

FIRST PRINT

CITY OF NEWCASTLE BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are to make further provision with respect to the constitution of the Council of the City of Newcastle and to repeal the Greater Newcastle Act 1937.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 provides that the Local Government Act 1919 is referred to in the proposed Act as the Principal Act and specifies the relationship between the proposed Act and the Principal Act.

Clause 4 is an interpretation provision for the purposes of the proposed Act.

PART 2—CONSTITUTION OF THE COUNCIL

Clause 5 continues the area of the City of Newcastle as constituted before the commencement of the proposed Act.

Clause 6 provides for the continuance of the Council of the City of Newcastle.

Clause 7 provides that there shall be 12 aldermen of the Council.

Clause 8 provides that the City of Newcastle shall not be divided into wards.

Clause 9 gives effect to Schedule 1. The Schedule provides a procedure for filling an extraordinary vacancy in the office of an alderman of the Council which does not necessitate the holding of an election and which is similar to the procedure under section 22C of the Constitution Act 1902.

PART 3—MISCELLANEOUS

Clause 10 provides for the repeal of the enactments specified in Schedule 2.

Clause 11 gives effect to Schedule 3 which contains savings and transitional provisions.

SCHEDULES

Schedule 1 specifies the means by which an extraordinary vacancy in the office of an alderman of the Council is to be filled.

Schedule 2 specifies the enactments to be repealed by the proposed Act.

Schedule 3 enacts certain savings and transitional provisions.

Clause 1 of Schedule 3 avoids the necessity for a general election for the Council to be held on the fourth Saturday in September 1987 where a general election is held after the commencement of the proposed Act and before that date.

Clause 2 saves amendments made to other Acts by the Greater Newcastle Act 1937 notwithstanding the repeal of that Act.

CITY OF NEWCASTLE BILL 1986

NEW SOUTH WALES



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CITY OF NEWCASTLE BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act with respect to the constitution of the Council of the City of Newcastle and to repeal the Greater Newcastle Act 1937 and certain other enactments.

City of Newcastle 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

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PART 1**PRELIMINARY****Short title**

1. This Act may be cited as the "City of Newcastle Act 1986".

Commencement

- 10 2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

15 **Principal Act**

3. (1) The Local Government Act 1919 is referred to in this Act as the Principal Act.

(2) This Act shall be construed with, and as if it formed part of, the Principal Act.

- 20 (3) In the event of an inconsistency between this Act and the Principal Act, this Act shall, to the extent of the inconsistency, prevail.

Interpretation

4. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

- 25 "Council" means the Council of the City of Newcastle.
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PART 2

CONSTITUTION OF THE COUNCIL

Continuance of area

5 **5.** (1) The area of the City of Newcastle as constituted immediately before the commencement of this Act shall, on and from that commencement, continue to be the area of the City.

(2) Nothing in subsection (1) limits the operation of Part III of the Principal Act.

Continuance of Council

10 **6.** The Council shall, notwithstanding the repeal of the Greater Newcastle Act 1937, continue and shall be the same legal entity as the council constituted under that Act.

Number of aldermen

7. (1) The Council shall have 12 aldermen.

15 (2) Nothing in subsection (1) limits the operation of section 23 of the Principal Act.

Absence of wards

8. The City of Newcastle shall not, unless a proclamation is in force under section 58 of the Principal Act, be divided into wards.

20 Filling of extraordinary vacancies

9. Schedule 1 has effect in respect of the filling of an extraordinary vacancy in the office of an alderman of the Council.

City of Newcastle 1986

PART 3
MISCELLANEOUS

Repeals

10. Each Act specified in Schedule 2 is, to the extent indicated therein,
5 repealed.

Savings and transitional provisions

11. Schedule 3 has effect.

SCHEDULE 1

(Sec. 9)

10 **FILLING OF EXTRAORDINARY VACANCIES**

Filling of extraordinary vacancy from the same group

1. (1) Where an extraordinary vacancy occurs in the office of an alderman of the Council and there is any person—

(a) who was included in the group on the ballot-paper in which—

15 (i) where that alderman was elected at an election, that alderman was included for the purpose of that election; or

20 (ii) where that alderman was elected under this clause, the predecessor (whether immediate, intermediate or ultimate) of that alderman was included for the purpose of the election at which that predecessor was elected; and

(b) who is not an alderman of the Council,

the returning officer shall, in respect of each such vacancy, cause to be published in a daily newspaper circulating in the City of Newcastle a notification—

(c) notifying the occurrence of the vacancy;

25 (d) inviting persons eligible under subclause (2) to apply in writing to the returning officer to be declared to be elected to fill the vacant office; and

(e) specifying the time within which any such application must be lodged with the returning officer.

