The Local Government (Gisborne Region) Reorganisation Order 1989

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 9th day of June 1989

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

Pursuant to section 36 of the Local Government Act 1974, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

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O r d e r

1 TITLE AND COMMENCEMENT
(1) This order may be cited as the Local Government (Gisborne Region) Reorganisation Order 1989.
(2) Subject to subclause (3) of this clause, this order shall come into force on the 1st day of November 1989.
(3) Those provisions of this order necessary—
(a) To provide for the first election of the members of the Gisborne District Council;
(b) For the purposes of clauses 25 to 32, and 38 of this order; and
(c) For the appointment of the principal administrative officer of the Gisborne District Council—
shall come into force on the making of this order.

2 DISSOLUTION OF EXISTING LOCAL AUTHORITIES AND COMMUNITY COUNCIL AND ABOLITION OF EXISTING DISTRICTS AND COMMUNITY

(1) Every local authority named in Part I or Part II of the First Schedule to this order is hereby dissolved.
(2) Every district named in Part I of the First Schedule to this order is hereby abolished.
(3) The Patutahi Community Council is hereby dissolved.
(4) The Patutahi Community is hereby abolished.

3 CONSTITUTION OF GISBORNE DISTRICT AND GISBORNE REGION

There is hereby constituted a district, to be known as “The Gisborne District” and a region to be known as “The Gisborne Region”, which shall comprise the area delineated on S.O. Plan No. 8378 deposited with the Chief Surveyor of the Gisborne Land District.

4 GISBORNE DISTRICT COUNCIL

A territorial authority to be known as “The Gisborne District Council”, is hereby constituted for the Gisborne District and Gisborne Region.
5 INTERPRETATION

(1) In this order:

"The former authorities" means—

(a) The Waipa County Council: and
(b) The Waikouhu County Council: and
(c) The Cook County Council: and
(d) The Gisborne City Council: and
(e) The East Cape Catchment Board and Regional Water Board: and
(f) The East Cape United Council: and
(g) The Gisborne Harbour Board: and
(h) The Hicks Bay Harbour Board: and
(i) The Cook District Noxious Plants Authority: and
(j) The Waikouhu District Noxious Plants Authority: and
(k) The East Coast District Noxious Plants Authority: and
(l) The Waipa District Noxious Plants Authority: and
(m) The East Coast Pest Destruction Board: and
(n) The Hataea A Rangi Recreation Reserve Board: and
(o) The Pututahi Recreation Reserve Board: and
(p) The Waipiro Bay Recreation Reserve Board: and

any reference to "former authority" shall be a reference to any of the former authorities named in this clause.

(2) Every reference in this scheme to a former authority shall, where part only of the district of a former authority has been included within the Gisborne District and the Gisborne Region, or any function of a former authority has been allocated to the Gisborne District Council, be read as a reference to the former authority only in relation to that part, or as the case may be the function.

6 WARDS

(1) The Gisborne District is hereby divided into 11 wards.

(2) Those 11 wards are:

(a) The Matakaoa Ward, comprising the area delineated on S.O. Plan No. 8380 deposited with the Chief Surveyor of the Gisborne Land District;

(b) The Waipa Ward, comprising the area delineated on S.O. Plan No. 8381 deposited with the Chief Surveyor of the Gisborne Land District;

(c) The Waikouhu Ward, comprising the area delineated on S.O. Plan No. 8382 deposited with the Chief Surveyor of the Gisborne Land District;

(d) The Uawa Ward, comprising the area delineated on S.O. Plan No. 8383 deposited with the Chief Surveyor of the Gisborne Land District;

(e) The Taruheru Ward, comprising the area delineated on S.O. Plan No. 8384 deposited with the Chief Surveyor of the Gisborne Land District;

(f) The Wainui Ward, comprising the area delineated on S.O. Plan No. 8385 deposited with the Chief Surveyor of the Gisborne Land District;

(g) The Whataupoko Ward, comprising the area delineated on S.O. Plan No. 8386 deposited with the Chief Surveyor of the Gisborne Land District;

(h) The Kaiti Ward, comprising the area delineated on S.O. Plan No. 8387 deposited with the Chief Surveyor of the Gisborne Land District;

(i) The Waikanae Ward, comprising the area delineated on S.O. Plan No. 8388 deposited with the Chief Surveyor of the Gisborne Land District;

(j) The Cook Ward, comprising the area delineated on S.O. Plan No. 8390 deposited with the Chief Surveyor of the Gisborne Land District;

(k) The Patusahi Ward, comprising the area delineated on S.O. Plan No. 8389 deposited with the Chief Surveyor of the Gisborne Land District.

