

LEGISLATIVE COUNCIL

Local Government Amendment (Amalgamation Referendums) Bill 2017

First print

Proposed amendment

No. 1 **Referendum required before any new amalgamation**

Page 3, Schedule 1. Insert after line 1:

[1] **Chapter 9 How are councils established?**

Omit Division 2B of Part 1. Insert instead:

**Division 2B Procedure (including referendum) required before areas amalgamated**

**Note.** This Division sets out the procedure required to be followed before one or more areas can be amalgamated.

**218D Exercise of functions under sec 218A**

One or more areas may be amalgamated under section 218A only if a proposal for the amalgamation is dealt with under this Division.

**218E Proposal may be initiated by Minister, council or electors**

- (1) An amalgamation proposal may be made by the Minister or it may be made to the Minister by a council affected by the proposal or by an appropriate minimum number of electors.
- (2) An *appropriate minimum number of electors* is:
  - (a) if a proposal applies to the whole of one or more areas, 250 of the enrolled electors for each area or 10 per cent of them, whichever is the greater, or
  - (b) if a proposal applies to part only of one or more areas, 250 of the enrolled electors for that part or 10 per cent of them, whichever is the lesser.

**218F Referral of proposal for examination and report**

- (1) On making or receiving an amalgamation proposal, the Minister must refer it for examination and report to the Boundaries Commission or to the Departmental Chief Executive.
- (2) Sections 263, 264 and 265 apply to the examination of an amalgamation proposal by the Departmental Chief Executive in the same way as they apply to the examination of a proposal by the Boundaries Commission.

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- (3) If an amalgamation proposal has been referred to the Departmental Chief Executive under this section:
    - (a) the Departmental Chief Executive must furnish the Departmental Chief Executive's report to the Boundaries Commission for review and comment, and
    - (b) the Boundaries Commission must review the report and send its comments to the Minister.

**218G Minister may recommend amalgamation to Governor**

- (1) The Minister may recommend to the Governor that the amalgamation proposal be implemented:
  - (a) with such modifications as arise out of:
    - (i) the Boundaries Commission's report, or
    - (ii) the Departmental Chief Executive's report (and, if applicable, the Boundaries Commission's comments on that report), and
  - (b) with such other modifications as the Minister determines, but may not do so if of the opinion that the modifications constitute a new proposal.
- (2) The Minister may decline to recommend to the Governor that the proposal be implemented.

**218H Minister may not recommend amalgamation unless approved by referendum**

- (1) The Minister may not recommend to the Governor that an amalgamation proposal be implemented unless:
  - (a) the Minister initiates a referendum to give effect to the amalgamation and any associated boundary alteration on specified terms (an *amalgamation referendum*), and
  - (b) the amalgamation referendum has approved the amalgamation in those terms.
- (2) Nothing in this section affects the operation of Schedule 10.

**218I Conduct of amalgamation referendum**

- (1) Part 1 and Part 6 (except Divisions 3 and 5) of Chapter 10 apply to an amalgamation referendum, with such modifications as may be necessary, in the same way as they apply to an election.

**Note.** Part 1 of Chapter 10 identifies the people who are entitled to vote in council elections, and Part 6 governs the conduct of those elections. Division 3 of Part 6 of that Chapter deals with nominations for election, Division 4 with failure to vote and Division 5 with miscellaneous matters such as irregularities of form or procedure in elections, overdue elections and those declared void.
- (2) The persons entitled to vote at such a referendum are the persons entitled to vote in an election of councillors for an area affected by the amalgamation proposal or any associated boundary alteration proposal.
- (3) An amalgamation referendum may be taken on any Saturday, including the Saturday of an ordinary election.
- (4) The question at an amalgamation referendum is carried if it is supported by a majority of the votes cast.
- (5) The reference to votes in subsection (4) does not include a reference to any vote that, pursuant to the regulations, is found to be informal.

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- (6) The decision made at an amalgamation referendum binds the Minister until changed or affected by a subsequent inconsistent decision by a subsequent amalgamation referendum.
  - (7) Expenses incurred by the general managers of the councils concerned, or by the Electoral Commissioner (including the remuneration of election officials) in connection with an amalgamation referendum are to be met by the councils concerned, in proportion to the number of electors in each council's area, and are recoverable from the councils in such proportions as a debt owed to the Electoral Commissioner.

## **Division 2C Procedure before boundaries can be altered**

**Note.** This Division sets out the procedure required to be followed before the boundaries of one or more areas can be altered. This Division reflects the procedure that applied to the alteration of boundaries before the commencement of the *Local Government Amendment (Amalgamation Referendums) Act 2017*.

### **218J Exercise of functions under sec 218B**

The boundaries of one or more areas may be altered under section 218B only if a proposal for the alteration is dealt with under this Division.

### **218K Proposal may be initiated by Minister, council or electors**

- (1) A proposal may be made by the Minister or it may be made to the Minister by a council affected by the proposal or by an appropriate minimum number of electors.
- (2) An appropriate minimum number of electors is:
  - (a) if a proposal applies to the whole of an area, 250 of the enrolled electors for each area or 10 per cent of them, whichever is the greater, or
  - (b) if a proposal applies to part only of an area, 250 of the enrolled electors for that part or 10 per cent of them, whichever is the lesser.

### **218L Referral of proposal for examination and report**

- (1) On making or receiving a proposal, the Minister must refer it for examination and report to the Boundaries Commission or to the Departmental Chief Executive.
- (2) Sections 263, 264 and 265 apply to the examination of a proposal by the Departmental Chief Executive in the same way as they apply to the examination of a proposal by the Boundaries Commission.
- (3) If a proposal that is not supported by one or more of the councils affected by it has been referred to the Departmental Chief Executive under subsection (1):
  - (a) the Departmental Chief Executive must furnish the Departmental Chief Executive's report to the Boundaries Commission for review and comment, and
  - (b) the Boundaries Commission must review the report and send its comments to the Minister.
- (4) The Minister may recommend to the Governor that the proposal be implemented:
  - (a) with such modifications as arise out of:
    - (i) the Boundaries Commission's report, or
    - (ii) the Departmental Chief Executive's report (and, if applicable, the Boundaries Commission's comments on that report), and

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(b) with such other modifications as the Minister determines, but may not do so if of the opinion that the modifications constitute a new proposal.

(5) The Minister may decline to recommend to the Governor that the proposal be implemented.

**[2] Section 354B Definitions**

Omit "section 218E" from paragraph (c) of the definition of *proposal* in section 354B (1).

Insert instead "section 218K"

**[3] Section 354B (1), definition of "proposal period"**

Omit "section 215 or 218E" from subparagraph (b) (i).

Insert instead "section 215, 218G or 218L".