(2) A person is eligible to make an application referred to in subclause (1) (d) if—

30 (a) the person was included in the group referred to in subclause (1) (a);

*City of Newcastle 1986*SCHEDULE 1—*continued*FILLING OF EXTRAORDINARY VACANCIES—*continued*

- (b) when the person makes the application the person is not an alderman of the Council;
- (c) the person is not disqualified for a civic office; and
- 5 (d) the person lodges that application with the returning officer before the time specified pursuant to subclause (1) (e) in the notification under subclause (1), but is not eligible to make such an application if the person was included in the group referred to in subclause (1) (a) and the person has, since the person was so included, been an alderman of the Council.
- 10 (3) The time to be specified, pursuant to subclause (1) (e), in a notification under subclause (1) shall be a time that is not less than 2 days after the date of publication of the notification in the daily newspaper.
- 15 (4) As soon as practicable after the time specified pursuant to subclause (1) (e) in a notification under subclause (1), the returning officer shall, from among the applicants, if any, eligible, as referred to in subclause (2), to make applications, declare to be elected to fill the vacancy the applicant, if any, who was highest in the order in which those applicants were included in the group referred to in subclause (1) (a).
- (5) This clause does not apply to or in respect of a vacancy that occurs by reason that an election under the Principal Act is declared void in accordance with law.

Filling of extraordinary vacancy under the Principal Act

- 20 2. Where an extraordinary vacancy in the office of an alderman of the Council is unable to be filled in accordance with the provisions of clause 1, the vacancy shall be filled in accordance with the provisions of the Principal Act.

SCHEDULE 2

(Sec. 10)

25 REPEALS

- Greater Newcastle Act 1937, No. 20—the whole Act.
- Hunter District Water, Sewerage and Drainage Act 1938, No.11—so much of the First Schedule as amends Act No. 20, 1937.
- Local Government (Amendment) Act 1945, No. 19—section 27.
- 30 Greater Newcastle (Amendment) Act 1984, No. 24—the whole Act.

City of Newcastle 1986

SCHEDULE 3

(Sec. 11)