7 MEMBERSHIP

(1) The Gisborne District Council shall consist of a Mayor and 16 members.

(2) The members of the Gisborne District Council to be elected at the first election of the district council shall be elected as follows:

(a) One member shall be elected by the electors of the Matakaoa Ward: and

(b) One member shall be elected by the electors of the Waipa Ward: and

(c) One member shall be elected by the electors of the Waikouhu Ward: and

(d) One member shall be elected by the electors of the Uawa Ward: and

(e) One member shall be elected by the electors of the Taruheru Ward: and

(f) One member shall be elected by the electors of the Wainui Ward: and

(g) Two members shall be elected by the electors of the Whataupoko Ward: and

(h) Three members shall be elected by the electors of the Kaiti Ward: and

(i) Three members shall be elected by the electors of the Waikanae Ward: and

(j) One member shall be elected by the electors of the Cook Ward: and

(k) One member shall be elected by the electors of the Patusahi Ward.

8 FIRST ELECTION

(1) The first election of the Gisborne District Council shall be held on the 14th day of October 1989.

(2) For the purposes of arranging the first election of the Gisborne District Council, the Returning Officer and the principal administrative officer for the Gisborne District shall be, respectively, the Returning Officer and the principal administrative officer for the Gisborne City.

(3) The first election of the Gisborne District Council shall be conducted by postal vote.

9 FIRST MEETING

The first meeting of the Gisborne District Council:

(a) Shall be convened by the principal administrative officer of that Council: and

(b) Shall be held no later than the 14th day of November 1989.

10 CHIEF EXECUTIVE

(1) The Chief Executive of the Gisborne District Council shall be the person appointed to that position in accordance with clause 29 of this order.

(2) The Chief Executive shall be the principal administrative officer of the Gisborne District Council.

11 FUNCTIONS, DUTIES, AND POWERS OF TERRITORIAL AUTHORITY

The Gisborne District Council shall have:

(a) The functions, duties, and powers of a territorial authority under—

(i) The Local Government Act 1974: and

(ii) Any other public Act relating to the Gisborne District Council or any of the former authorities: and
(iii) Any local Act relating to the Gisborne District Council or any of the former authorities, and

(b) The functions, duties, and powers of an administering body under the Reserves Act 1977 in respect of the reserves being administered by the former authorities immediately before the coming into force of this clause.

12 FUNCTIONS, DUTIES, AND POWERS OF REGIONAL COUNCIL

(1) The Gisborne District Council shall have:

(a) The functions, duties, and powers of a regional council under—

(i) The Local Government Act 1974; and

(ii) The Urban Transport Act 1980; and

(iii) Any public Act relating to a regional council or any of the former authorities and not expressly referred to in this clause;

(iv) Any local Act relating to the Gisborne District Council or any of the former authorities; and

(b) The functions, duties, and powers in relation to regional planning of a regional council under the Town and Country Planning Act 1977 or any other Act; and

(c) The functions, duties, and powers in relation to maritime planning of a maritime planning authority under the Town and Country Planning Act 1977 or any other Act; and

(d) The functions, duties, and powers of a catchment board and a regional water board under the Soil Conservation and Rivers Control Act 1941 and the Water and Soil Conservation Act 1967 or any other Act; and

(e) The functions, duties, and powers in relation to civil defence of a regional council under the Civil Defence Act 1963 or any other Act; and

(f) The functions, duties, and powers of a harbour board under the Harbours Act 1950 and the Marine Pollution Act 1974 or any other Act; and

(g) The functions, duties, and powers of a pest destruction board under the Agricultural Pests Destruction Act 1967 or any other Act; and

(h) The functions, duties, and powers of a district noxious plants authority under the Noxious Plants Act 1978 or any other Act.

