

# LEGISLATIVE ASSEMBLY

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Read 1° 19 September 1984

*(Brought in by Mr Wilkes and Mr Trezise)*

## A BILL

To make provision with respect to the planning of the Loddon–Campaspe region, the constitution of the Loddon–Campaspe Regional Planning Authority, and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

### PART I.—PRELIMINARY

#### Short title.

1. This Act may be cited as the *Loddon–Campaspe Regional Planning Authority Act 1984*.

#### 10 Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

**Interpretation.**

3. In this Act, unless inconsistent with the context or subject-matter—

“**Authority**” means the Loddon-Campaspe Regional Planning Authority established under section 4. 5

“**Chairperson**” means the Chairperson of the Authority.

“**Planning Appeals Board**” means the Planning Appeals Board established under the *Planning Appeals Board Act 1980*.

“**Prescribed**” means prescribed by the regulations.

“**Public authority**” means any corporation, board, commission, trust or any other body corporate or unincorporate constituted by any Act for any public purpose but does not include a municipality. 10

“**Region**” means the area described in the Schedule.

“**Regulations**” means regulations under this Act. 15

**PART II.—THE LODDON-CAMPASPE REGIONAL PLANNING AUTHORITY**

**Loddon-Campaspe Regional Planning Authority.**

4. (1) For the purposes of this Act there shall be established a body corporate to be called the Loddon-Campaspe Regional Planning Authority. 20

(2) The Authority shall have perpetual succession and a common seal and shall be capable in law of doing and suffering all such acts and things as bodies corporate may by law do or suffer.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to a document and until the contrary is proved shall presume that it was duly affixed. 25

**Functions of the Authority.**

5. The functions of the Authority are—

(a) to prepare a strategy plan for the region and carry out land use planning in relation to matters of regional significance; 30

(b) to co-ordinate the land use planning activities of responsible authorities (within the meaning of the *Town and Country Planning Act 1961*) in the region;

(c) to promote the co-ordination of works plans of public authorities in the region; and 35

(d) to encourage the participation of the people of the region in the planning of the land use and development of the physical services of the region.

**Membership of Authority.**

6. (1) The Authority shall consist of—

- 5 (a) one councillor from each municipal council whose municipal district falls either wholly or partly within the region, who has been appointed by that council or, in the circumstances outlined in sub-section (5), by the Governor in Council;
- 10 (b) one person appointed by the Governor in Council on the nomination of the Minister for Water Resources;
- (c) one person appointed by the Governor in Council on the nomination of the Minister of Transport;
- (d) one person appointed by the Governor in Council on the nomination of the Minister for Minerals and Energy;
- 15 (e) one person appointed by the Governor in Council on the nomination of the Minister for Industry, Commerce and Technology; and
- 20 (f) two persons appointed by the Governor in Council who are nominated by the Minister after consideration of nominations submitted to the Minister by community groups, local organizations and persons within the region.

(2) A person appointed under sub-section (1) (a) shall be appointed for a period of one year and shall cease to hold office if—

- 25 (a) the person ceases to be a councillor of the municipal council which appointed the person; or
- (b) the appointment is revoked by the council.

(3) Subject to this Act, a member appointed under sub-section (1) (b), (c), (d) or (e) shall hold office for a term not exceeding three years.

(4) Subject to this Act, persons who have ceased to be members of the Authority shall be eligible for re-appointment to the Authority.

30 (5) There shall be no obligation on a municipal council whose municipal district falls wholly or partly within the region to make an appointment under sub-section (1) (a), but once such an appointment has been made that council shall then make such subsequent appointments as are required by this section and in the event of its failing to do so within two months after the prior appointment has expired the Governor in Council may appoint a councillor from that council.

35 (6) At least 28 days before the appointment of any person to be a member of the Authority under sub-section (1) (f), the Minister shall by notice published in one or more newspapers circulating generally in the region call for nominations from groups, organizations and persons referred to in sub-section (1) (f).

40 (7) The Governor in Council shall appoint one of the members of the Authority to be Chairperson of the Authority.

(8) The Authority shall pay to the Chairperson such fees and travelling and other allowances and expenses as the Governor in Council from time to time approves.