SAVINGS AND TRANSITIONAL PROVISIONS

Election of Council

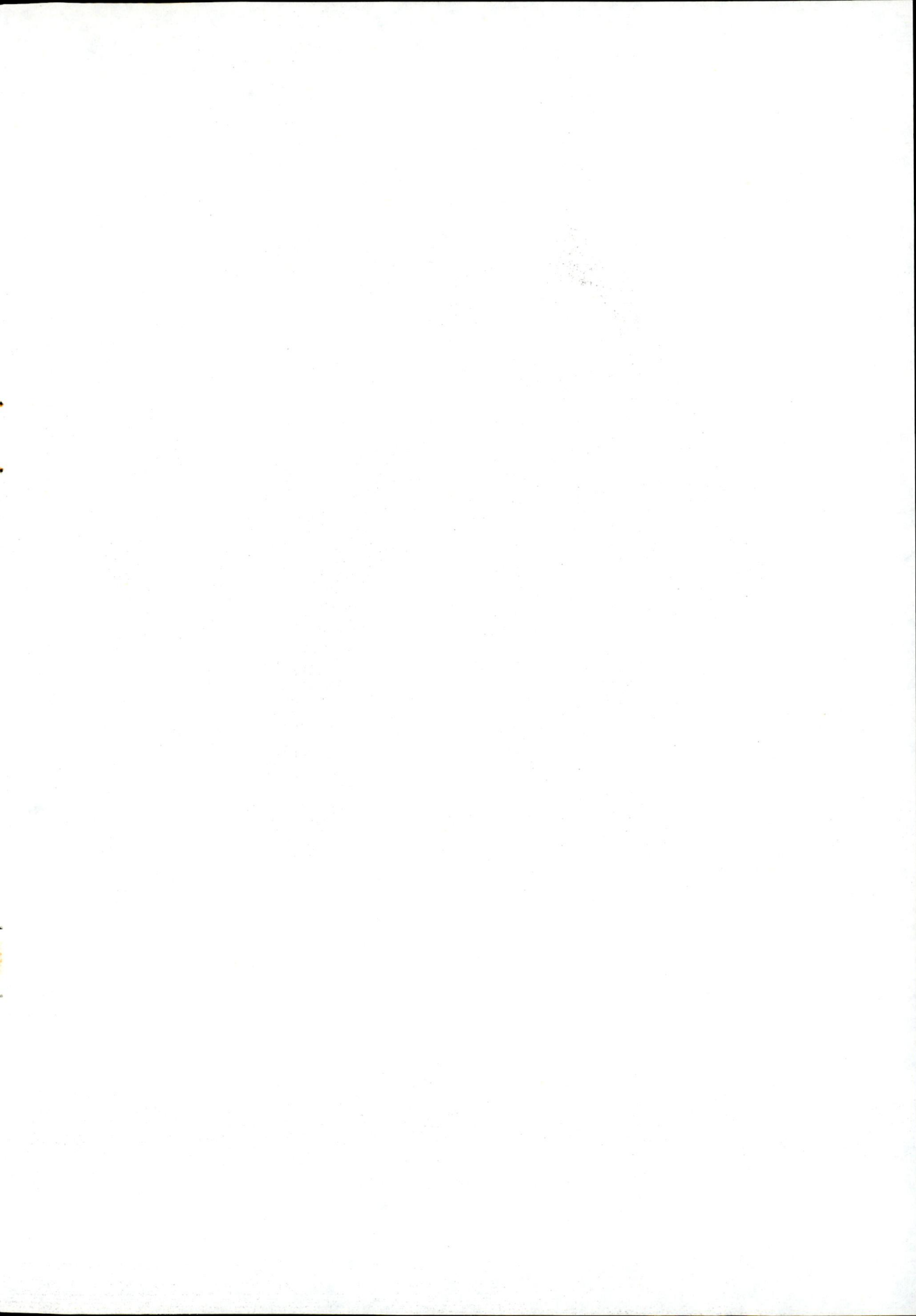
- 5 1. (1) Where, pursuant to section 86 of the Principal Act, an order is made for the holding, before 26 September 1987, of a fresh election of the Council—
- (a) the Principal Act shall not operate so as to require the holding of an election of the Council on that date; and
- 10 (b) an alderman of the Council elected at such a fresh election shall, subject to sections 35, 86 and 219 of the Principal Act, hold office until the next ordinary election of the Council in 1991.
- (2) Where a fresh election of the Council is held as referred to in subclause (1), the returning officer for the election shall be a person appointed by the Minister.

Saving of certain amendments

- 15 2. The repeal by this Act of the Greater Newcastle Act 1937 does not affect any amendment made by that Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986





CITY OF NEWCASTLE ACT 1986 No. 43

NEW SOUTH WALES



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SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS



CITY OF NEWCASTLE ACT 1986 No. 43

NEW SOUTH WALES



Act No. 43, 1986

An Act with respect to the constitution of the Council of the City of Newcastle and to repeal the Greater Newcastle Act 1937 and certain other enactments. [Assented to, 9 May 1986]

City of Newcastle 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

PART 1
PRELIMINARY

Short title

1. This Act may be cited as the "City of Newcastle Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

3. (1) The Local Government Act 1919 is referred to in this Act as the Principal Act.

(2) This Act shall be construed with, and as if it formed part of, the Principal Act.

(3) In the event of an inconsistency between this Act and the Principal Act, this Act shall, to the extent of the inconsistency, prevail.

Interpretation

4. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"Council" means the Council of the City of Newcastle.

PART 2

CONSTITUTION OF THE COUNCIL

Continuance of area

5. (1) The area of the City of Newcastle as constituted immediately before the commencement of this Act shall, on and from that commencement, continue to be the area of the City.

(2) Nothing in subsection (1) limits the operation of Part III of the Principal Act.

Continuance of Council

6. The Council shall, notwithstanding the repeal of the Greater Newcastle Act 1937, continue and shall be the same legal entity as the council constituted under that Act.

Number of aldermen

7. (1) The Council shall have 12 aldermen.