(2) For the purposes of paragraphs (a) to (e) of subclause (1) of this clause, that area of territorial sea delineated on S.O. plan 8379 deposited with the Chief Surveyor of the Gisborne Land District, shall be included within the jurisdiction of the Gisborne District Council.

(3) Subject to the provisions of this order, any Act, whether expressly referred to in this clause or not, shall apply, according to its tenor, to the Gisborne District and the Gisborne District Council as if the district was a region and the district council was a regional council.

13 RURAL SERVICES COMMITTEE

(1) The Gisborne District Council shall, at least until the 1st day of November 1995, establish and maintain a Rural Services Committee.

(2) The Rural Services Committee shall be responsible for:

(a) Agricultural pests destruction; and

(b) Noxious plants control; and

(c) Any other functions considered by the Gisborne District Council to be of particular concern to the rural community.

(3) The persons appointed by the Gisborne District Council to the Rural Services Committee established under this clause shall include not less than 2 persons:

(a) Who are not members of that Council; but

(b) Who, in the opinion of the Council, have knowledge that will assist the work of the Committee.

14 JOINT COMMITTEE

The Gisborne District Council shall, until the 1st day of November 1995, unite with the Hawke’s Bay Regional Council and the Bay of Plenty Regional Council in appointing a joint committee, comprising an equal number of representatives of the Gisborne District Council and those Regional Councils, for the purposes of:

(a) Co-ordinating planning for the control of those agricultural pests and noxious plants of particular concern in relation to the Gisborne District, the Hawke’s Bay Region and the Bay of Plenty Region; and

(b) Co-ordinating the performance of the functions, duties, and powers of a catchment board and a regional water board in respect of those areas of the Gisborne District not wholly within a water catchment; and

(c) Co-ordinating action on such other matters as the Councils jointly decide.

15 REGIONAL LAND TRANSPORT COMMITTEE

(1) The Gisborne District Council shall establish and maintain a Regional Land Transport Committee.

(2) The Regional Land Transport Committee shall be responsible for:

(a) Regional roading under Part XXII of the Local Government Act 1974; and

(b) Such transport or other roading responsibilities as may from time to time, pursuant to any Act, become a function of a regional council; and

(c) Such other functions as the Gisborne District Council considers appropriate.

16 HARBOUR COMMITTEE

(1) The Gisborne District Council shall, at least until the 1st day of November 1995, establish and maintain a Gisborne Harbour Committee.

(2) The Gisborne Harbour Committee shall be responsible for:

(a) Navigation and safety within those areas within harbour limits for which the Gisborne District Council is from time to time responsible; and

(b) Any other matter associated with the regulation of those areas other than maritime planning; and

(c) Such other functions as that Council considers appropriate.

(3) The persons appointed by the Gisborne District Council to the Gisborne Harbour Committee established under this clause shall include not less than 2 persons:

(a) Who are not members of that council; but

(b) Who, in the opinion of the Council, have knowledge that will assist the work of that Committee.

17 ADMINISTRATION HEADQUARTERS

The administration headquarters of the Gisborne District Council shall be located in Gisborne.

18 SERVICE DELIVERY CENTRES

The Gisborne District Council shall, at least until the 1st day of November 1995, establish and maintain a service delivery centre in:

(a) Te Karaka; and

(b) Te Puna Springs,

in accordance with the provisions of the Second Schedule to this order.

19 RATING

(1) The system of rating in the Gisborne District shall be the land value system.
(2) Until the Valuer-General is able to produce a valuation roll for the Gisborne District, Part XIV of the Rating Powers Act 1988 shall apply as if the Gisborne District was the district of a special purpose authority and the areas from which it was formed were constituent districts.

(3) The Gisborne District Council shall exercise within the Gisborne District or any part thereof—

(a) Any rating powers possessed by any former territorial authority; and

(b) Any rating powers possessed by any former authority other than a former territorial authority; and

(c) Any powers to make and levy assessments relating to the functions and powers possessed by any former authority.