(9) Ten members of the Authority shall constitute a quorum.

(10) Subject to this Act the Authority may regulate its own proceedings. 5

#### **Disclosure of pecuniary interests of members.**

7. Section 181 of the *Local Government Act 1958* shall apply with such adaptations and modifications as are necessary to and in relation to members of the Authority. 10

#### **Staff and advisory committees.**

8. (1) The Authority may appoint a secretary and such other officers as may be necessary and may remove any person so appointed.

(2) The officers of the Authority shall be paid such salaries or remuneration and such travelling and other allowances as are prescribed. 15

(3) The Authority may with the consent of the council of any municipality or of any government department or public authority use the services of any officer of that municipality government department or public authority, and any such officer shall be paid by the municipality government department or public authority (as the case requires) or by the Authority whichever is agreed to by the Authority and the council of the municipality government department or public authority (as the case requires). 20

(4) The Authority may appoint such advisory committees as it thinks fit. 25

### **PART III.—POWERS OF AUTHORITY**

#### **Authority to be responsible authority.**

9. (1) For the purposes of the *Town and Country Planning Act 1961* the Authority shall be a responsible authority in respect of the submission for approval of any planning scheme and the making of any interim development order for the region or any area or areas within the region and for the enforcing and carrying out of any such scheme or order. 30

(2) In preparing any planning scheme or interim development order the Authority shall— 35

(a) have regard to any direction of the Minister administering the *Town and Country Planning Act 1961* as to the extent to which or the detail in which the Authority shall plan;

(b) have regard to any planning scheme or interim development order in force in an area within or adjoining the region and 40

consult with any responsible authority which has prepared or is carrying out and enforcing any such scheme or order;

5 (c) consult with the council of each municipality whose municipal district or any part thereof may be affected by the scheme or order;

10 (d) have regard to the desirability of preserving any particular environment existing within the region and the need to preserve areas of natural beauty or interest and buildings structures and objects of historical or architectural interest; and

(e) have regard to any recommendation of any government department or public authority providing services or constructing works in the area.

15 (3) The Minister administering the *Town and Country Planning Act* 1961 may specify a period within which a planning scheme for the region or any area within the region is to be prepared and submitted and the Authority shall prepare and submit the scheme within that period or any extension of that period granted by the Minister.

20 (4) Subject to this section, the Governor in Council may by Order published in the *Government Gazette* direct that on and from a specified day the Authority shall be the sole responsible authority in respect of any interim development order then in force or any planning scheme then in operation to the extent that such planning scheme or interim development order operates within the region.

25 (5) Notwithstanding anything to the contrary in this Act, the provisions of Part III. of the *Town and Country Planning Act* 1961 (other than the provisions of sections 59AA to 59AD) shall apply with such adaptations and modifications as are necessary to and in relation to the Authority, the preparation and submission for approval of any  
30 planning scheme of the Authority, the making of any interim development order by the Authority and the enforcement and carrying out of any such scheme or order in relation to the region or any part of the region (including the delegation of any powers authorities and responsibilities to councils) as if every reference in that Part to the  
35 "Board of Works" were a reference to the Authority and every reference to the "metropolitan area" were a reference to the region.

40 (6) Where the enforcement and carrying out of a planning scheme or interim development order or any part of a planning scheme or interim development order is transferred to the Authority by Order in accordance with sub-section (4) all acts matters and things made or done under or in relation to the planning scheme or interim  
45 development order shall continue to have the same operation force and effect after the transfer as they respectively would have had if the transfer had not taken place but the responsible authority for the purpose of the subsequent operation and effect of such planning scheme or interim development order or any such act matter or thing shall be the Authority.

(7) Such a transfer shall not render defective any appeal or other proceedings commenced by or against the responsible authority enforcing and carrying out the planning scheme or interim development order prior to the transfer but such appeal or proceedings may only be continued by or against the Authority.

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**Matters of regional significance.**

10. (1) The Authority may from time to time specify by notice in writing sent to all responsible authorities for areas within the region the types of use or development which it considers to be of regional significance.

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(2) The types of use or development specified by the Authority under sub-section (1) may vary from area to area and within areas.

