



New South Wales

Local Government Amendment (No Forced Amalgamations) Bill 2003

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to require the Local Government Boundaries Commission to poll the residents and ratepayers affected by a proposed amalgamation of two or more local government areas, or by a substantial change to the boundaries of a local government area, so as to ascertain their attitude to the proposal.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Local Government Act 1993* set out in Schedule 1.

Schedule 1 Amendments

At present, any proposal to amalgamate two or more local government areas into one or more new areas, or to alter the boundaries of one or more areas, must be referred by the Minister for examination and report to the Boundaries Commission or to the Director-General. It is only if the proposal concerns amalgamation that the Boundaries Commission or the Director-General is required to seek the views of electors of each of the areas by means of advertised public meeting or formal poll. (See current section 218F of the *Local Government Act 1993*).

The amendments made by Schedule 1 will require all proposals for the amalgamation of two or more areas, or that involve a substantial alteration to a boundary of an area, to be referred to the Boundaries Commission. (See proposed section 218F (1A)). The term ***substantial alteration*** to a boundary of an area is defined to mean an alteration the net effect of which is to increase or reduce the physical size of the area concerned by 10% or more or that is part of a redistribution of boundaries throughout the State. (See the proposed amendment to the Dictionary).

The Boundaries Commission will be required to conduct a public hearing in relation to each such proposed amalgamation or substantial boundary alteration and to have regard to the matters raised at that public hearing. (See proposed section 265A).

The Boundaries Commission will also be required to conduct a postal ballot in relation to each such proposed amalgamation or substantial boundary alteration (although the Boundaries Commission may request the Electoral Commissioner to conduct the postal ballot). (See proposed section 265B).

The people who may vote at the postal ballot are the same as the people who may vote at local council elections, namely, residents, owners of rateable land, occupiers of rateable land and ratepaying lessees of rateable land. (See proposed section 265C).

The electors in a postal ballot conducted under proposed section 265B will be taken to be in favour of the proposal the subject of the postal ballot if a majority of the formal votes cast in each area to which the proposal relates is in favour of the proposal. In any other case, the electors are taken to have rejected the proposal. (See proposed section 265D (1)).

Once a postal ballot is determined, the Boundaries Commission is required to cause notice of the result of the postal ballot to be published in a newspaper circulating in the area to which the proposal the subject of the postal ballot relates. (See proposed section 265D (2)).

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The Boundaries Commission is required to have regard to the result of the public hearing and the postal ballot in the report that it is required to prepare for the Minister. The report of the Boundaries Commission must contain an analysis of the public hearing and, if the recommendation of the report is contrary to any general consensus reached at the public hearing, must contain a detailed explanation as to why the Boundaries Commission does not endorse that general consensus. (See proposed section 265A (4)). The report must also contain an analysis of the postal ballot (specifying the result of the postal ballot). If the recommendation of the report is contrary to the result of the postal ballot, the report must contain a detailed explanation as to why the Boundaries Commission does not endorse the result of the postal ballot. (See proposed section 265D (3)).

The proposed amendments do not apply to boundary changes or amalgamations that are in progress. (See proposed amendment to Schedule 8).

Introduced by Mr A R G Fraser, MP

First print



New South Wales

Local Government Amendment (No Forced Amalgamations) Bill 2003

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New South Wales

Local Government Amendment (No Forced Amalgamations) Bill 2003

No , 2003

A Bill for

An Act to amend the *Local Government Act 1993* to ensure that the attitude of residents and ratepayers of a local government area to any proposal to make a substantial alteration to the boundary of the area, or to amalgamate the area with any other area, is ascertained before any recommendation to proceed with the proposal is made; and for related purposes.

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| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>Local Government Amendment (No Forced Amalgamations) Act 2003</i> . | 3 4 |
| 2 Commencement | 5 |
| This Act commences on the date of assent. | 6 |
| 3 Amendment of Local Government Act 1993 No 30 | 7 |
| The <i>Local Government Act 1993</i> is amended as set out in Schedule 1. | 8 9 |

Schedule 1 Amendments

(Section 3)

[1] Section 218F Referral of proposal for examination and report

Insert after section 218F (1):

(1A) However, the Minister must refer the proposal to the Boundaries Commission if the proposal:

- (a) is for the amalgamation of two or more areas, or
- (b) involves a substantial alteration to a boundary.

[2] Section 218F (3)–(5)

Omit the subsections.

[3] Section 218F (6)

Omit “, or that is an amalgamation proposal (as defined in section 218G),”.

[4] Section 263 Functions of Boundaries Commission

Omit section 263 (1). Insert instead:

(1) The Boundaries Commission is required:

- (a) to examine and report on any matter with respect to the boundaries of areas and the areas of operation of county councils that is referred to it by the Minister under section 218F (1), and
- (b) to review and comment on any report furnished to it by the Director-General under section 218F (6).

[5] Section 263 (2A)

Omit the subsection. Insert instead:

(2A) Despite subsection (2), the Boundaries Commission:

- (a) must conduct a public hearing when required to do so under section 265A, and
- (b) must conduct a postal ballot, or cause a postal ballot to be conducted, when required to do so under section 265B.