20 REGIONAL PLANNING

(1) The Gisborne District Council shall not be required to prepare a new regional planning scheme immediately.

(2) The approved regional planning scheme and the proposed regional planning scheme under the Town and Country Planning Act 1977 of the East Cape United Council shall be deemed to be the approved, or as the case may be the proposed, regional planning scheme of the Gisborne District.

(3) If the East Cape United Council had, prior to its dissolution, begun the preparation of any review of its regional planning scheme or of any change or variation thereof, then subject to any resolution of the Gisborne District Council to the contrary, all such preparation shall be deemed to have been done by, or on behalf of, the Gisborne District Council, and may be adopted and acted upon by it.

21 TOWN AND COUNTRY PLANNING

(1) The Gisborne District Council shall not be required to prepare a new district scheme, immediately, for the Gisborne District.

(2) The operative district schemes and the proposed district schemes under the Town and Country Planning Act 1977 of the former authorities shall be deemed to be the operative district scheme, or as the case may be, the proposed district scheme, of the Gisborne District.

(3) Where any former authority had, prior to its dissolution, begun the preparation of any review of its district scheme or of any change or variation thereof, then, subject to any resolution of the Gisborne District Council to the contrary, all such preparation shall be deemed to have been done by, or on behalf of, the Gisborne District Council and may be adopted and acted upon by it.

(4) Where before the coming into force of this clause any application had been made to any former authority by any person pursuant to any provision of the Town and Country Planning Act 1977:

(a) No hearing by that former authority or any committee thereof had begun of such application or any objection thereto, the application shall be deemed to have been made to the Gisborne District Council and shall be dealt with by it according to

(b) Such application had been heard or otherwise disposed of by that former authority and either the time for any appeal against such decision had not expired or notice of appeal had been given, any such appeal shall be deemed to be against the Gisborne District Council; or

(c) Such application had been either partly or fully heard or considered by the former authority but no decision thereon had been given, the application shall be heard or considered again by the Gisborne District Council or, as the case may require, a committee or delegate thereof.

22 CIVIL DEFENCE

The operative regional civil defence plan of the former East Cape Region and the operative local civil defence plans for the districts of the former authorities shall continue in force in the respective parts of the Gisborne District until a new regional civil defence plan and local civil defence plan is approved for the Gisborne District, in accordance with the Civil Defence Act 1983.

23 VESTING OF PROPERTY

(1) All property, real and personal, vested in the corporations of the former authorities and situated in the Gisborne District is hereby vested in the corporation of the Gisborne District Council, subject to all existing encumbrances.

(2) All property, real and personal, vested in the corporation of a former authority, and situated in a district in which that former authority is not also a former authority, is hereby vested in the corporation of the Gisborne District Council, subject to all existing encumbrances.

24 TITLE TO PROPERTY

Any reference, express or implied, to any former authority in any instrument or other document, or in any entry or record made in any register in relation to any property vested in the Gisborne District Council by clause 23 of this order shall, unless the context otherwise requires, be read as a reference to "The Gisborne District Council".

25 TRANSITIONAL COMMITTEE

(1) The local authorities named in subclause (2) of this clause shall unite in appointing a transitional committee for the Gisborne District.

(2) The local authorities to which this clause applies shall be:

(a) The Waiapu County Council; and

(b) The Walkohu County Council; and

(c) The Cook County Council; and

(d) The Gisborne City Council; and

(e) The East Cape Catchment Board and Regional Water Board; and

(f) The East Cape Pest Destruction Board; and

(g) The Gisborne Harbour Board.