(3) Each responsible authority which receives notice from the Authority under sub-section (1) shall refer any application for a permit under the *Town and Country Planning Act 1961* for a use or development of a type which the Authority has specified in the notice to the Authority.

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(4) Any notice given under sub-section (1) may be amended from time to time by the Authority.

(5) Where the Authority has specified that it considers any type of use or development to be of regional significance and the responsible authority considers that it should not have so specified that type of use or development the Minister may, where the Minister is the responsible authority or, in any other case, on the referral of the matter to the Minister by the responsible authority, direct the Authority to amend the notice given under sub-section (1) to delete that type of use or development.

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(6) The Authority shall within 60 days consider any application referred to it under sub-section (3) and may—

(a) consent to the granting of a permit by the responsible authority;

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(b) refuse to consent to the granting of a permit by the responsible authority; or

(c) consent to the granting of a permit by the responsible authority if the permit is subject to such conditions as the Authority specifies.

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(7) Where an application for a permit has been referred to the Authority, the responsible authority shall not grant the permit unless the Authority has consented to the granting of the permit or the Planning Appeals Board has directed that a permit shall issue.

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(8) Where an application has been referred to the Authority and the Authority has consented to the granting of the permit by the responsible authority if the permit is subject to certain conditions

specified by the Authority, the responsible authority shall not grant the permit or determine to grant the permit without including those conditions unless the Planning Appeals Board has otherwise directed.

5 (9) The responsible authority is not required to grant a permit by reason only of the fact that the granting of the permit has been consented to by the Authority.

(10) Where an application for a permit should have been referred to the Authority and was not so referred any permit granted as a result of that application shall be void.

10 (11) Where a responsible authority in contravention of sub-section (7) or (8) grants a permit or grants a permit which is not subject to conditions specified by the Authority the permit shall be void.

15 (12) Where any person has incurred expenditure or liability for expenditure as a consequence of the grant of a permit which is void under sub-section (10) or sub-section (11) the person shall be entitled to receive compensation in respect of so much of that expenditure or liability as is rendered abortive by reason of the permit being void but not in respect of any additional expenditure or liability incurred in purchasing other land to use or develop in the required manner.

20 (13) Compensation payable under sub-section (12) shall be payable by the responsible authority.

(14) Part XLIV. of the *Local Government Act 1958* shall with such adaptations as are necessary extend and apply with respect to compensation under this section.

25 (15) Where any person appeals under the *Town and Country Planning Act 1961* against the refusal of a permit or any conditions specified or to be specified in a permit and the responsible authority was unable to grant the permit or was required to impose any condition which is whether alone or together with other conditions the subject of the appeal the Authority and the responsible authority shall be the respondents to the appeal.

30 (16) Where any person appeals under the *Town and Country Planning Act 1961* against the refusal of a permit or against any condition specified or to be specified in a permit and the application for the permit was referred to the Authority and the Authority consented to the granting of the permit, or, in the case of an appeal against a condition or conditions, did not specify that condition or any of those conditions, the Authority may appear and be heard before the Planning Appeals Board by one of its officers, by a barrister or solicitor or by a person authorized in that behalf by the Authority or may make a written submission to the Planning Appeals Board.

35 (17) Any person who feels aggrieved by the failure of the Authority to make a determination under sub-section (6) within the time specified in that sub-section may appeal to the Planning Appeals Board against  
45 that failure.

**Delegation by Authority of powers under section 10.**

11. (1) The Authority may delegate to a committee of the Authority or to an officer of the Authority any of its powers, authorities, duties or functions under section 10 other than this power of delegation.

(2) The instrument of delegation shall specify the period of time during which the delegation of power may be exercised or where the Authority has determined that the delegation shall be exercisable for an unlimited period of time, the instrument shall so specify. 5

(3) The Authority may vary or revoke a delegation made under this section. 10

(4) A power, authority, duty or function delegated by the Authority shall be exercised or performed in accordance with the instrument of delegation and shall be subject to the conditions and limitations specified in the instrument of delegation.

