterly by a line and the south-eastern boundary of allotment 26A, section 2 to the road forming the eastern boundary of that allotment; thence south-easterly by that road to the road forming the southern boundary of allotment 5, section 27; thence easterly by that road and the road forming the southern boundary of allotment 4 and further easterly by the road forming the southern boundary of the parish to the western boundary of the Parish of Sutton Grange; thence northerly, easterly and southerly by that parish boundary to Myrtle Creek; thence generally northerly and south-easterly by that creek to the Coliban River; thence generally northerly by that river and the former bed of the Campaspe River through Lake Eppalock to the Campaspe River; thence northerly by that river to the road forming the north-eastern boundary of allotment 1C, Parish of Diggera; thence north-westerly by that road and a line to a Northern Railway; thence north-easterly by that railway to a point in line with South Boundary Road; thence westerly by a line and South Boundary Road and further westerly by a line in continuation to the western boundary of allotment 118, Parish of Warragamba; thence southerly by that boundary to the Elmore-Mitiemo Road; thence north-westerly by that road to the most northern angle of former allotment 61A, Parish of Kamarooka; thence south-westerly by the north-western boundary of that former allotment and a line in continuation to the road forming the northern boundary of allotment 33A; thence westerly by that road to the western boundary of allotment 12A; thence northerly by that boundary to the northern boundary of allotment 12E; thence westerly by that boundary to the eastern boundary of allotment 12B; thence northerly and generally north-westerly by that boundary to the road forming the northern boundary of the said allotment; thence westerly by that road to the road forming the western boundary of allotment 12F; thence southerly by that road and the Kamarooka West Boundary Road to Raywood Road; thence westerly by that road, the road forming the northern boundary of the Parish of Neillborough and the road forming the southern boundaries of section 14A and section 15, Parish of Yallock and further westerly by a line in continuation to the road forming the western boundary of the Parish of Yallock; thence southerly by that road to a point in line with the road forming the southern boundary of allotment 10, section 14, Parish of Salisbury; thence westerly by a line and that road to the Loddon River, and thence southerly by that river to the point of commencement.

**SCHEDULE 2**

**REVOCATION OF LOCAL LAWS**

**City of Bendigo**

Local Law No. 137—Meeting Procedure

Local Law No. 138—Common Seal

Local Law No. 139—Election of Mayor

**Rural City of Marong**

Local Law No. 1

**Borough of Eaglehawk**

Local Law 1/89—Common Seal

Local Law 2/89—Meeting Procedures

Local Law 3/89—Election of Mayor

**Shire of Huntly**

Local Law No. 2—Common Seal of the Shire of Huntly

Local Law No. 5—Meeting Procedures

**Shire of Strathfieldsaye**

Local Law No. 1—Procedures of Municipal Government (Procedures for Meeting)