26 MEMBERSHIP OF THE TRANSITIONAL COMMITTEE

The transitional committee for the Gisborne District shall consist of:

(a) One member appointed by the Waiapu County Council; and

(b) One member appointed by the Waiapu County Council; and

(c) Two members appointed by the Cook County Council; and

(d) Three members appointed by the Gisborne City Council; and

(e) One member appointed by the East Cape Catchment Board and Regional Water Board; and

(f) One member appointed by the East Cape Pest Destruction Board; and

(g) One member appointed by the Gisborne Harbour Board; and

(h) One officer appointed by each local authority, named in clause 25(2) of this order, each of whom shall be a non-voting member of the transitional committee; and

(i) The Chief Executive designate, when appointed in accordance with clause 29 of this order, who shall be a non-voting member of the transitional committee; and

(j) One member appointed by the New Zealand Council of Trade Unions, being an employee of a local authority named in clause 25(2) of this order, who shall be a non-voting member of the transitional committee.
27 NO CASTING VOTE
The Chairperson of the transitional committee for the Gisborne District or other person presiding at any meeting of the committee shall not have a casting vote in the case of equality of votes.

28 EXCLUSION OF NON-VOTING MEMBERS
The transitional committee for the Gisborne District may resolve to exclude any non-voting member of the committee from any meeting or part of a meeting where it proposes to consider any matter that affects that member personally.

29 OBLIGATION OF TRANSITIONAL COMMITTEE TO APPOINT CHIEF EXECUTIVE
The transitional committee for the Gisborne District shall appoint a person to be the Chief Executive of the Gisborne District Council.

30 PRINCIPAL LOCAL AUTHORITY
The principal local authority for the transitional committee for the Gisborne District shall be the Gisborne City Council.

31 COSTS OF TRANSITIONAL COMMITTEE
(1) The costs of the transitional committee for the Gisborne District (including the costs of providing administrative services to it) shall be borne and paid by the local authorities named in clause 25(2) of this order either:
   (a) in accordance with a formula agreed to by that committee; or
   (b) if there is no such agreement, in accordance with the following formula—
      The proportion of those costs to be borne and paid by each local authority shall equal the proportion that the gross revenue of the local authority for the year ended on the 31st day of March 1985 bears to the gross revenue of all the local authorities to which this clause applies for that year.
   
(2) For the purpose of this clause the gross revenue of a local authority shall be the gross revenue reasonably related to the area of a local authority which is to be included in the Gisborne District or any function of a local authority which is to be transferred to the Gisborne District Council, whichever is applicable.

32 CONSULTATION WITH ADMINISTERING AUTHORITIES OF RESERVES
(1) The transitional committee for the Gisborne District shall consult with each administering body under the Reserves Act 1977 for each reserve whose functions, duties, and powers are, by this order, allocated to the Gisborne District Council.
   (2) The consultation shall be for the purpose of discussing the possible establishment of a committee of management for each reserve being administered by those administering authorities.
   (3) Where, following that consultation, the transitional committee for the Gisborne District Council considers it desirable that any committee or committees of management be established, the transitional committee shall recommend to the Gisborne District Council that it establish such a committee or committees of management.

33 TRANSFER OF RESPONSIBILITIES
(1) Except as otherwise provided in this order, the Gisborne District Council shall, in respect of the Gisborne District—
   (a) have and may exercise and be responsible for all the powers, duties, acts of authority and functions which were previously exercised, or which could have been so exercised, by the former authorities had they not been dissolved; and
   (b) have and may exercise and be responsible for all liabilities, obligations, engagements and contracts which previously were, or which would have been, the responsibility of the former authorities had they not been dissolved; and
   (c) have and may exercise and be responsible for all actions, suits, and proceedings pending by or against, or which would have been the responsibility of, the former authorities had they not been dissolved: and
   (d) succeed to the bylaws which are in force in the districts of the former authorities. Until revoked or altered by the Gisborne District Council each such bylaw shall remain in force in the area to which it applied immediately before the constitution of the Gisborne District and every bylaw which cannot be restricted to that area shall be deemed inapplicable and revoked by the dissolution of the former authorities; and
   (e) succeed to all rates and levies, and other money payable to the former authorities, had they not been dissolved; and
   (f) succeed to the valuation rolls, and rate records in force in the districts of the former authorities. These shall remain in force in the Gisborne District until new rolls or records are made by the Gisborne District Council.
   (2) The Mayor of the Gisborne District shall have and may exercise the duties, powers, and functions of the Mayor and Chairmen of the former authorities.
   (3) The principal administrative officer of the Gisborne District Council shall have and may exercise the duties, powers, and functions of the principal administrative officers of the former authorities.

