

Our Ref: A899999

Ms Lynda Voltz MP
Member for Auburn
Chair, Legislation Review Committee
Level 1, 60 Elizabeth Street
SYDNEY NSW 2000

Via email: legislation.review@parliament.nsw.gov.au

Dear Ms Voltz,

Legislation Review Digest No. 10/58 – Local Government Amendment (De-amalgamations) Bill 2024

I refer to the Legislative Assembly's Sessional Order 188A, which requires a Minister in the Legislative Assembly with carriage of a bill to address any matters raised by the Legislative Review Committee during the course of debate, or to provide a response to the matters raised by correspondence to the Committee.

Accordingly, I refer to the comments of the Legislation Review Committee (Committee) in Legislation Review Digest No. 10/58 (Report) dated 12 March 2024, relating to the *Local Government Amendment (De-amalgamations) Bill 2024*.

In its Report, the Committee noted:

The Bill proposes to insert a further Part into Schedule 8 of the Local Government Act, which would retrospectively apply proposed section 218CD to de-amalgamation proposals made before the Bill commences as an Act. Clause (3) of this Part would provide a regulation-making power to address savings or transitional issues relating to existing de-amalgamation proposals, including making provisions in regulations that are inconsistent with the Act.

By allowing regulations to make operative provisions that are inconsistent with the Act, this clause may amount to a Henry VIII clause by allowing the Executive to alter the operation of the parent Act without reference to the Parliament. The Committee generally considers Henry VIII clauses to be an inappropriate delegation of legislative powers.

However, the Committee notes that any regulations made under this clause would have to be tabled in Parliament and therefore subject to disallowance under section 41 of the Interpretation Act 1987. It also acknowledges the regulation-making power is limited to transitional and savings provisions and are unlikely to impact personal rights and liberties. In the circumstances, the Committee makes no further comment.

I note that this power will apply in a limited number of circumstances and relates to matters of a savings and transitional nature only. It does not purport to enable the Executive to undermine the provisions of the *Local Government Act 1993*.

Further, as the Committee noted, "*any regulations made under this clause would have to be tabled in Parliament and therefore subject to disallowance under section 41 of the Interpretation Act 1987.*"

This is an appropriate safeguard, and there does not appear to be a need to limit the exercise of the power any further.

If you have any questions regarding the above, please contact my Chief of Staff, [REDACTED] or [REDACTED] or at [REDACTED]

Yours sincerely,



The Hon. Ron Hoenig MP
Leader of the House in the Legislative Assembly
Vice-President of the Executive Council
Minister for Local Government

24 MAY 2024