

Local Government Amendment (Amalgamations and Boundary Changes) Bill 1999

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Local Government Act 1993* so as:

- (a) to facilitate the amalgamation of local government areas and the alteration of local government area boundaries, and
- (b) to make provision with respect to minor, consequential and ancillary matters, and
- (c) to enact provisions of a savings or transitional nature.

The Bill also makes minor amendments to the *Environmental Planning and Assessment Act 1979* as a consequence of the re-allocation to the Minister administering that Act of responsibility for the supervision of the work and activities of accredited certifiers under that Act.

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 a day or days to be appointed by proclamation.

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

Clause 4 is a formal provision giving effect to the amendments to the *Environmental Planning and Assessment Act 1979* set out in Schedule 2.

Amalgamation of local government areas and alteration of local government boundaries

The amalgamation of local government areas and the alteration of local government boundaries are currently dealt with in Divisions 1 and 2 of Part 1 of Chapter 9 of the principal Act. Amalgamations are not dealt with expressly, but are achievable by a two-step process of dissolving existing areas (under section 212) and constituting new areas (under section 204). The first step of the process involves a public inquiry (section 212 (2)). The second step of the process involves the making of a proposal (section 215), public consultation (sections 216 and 217) and examination and report by the Boundaries Commission or the Director-General of the Department of Local Government (section 218). The amendments made by the proposed Act aim to simplify these procedures.

The proposed Act inserts Divisions 2A, 2B and 2C into Part 1 of Chapter 9 of the principal Act (**Schedule 1 [8]**) and makes consequential amendments to Divisions 1 and 2 of that Part (**Schedule 1 [1], [2], [5] and [6]**).

Proposed Division 2A enables the Governor to make a proclamation that amalgamates two or more local government areas (**proposed section 218A**) or that alters the boundaries of one or more local government areas (**proposed section 218B**). Such a proclamation may contain such provisions as are necessary or convenient to give effect to the proclamation (**proposed section 218C**). The effect of an amalgamation proclamation will be to dissolve two or more former areas and to constitute one or more new areas. Unless the proclamation provides otherwise, the councillors of the former areas will cease to hold office and not become councillors of the new area or areas.

Proposed Division 2B sets out the procedures to be followed in relation to the amalgamation of local government areas or the alteration of local government area boundaries. These provisions are mandatory (**proposed section 218D**). A proposal for amalgamation or boundary alteration may be made by the Minister, by one or more councils or by an appropriate minimum number of electors (**proposed section 218E**). The proposal must then be referred to the Boundaries Commission or the Director-General of the Department of Local Government for examination and report before a decision is made as to whether the proposal should be implemented (**proposed section 218F**), a reference to the Boundaries Commission being mandatory (either for initial examination and report or for review and comment of a Director-General's report) in the case of a proposal that is not supported by one or more of the councils affected by it.

Proposed Division 2C permits the Minister to postpone ordinary council elections and by-elections while an amalgamation proposal is being formulated prior to submission to the Minister or while it is being examined after having been submitted. Certain expressions are defined for the purposes of the proposed Division (**proposed section 218G**). Postponement of elections is provided for in relation to councils affected by proposals that they have resolved to formulate (**proposed section 218H**), the latest date to which elections are to be capable of being postponed being the end of the calendar year following that in which the postponement is Gazetted. An order of postponement under proposed section 218H can be revoked, and an election day appointed, in circumstances in which work in connection with the proposal is no longer being carried out or where the proposal is abandoned (**proposed section 218I**). Postponement of elections is provided for in relation to councils affected by proposals that they have submitted to the Minister (**proposed section 218J**), the latest date to which elections are to be capable of being postponed being the end of the calendar year following that in which the postponement (or any prior postponement under proposed section 218H) is Gazetted. An order of postponement under proposed section 218J can be revoked, and an election day appointed, where it is decided that the proposal not be implemented (**proposed section 218K**).

Minor, consequential and ancillary amendments

Schedule 1 [3] and **[4]** amend section 213 of the principal Act so as to allow a proclamation that constitutes or dissolves a local government area to make provision with respect to any county council whose area of operations coincides with the area being constituted or dissolved.

Schedule 1 [7] amends section 218 of the principal Act so as to clarify the meaning of subsection (2).

Schedule 1 [9] amends section 263 of the principal Act so as to allow the Minister administering that Act to direct the holding of an inquiry under that section and, where the inquiry relates to an amalgamation proposal that is not supported by one or more of the councils affected by it, to require such a direction to be given.

Schedule 1 [10] amends section 387 of the principal Act so as to require the name of each council whose area lies within a proposed county council's area of operations to be specified in

the proclamation by which the county council is constituted.

Schedule 1 [11] amends section 397 of the principal Act so as to allow a proclamation under section 387 of the principal Act to be amended to vary the number of persons to be elected to a county council's governing body.

Schedule 1 [12] amends section 400 of the principal Act as a consequence of the amendments proposed by Schedule 1 [8].

Schedule 1 [13] and **[14]** amend section 429 of the principal Act so as to enable councils to be required to furnish information relevant to any inquiry being held into a proposed amalgamation of local government areas or alteration in local government boundaries.

Schedule 1 [15] and **[16]** amend sections 498 and 499 of the principal Act so as to allow the Minister to approve differential ad valorem amounts and base amounts (the components of an ordinary rate) where different parcels of land have land values determined by reference to different base dates. The desirability of differential amounts can arise as a result of an amalgamation of local government areas or alteration in local government boundaries.

Savings and transitional provisions

Schedule 1 [17] amends clause 1 of Schedule 8 to the principal Act so as to allow savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [18] inserts proposed Part 14 into Schedule 8 to the principal Act. The new Part (which comprises proposed clause 49) allows action that has been commenced under Division 2 of Part 1 of Chapter 9 of the principal Act to be continued and completed as if the proposed Act had not been enacted, and allows a proclamation to be made under proposed section 218B as a consequence of any such action as if it had been taken under proposed Division 2B of that Part.

Amendment of Environmental Planning and Assessment Act 1979

Schedule 2 [1] amends section 109T of the principal Act by way of statute law revision.

Schedule 2 [2] and **[3]** amend section 109U of the principal Act as a consequence of the reallocation to the Minister administering that Act of responsibility for the supervision of the work and activities of accredited certifiers under that Act.