(5) The delegation of a power, authority, duty or function by the Authority does not prevent the exercise of the power or authority or the performance of the duty or function by the Authority. 15

(6) Any act or thing done in the performance of a duty or function or the exercise of an authority or power by the delegate under sub-section (1) has the same force and effect as if it had been done by the Authority. 20

(7) No act of a delegate done within the scope of a delegation under this section during the period in which that delegation remains in force shall be invalidated by reason of a later revocation or variation of the delegation. 25

**PART IV.—FINANCIAL****Interpretation.**

12. For the purposes of this Part—

“Financial year” means a year ending on 30 September.

“Rateable property” and “total net annual value of rateable property” have the same meanings as they have in the *Local Government Act 1958*. 30

**Preparation of estimates.**

13. (1) The Authority shall cause to be prepared by 31 May in each year an estimate of the moneys required for the following financial year for the purposes for which the Authority is empowered or required to expend money showing— 35

(a) the several amounts required for such purposes;

(b) the several amounts available for such purposes; and

(c) the proposed sources of revenue. 40



(2) After the preparation of an estimate pursuant to sub-section (1) the Authority shall forthwith submit a copy thereof to the Minister and to each council concerned.

(3) The Authority shall—

5 (a) modify the estimate or omit any item from the estimate in accordance with any directions of the Minister;

10 (b) where it has been informed prior to 31 July by a majority of the councils concerned that they have by resolution disapproved the amount of any item of the estimate, omit or modify that item after consideration of the terms of the resolutions; and

(c) consider any other submissions in relation to the omission or modification of any item of the estimate which are received prior to 31 July from any council concerned.

15 (4) Subject to sub-section (3) the Authority shall during the month of August adopt the estimate with or without modifications.

(5) Members of the Authority appointed pursuant to section 6 (1) (b) (c) (d) (e) and (f) shall not vote on the adoption of the estimate and if any such member does vote that vote shall not be counted.

20 (6) A copy of the estimate as adopted shall be sent forthwith to each council concerned.

(7) No revenue shall be raised by an Authority except in accordance with the estimate as adopted.

**Municipality liable to contribute to Authority.**

25 14. (1) Each municipality which has appointed a councillor to the Authority in accordance with this Act shall be liable to contribute moneys to the Authority in each financial year on such basis and by such date or dates in each financial year as are determined by the Authority in accordance with sub-section (2).

30 (2) The contribution to be made by each municipality under sub-section (1) shall be determined by the Authority at a meeting of the Authority at which two-thirds of the persons appointed to the Authority pursuant to section 6 (1) (a) who are present at the meeting vote in favour of the determination.

35 (3) Where no determination has been made under sub-section (2) prior to 15 September, the amount to be contributed by each municipality shall be an amount which bears the same proportion to the estimate as adopted by the Authority as the net annual value of all rateable property within so much of its municipal district as is within  
40 the region bears to the total net annual value of all rateable property within the region or an amount equal to 0.4 cents in the dollar of the net annual value of all rateable property within so much of its municipal district as is within the region whichever is the lesser amount.

(4) The Authority shall not later than 30 September in each year issue its precept in the form prescribed to each municipality concerned requiring it to contribute the amount calculated in accordance with sub-section (2) or (3) (as the case requires).

(5) Each municipality may make and levy a rate as if for its own purposes upon all rateable property within so much of its municipal district as is within the region to raise the amount of the contribution required under the precept plus not more than 5 per centum of that amount to be retained by it to cover the cost of collecting the moneys. 5

(6) The provisions of the *Local Government Act* 1958 with respect to the making levying and recovery of rates shall with such modifications as are necessary extend and apply with respect to any rate made by a municipality under this section and the municipality is hereby authorized to pay from the municipal fund the amount payable by it in respect of any precept and any interest thereon. 10  
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(7) Where the amount due in respect of any precept or any part of such amount is not paid on or before the date specified in the precept the municipality concerned shall pay interest on the amount outstanding at a rate fixed by the Authority in relation to that precept which shall not exceed the rate of yield to maturity of the long term loan of the last loan raising by the Commonwealth Government in Australia for public subscription prior to the date of the precept. 20

**Municipal council to send to Authority notice of proposed general valuation.**

15. A municipal council shall send to the Authority notice of its resolution to cause a general valuation to be made and the Authority may request the Valuer-General to require that the general valuation or any specified part of that valuation show the net annual value and the Valuer-General shall comply with such a request and any extra cost incurred by the council shall be met by the Authority. 25  
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**Moneys to be paid into account kept by Authority.**

16. (1) All moneys received by the Authority under this Act, including any moneys appropriated by Parliament for the purposes of this Act, shall be paid into an account kept by the Authority.