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| [6] Section 265 Boundaries Commission may conduct survey or poll | 1 |
| Insert after section 265 (3): | 2 |
| (4) This section is subject to section 265B. | 3 |
| [7] Sections 265A–265D | 4 |
| Insert after section 265: | 5 |
| 265A Public hearing required in relation to proposed amalgamation or substantial boundary alteration | 6 7 |
| (1) The Boundaries Commission must ascertain by means of a public hearing the attitude of the residents and ratepayers of the area or areas concerned in relation to the following: | 8 9 10 |
| (a) a proposal for a substantial alteration of any one or more boundaries of any area, | 11 12 |
| (b) a proposal to amalgamate two or more areas. | 13 |
| (2) The public hearing is to be advertised and conducted in such manner as is determined by the Boundaries Commission, subject to this Act and the regulations. | 14 15 16 |
| (3) The Boundaries Commission must consider the matters raised at the public hearing before making any decision with respect to the matter to which it relates. | 17 18 19 |
| (4) The report of the Boundaries Commission under section 263 (1) must contain an analysis of the public hearing (specifying any general consensus reached at the public hearing and the main arguments put at the public hearing) and, if the recommendation of the report is contrary to any general consensus reached at the public hearing, must contain a detailed explanation as to why the Boundaries Commission does not endorse that general consensus. | 20 21 22 23 24 25 26 27 |
| 265B Postal ballot required in relation to proposed amalgamation or substantial boundary alteration | 28 29 |
| (1) The Boundaries Commission must ascertain by means of a postal ballot the attitude of the residents and ratepayers of the area or areas concerned in relation to the following: | 30 31 32 |
| (a) a proposal for a substantial alteration of any one or more boundaries of any area, | 33 34 |
| (b) a proposal to amalgamate two or more areas. | 35 |

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| (2) | The postal ballot is to be completed within 3 months after the date on which the relevant proposal is referred to the Boundaries Commission under section 218F. | 1 2 3 |
| (3) | The postal ballot is to be conducted in accordance with the regulations. | 4 5 |
| (4) | The Electoral Commissioner is to conduct the postal ballot required by this section if the Boundaries Commission requests the Electoral Commissioner to do so. | 6 7 8 |
| (5) | Expenses incurred by the Electoral Commissioner in connection with the postal ballot are to be met by the Boundaries Commission and are recoverable from the Boundaries Commission as a debt owed to the Electoral Commissioner as the holder of that office. | 9 10 11 12 13 |
| 265C | Roll of residents and ratepayers for purposes of postal ballot | 14 |
| (1) | Part 1 (Who may vote?) of Chapter 10 applies in respect of a postal ballot required by section 265B in the same way as it applies in respect of an election of councillors for a ward. | 15 16 17 |
| (2) | For that purpose, references to the relevant date in sections 269 and 271 are taken to be references to the closing date of the postal ballot. | 18 19 20 |
| 265D | Determination and effect of postal ballot | 21 |
| (1) | The electors in a postal ballot conducted under section 265B are taken to be in favour of the proposal the subject of the postal ballot if a majority of the formal votes cast in each area to which the proposal relates is in favour of the proposal. In any other case, the electors are taken to have rejected the proposal. | 22 23 24 25 26 27 |
| (2) | The Boundaries Commission must, as soon as practicable after the postal ballot is determined, cause notice of the result of the postal ballot to be published in a newspaper circulating in the area to which the proposal the subject of the postal ballot relates. | 28 29 30 31 32 |

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| (3) | The report of the Boundaries Commission under section 263 (1) must contain an analysis of the postal ballot (specifying the result of the postal ballot) and, if the recommendation of the report is contrary to the result of the postal ballot, must contain a detailed explanation as to why the Boundaries Commission does not endorse that result. | 1 2 3 4 5 6 |
| [8] | Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts | 7 8 |
| | Insert at the end of clause 1 (1): | 9 |
| | <i>Local Government Amendment (No Forced Amalgamations) Act 2003</i> | 10 11 |
| [9] | Schedule 8 | 12 |
| | Insert at the end of the Schedule with appropriate Part and clause numbers: | 13 |
| Part | Provisions consequent on enactment of Local Government Amendment (No Forced Amalgamations) Act 2003 | 14 15 16 |
| | Amending Act not to apply in respect of existing proposals for boundary change or amalgamation | 17 18 |
| | A proposal: | 19 |
| | (a) that was made under section 218E before the date of assent to the <i>Local Government Amendment (No Forced Amalgamations) Act 2003</i> (the amending Act), and | 20 21 22 23 |
| | (b) in respect of which, as at that date, the Minister has neither made a recommendation to the Governor nor declined to make a recommendation to the Governor, | 24 25 26 |
| | is to be dealt with under this Act as in force immediately before the date of assent to the amending Act. | 27 28 |

[10] Dictionary

Insert in alphabetical order:

substantial alteration to a boundary of an area means an alteration:

- (a) the net effect of which is to increase or reduce the physical size of the area concerned by 10% or more, or
- (b) that is part of a redistribution of boundaries throughout the State.

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