(2) Nothing in subsection (1) limits the operation of section 23 of the Principal Act.

Absence of wards

8. The City of Newcastle shall not, unless a proclamation is in force under section 58 of the Principal Act, be divided into wards.

Filling of extraordinary vacancies

9. Schedule 1 has effect in respect of the filling of an extraordinary vacancy in the office of an alderman of the Council.

PART 3
MISCELLANEOUS

Repeals

10. Each Act specified in Schedule 2 is, to the extent indicated therein, repealed.

Savings and transitional provisions

11. Schedule 3 has effect.

SCHEDULE 1

(Sec. 9)

FILLING OF EXTRAORDINARY VACANCIES

Filling of extraordinary vacancy from the same group

1. (1) Where an extraordinary vacancy occurs in the office of an alderman of the Council and there is any person—

(a) who was included in the group on the ballot-paper in which—

- (i) where that alderman was elected at an election, that alderman was included for the purpose of that election; or
- (ii) where that alderman was elected under this clause, the predecessor (whether immediate, intermediate or ultimate) of that alderman was included for the purpose of the election at which that predecessor was elected; and

(b) who is not an alderman of the Council,

the returning officer shall, in respect of each such vacancy, cause to be published in a daily newspaper circulating in the City of Newcastle a notification—

- (c) notifying the occurrence of the vacancy;
 - (d) inviting persons eligible under subclause (2) to apply in writing to the returning officer to be declared to be elected to fill the vacant office; and
 - (e) specifying the time within which any such application must be lodged with the returning officer.
- (2) A person is eligible to make an application referred to in subclause (1) (d) if—
- (a) the person was included in the group referred to in subclause (1) (a);

*City of Newcastle 1986*SCHEDULE 1—*continued*FILLING OF EXTRAORDINARY VACANCIES—*continued*

- (b) when the person makes the application the person is not an alderman of the Council;
- (c) the person is not disqualified for a civic office; and
- (d) the person lodges that application with the returning officer before the time specified pursuant to subclause (1) (e) in the notification under subclause (1),

but is not eligible to make such an application if the person was included in the group referred to in subclause (1) (a) and the person has, since the person was so included, been an alderman of the Council.

(3) The time to be specified, pursuant to subclause (1) (e), in a notification under subclause (1) shall be a time that is not less than 2 days after the date of publication of the notification in the daily newspaper.

(4) As soon as practicable after the time specified pursuant to subclause (1) (e) in a notification under subclause (1), the returning officer shall, from among the applicants, if any, eligible, as referred to in subclause (2), to make applications, declare to be elected to fill the vacancy the applicant, if any, who was highest in the order in which those applicants were included in the group referred to in subclause (1) (a).

(5) This clause does not apply to or in respect of a vacancy that occurs by reason that an election under the Principal Act is declared void in accordance with law.

Filling of extraordinary vacancy under the Principal Act

2. Where an extraordinary vacancy in the office of an alderman of the Council is unable to be filled in accordance with the provisions of clause 1, the vacancy shall be filled in accordance with the provisions of the Principal Act.

SCHEDULE 2

(Sec. 10)

REPEALS

Greater Newcastle Act 1937, No. 20—the whole Act.

Hunter District Water, Sewerage and Drainage Act 1938, No. 11—so much of the First Schedule as amends Act No. 20, 1937.

Local Government (Amendment) Act 1945, No. 19—section 27.

Greater Newcastle (Amendment) Act 1984, No. 24—the whole Act.

City of Newcastle 1986

SCHEDULE 3

(Sec. 11)

SAVINGS AND TRANSITIONAL PROVISIONS

Election of Council

1. (1) Where, pursuant to section 86 of the Principal Act, an order is made for the holding, before 26 September 1987, of a fresh election of the Council—

- (a) the Principal Act shall not operate so as to require the holding of an election of the Council on that date; and
- (b) an alderman of the Council elected at such a fresh election shall, subject to sections 35, 86 and 219 of the Principal Act, hold office until the next ordinary election of the Council in 1991.

(2) Where a fresh election of the Council is held as referred to in subclause (1), the returning officer for the election shall be a person appointed by the Minister.

Saving of certain amendments

2. The repeal by this Act of the Greater Newcastle Act 1937 does not affect any amendment made by that Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986