(2) All moneys expended by the Authority shall be paid out of such account. 35

(3) Moneys in the account shall be applied only in and towards the performance and discharge of the powers authorities and duties of the Authority under this Act.

**Borrowing by the Authority.**

17. (1) With the consent of the Treasurer and on such terms and conditions as the Treasurer approves the Authority may borrow moneys for the purposes of this Act.

5 (2) Members of the Authority appointed pursuant to section 6 (1) (b), (c), (d), (e) or (f) shall not vote on any resolution with respect to the borrowing of moneys by the Authority and if any such member does so vote that vote shall not be counted.

10 (3) A copy of a resolution approving the borrowing of money by the Authority shall be sent to each council represented on the Authority.

15 (4) Where (within one month of such notice having been sent to each council) a majority of the councils represented on the Authority resolve that money shall not be borrowed by the Authority in accordance with its resolution the loan shall be deemed to be forbidden and the Authority shall not proceed further with the proposed borrowing.

20 (5) The provisions of sections 409, 428A and of sections 433 to 435 of the *Local Government Act* 1958 shall extend and apply to and in relation to any such borrowing by the Authority as if the Authority were the council of a municipality, but notwithstanding the foregoing no sinking fund shall be established for the redemption of any loan.

**Keeping of loan accounts.**

18. (1) The Authority shall cause a separate account or accounts to be kept in a bank or banks of any moneys which are the proceeds of a loan.

25 (2) All moneys forming part of any such loan shall be paid into such account or accounts and shall be applied only to the purposes for which those monies were borrowed.

30 (3) Save as otherwise expressly provided such moneys shall not be used for the payment of principal or interest, or for any payment into a sinking fund or for any other payment on account of the moneys so borrowed.

(4) Any member or officer of an Authority who wilfully sanctions or concurs in any contravention of this section shall be liable to a penalty of not more than 4 penalty units.

35 **Overdrafts.**

19. The Authority may borrow moneys by way of overdraft to the extent authorized from time to time by the Governor in Council and any municipality represented on the Authority may make advances to the Authority from the municipal fund.

**Accounts of the Authority.**

20. (1) The Authority shall cause to be kept proper accounts and records of the transactions and affairs of the Authority and other records as will sufficiently explain the financial operations and financial position of the Authority. 5

- (2) The Authority shall do all things necessary to—
- (a) ensure that all moneys due are properly collected;
  - (b) ensure that all moneys expended are correctly made and properly authorized;
  - (c) ensure that adequate control is maintained over the assets of or in the custody of the Authority; 10
  - (d) ensure that all liabilities incurred by the Authority are properly authorized;
  - (e) ensure efficiency and economy of operations;
  - (f) develop and maintain an adequate budgeting and accounting system; and 15
  - (g) develop and maintain an adequate internal audit function.

**Annual report.**

21. (1) The Authority shall cause at the end of each financial year to be prepared an annual report— 20

- (a) containing a report of its operations during the financial year; and
- (b) containing financial statements for the financial year, prepared in accordance with sub-section (2)—

and shall submit these to the Minister within three months of the end of each financial year. 25

- (2) The financial statements referred to in sub-section (1) shall—
- (a) contain such matters as the Treasurer determines;
  - (b) be of a nature and in a form approved by the Treasurer;
  - (c) present fairly the financial transactions during the year and the financial position as at the end of the year; 30
  - (d) be under the seal of the Authority and signed by the principal accounting officer of the Authority who shall—
    - (i) certify that in their opinion the financial statements present fairly the financial transactions and financial position; and 35
    - (ii) state whether at the date of signing the statements they are aware of any circumstances which would render

any particulars included in the statements misleading or inaccurate; and

(e) be audited as required by section 24.

**Minister may require inclusion of additional information in report.**

- 5        22. The Minister may in writing direct the Authority to include in an annual report such additional information (to that already provided), which the Minister considers necessary or appropriate in the public interest.