34 CREDITORS
Subject to section 37F of the Local Government Act 1974, the rights or interests of creditors of the former authorities shall not be affected by this order.

35 LOCAL AUTHORITIES PETROLEUM TAX
For the purposes of Part XI of the Local Government Act 1974, the Gisborne District Council shall be the successor to the former authorities.

36 SPECIAL FUNDS
(1) The special funds of the former authorities shall:
   (a) be expended only for the purposes for which they were set aside; and
   (b) except for any plant renewal fund, be expended for the benefit of the area in which they originated, and after provision has been made for all liabilities, any money required to be paid into any such fund, to meet any deficit, shall be found from within that area.
   (2) After the 1st day of November 1996, the Gisborne District Council:
      (a) shall review any special fund provided for in subclause (1) of this clause; and
      (b) may resolve that, from a date to be determined by that council, such special fund may be applied for such other purpose or purposes as the council considers appropriate.
   (3) Notwithstanding subclause (2) of this clause, the Gisborne District Council may at any time before the 1st day of November 1996, with the approval of the Local Government Commission, resolve to vary the use of any special funds.
   (4) All funds held by the administering authorities of reserves under the Reserves Act 1977 shall be deemed to be special funds for the purposes of this clause.

37 LOANS
Any rate made and levied to meet the annual charges in respect of any loan secured over the district of any of the former authorities shall continue to be made and levied on the same basis as applied before the 1st day of November 1989.
Provided that the Gisborne District Council may at any time before the 1st day of November 1996 review the basis upon which any such rate is made and levied and may, with the approval of the Local Government Commission, resolve to vary such basis.
38 ASSETS AND LIABILITIES
The provisions of section 60 of the Local Government Amendment Act (No 2) 1989 shall apply in relation to the apportionment of the assets and liabilities of the former authorities, as defined in clause 5 of this order, as if this order did not make provision for the apportionment of those assets and liabilities.

39 LOAN LIABILITIES
Subject to section 37F(2) of the Local Government Act 1974, all loan liabilities existing immediately before the 1st day of November 1989, shall continue to be secured against the areas over which they were secured at that date.

40 RESIDUAL AUTHORITIES
In the case of the East Cape Catchment Board and Regional Water Board, the East Cape United Council and the East Coast Pest Destruction Board, the local authority that shall be responsible for—

(a) The preparation of the annual financial statement for that former authority for the financial year commencing on the 1st day of April 1989 and for any earlier financial years for which an annual financial statement has not been prepared; and

(b) The documents (as defined in section 248 of the Local Government Act 1974) and local archives (as so defined) of that former authority, other than those documents or local archives relating to a specified area or functions, shall be the Gisborne District Council as a residual authority in relation to those former authorities.

41 CONDUCT OF AFFAIRS
The provisions of section 223C of the Local Government Act 1974 relating to the conduct of affairs of local authorities and community boards applies to the local authorities and community boards constituted by this order.

SCHEDULES
First Schedule

PART I

Local Authorities Dissolved and Districts Abolished

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<td>East Coast Pest Destruction Board</td>
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PART II

Local Authorities Dissolved

Cook District Noxious Plants Authority
Waikohu District Noxious Plants Authority
Waipaoa District Noxious Plants Authority
East Coast District Noxious Plants Authority
Hatori A Rangi Recreation Reserve Board
Waipola Bay Recreation Reserve Board
Paiiwhai Recreation Reserve Board

Second Schedule

Service Delivery Centres
A service delivery centre shall provide services not less than those required for:

(a) the payment of money due to the council; and
(b) the provision of information relating to rates and other accounts due to the council; and
(c) the provision of information relating to the district planning scheme, bylaws or information otherwise necessary for the preparation of town planning applications, and permit applications; and
(d) the provision of information relating to community development and recreation; and
(e) the making of rates rebates applications; and
(f) the making of applications for housing accommodation; and
(g) the registration of dogs; and
(h) such other purposes as the council considers appropriate.

C. J. HILL, Acting for Clerk of the Executive Council.

(L.A. 104-183)