**Laying report before Parliament.**

- 10       23. (1) The Minister shall cause any annual report submitted to him pursuant to section 21 to be laid before each House of Parliament within fourteen days after it has been received by the Minister if that House is then sitting or if that House is not sitting, within fourteen sitting days after the next meeting of that House.
- 15       (2) Where the Authority fails to submit to the Minister an annual report within three months, the Minister shall report that failure and the reasons for that failure to each House of Parliament.

**Auditing financial statements.**

- 20       24. (1) The financial statements referred to in section 21 shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on the Auditor-General by any law now or hereafter in force relating to the audit of public accounts.

25       (2) Without limiting the generality of the powers conferred on the Auditor-General under this section, the Auditor-General and the Auditor-General's officers—

- (a) shall have right of access at all times to the books, accounts and vouchers of the Authority; and
- (b) may require from an officer or employee of the Authority such information, assistance and explanations as are necessary for the performance of the duties of the Auditor-General in relation to the audit.
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(3) The Authority shall pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of the audit under this section.

**PART V.—REGULATIONS****Regulations.**

25. The Governor in Council may make regulations for or with respect to any matter or thing authorized or required to be prescribed by this Act or necessary to be prescribed for carrying into effect the purposes of this Act. 5

**PART VI.—TRANSITIONAL****Interpretation.**

26. In this Part, “the former Authority” means the Loddon-Campaspe Regional Planning Authority established under the *Town and Country Planning Act 1961* by Order of the Governor in Council of 11 September 1983 as amended. 10

**Abolition of the former Authority.**

27. On the commencement of this Act the former Authority shall cease to exist. 15

**Authority is successor to the former Authority.**

28. (1) On and from the commencement of this Act—

- (a) the Authority shall be deemed to be the same body as the former Authority;
- (b) all acts matters or things made or done or authorized or required to be made or done by or in relation to the former Authority before that commencement shall be deemed to have been made or done or to have been authorized or required to be made or done by or in relation to the Authority and shall continue to have the same operation force and effect after that commencement as they had before that commencement; 20
- (c) any appeal or other proceedings commenced by or against the former Authority before that commencement may be continued by or against the Authority; and 25
- (d) this Act and the *Town and Country Planning Act 1961* shall have effect accordingly. 30

(2) Every person who was immediately before the commencement of this Act a member of the former Authority shall become and be a member of the Authority and shall subject to this Act be such a member without any further or other authority than this sub-section for the remainder of the term for which that person was appointed to be a member of the former Authority. 35

(3) For the purposes of this Act—

5 (a) a person who was appointed to be a member of the former Authority by the council of a municipality shall be deemed to have been appointed to be a member of the Authority pursuant to section 6 (1) (a); and

(b) any other person who was appointed to be a member of the former Authority shall be deemed to have been appointed to be a member of the Authority pursuant to section 6 (1) (b).

10 (4) The person who was immediately before the commencement of this Act the Chairman of the former Authority shall on that commencement become and be the Chairperson of the former Authority and shall subject to this Act be the Chairperson without any further or  
15 other authority than this sub-section for the remainder of the period for which that person was appointed to be the Chairman of the former Authority.

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**SCHEDULE**

The Loddon-Campaspe region consists of the municipal districts (as from time to time constituted under the *Local Government Act 1958*) of the—

Borough of Eaglehawk  
City of Bendigo  
City of Castlemaine  
City of Echuca  
City of Maryborough  
Shire of Bet Bet  
Shire of Charlton  
Shire of Cohuna  
Shire of East Loddon  
Shire of Gordon  
Shire of Huntly  
Shire of Kara Kara  
Shire of Korong  
Shire of Kyneton  
Shire of Maldon  
Shire of Marong  
Shire of Metcalfe  
Shire of McIvor  
Shire of Newstead  
Shire of Pyalong  
Shire of Rochester  
Shire of Strathfieldsaye  
Shire of Tullaroop  
Town of St. Arnaud—

and of the Western Riding of the municipal district (as from time to time constituted under the *Local Government Act 1958*) of the Shire of Waranga.





