



New South Wales

# Local Government Amendment (Amalgamations and Boundary Changes) Act 1999 No 38

## Contents

---

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Local Government Act 1993 No 30	2
4 Amendment of Environmental Planning and Assessment Act 1979 No 203	2
<b>Schedules</b>	
1 Amendment of Local Government Act 1993	3
2 Amendment of Environmental Planning and Assessment Act 1979	15



New South Wales

## **Local Government Amendment (Amalgamations and Boundary Changes) Act 1999 No 38**

Act No 38, 1999

---

An Act to amend the *Local Government Act 1993* with respect to the amalgamation of local government areas and the variation of boundaries between local government areas; to amend the *Environmental Planning and Assessment Act 1979* as a consequence of certain administrative changes; and for other purposes.  
[Assented to 7 July 1999]

---

**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Local Government Amendment (Amalgamations and Boundary Changes) Act 1999*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Local Government Act 1993 No 30**

The *Local Government Act 1993* is amended as set out in Schedule 1.

**4 Amendment of Environmental Planning and Assessment Act 1979 No 203**

The *Environmental Planning and Assessment Act 1979* is amended as set out in Schedule 2.

---

## Schedule 1 Amendment of Local Government Act 1993

(Section 3)

**[1] Chapter 9, Part 1, Division 1, heading**

Omit “, altered”.

**[2] Section 209 Alteration of boundaries of areas**

Omit the section.

**[3] Section 213 Facilitating provisions of proclamations**

Insert at the end of section 213 (1):

- the inclusion or exclusion, as a constituent council of any related county council, of the council of any area constituted or dissolved by the proclamation.

**[4] Section 213 (3)**

Insert after section 213 (2):

- (3) In this section, *related county council*, in relation to an area constituted or dissolved by a proclamation of the Governor for the purposes of this Division, means a county council that has an area of operations that includes the whole or any part of the area so constituted or dissolved.

**[5] Chapter 9, Part 1, Division 2, heading**

Omit “or altered”.

**[6] Section 214 Exercise of functions under sec 204**

Omit “or 209”.

**[7] Section 218 Referral of proposal for examination and report**

Omit section 218 (2). Insert instead:

- (2) The Minister may recommend to the Governor that the proposal be implemented:
- (a) with such modifications as arise out of the Boundaries Commission's or Director-General's 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.

**[8] Chapter 9, Part 1, Divisions 2A, 2B and 2C**

Insert after section 218:

**Division 2A      How are areas amalgamated or their boundaries altered?**

**218A      Amalgamation of areas**

- (1) The Governor may, by proclamation, amalgamate two or more areas into one or more new areas.
- (2) On the date specified in the proclamation as the date on which the areas are to be amalgamated:
  - (a) the areas are dissolved, and
  - (b) the new area or new areas are constituted, and
  - (c) subject to section 218C, the councillors of the former areas cease to hold office.
- (3) Divisions 1 and 2 apply to a new area constituted by a proclamation under this section in the same way as they apply to an area constituted by a proclamation under section 204.
- (4) Section 212 (2) does not apply to the dissolution of a former area by a proclamation under this section.

**218B      Alteration of boundaries of areas**

The Governor may, by proclamation, alter the boundaries of one or more areas.

**218C Facilitating provisions of proclamations**

- (1) A proclamation of the Governor for the purposes of this Division may include provisions of the same kind as are referred to in section 213.
- (2) Such a proclamation may also include provisions for or with respect to:
  - (a) the appointment of administrators for any area constituted by the proclamation, and
  - (b) the continuation in office, as councillors of any area constituted by the proclamation, of any or all of the councillors of any area dissolved by the proclamation.
- (3) Section 224 (1) does not apply to any councillors who continue in office by virtue of such a proclamation.

**Division 2B What must be done before areas can be amalgamated or their boundaries altered?**

**218D Exercise of functions under secs 218A and 218B**

A function under section 218A or 218B may be exercised only after a proposal for the exercise of the function is dealt with under this Division.

**218E Who may initiate a proposal?**

- (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 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 an area, 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 a proposal, the Minister must refer it for examination and report to the Boundaries Commission or to the Director-General.
- (2) Sections 263, 264 and 265 apply to the examination of a proposal by the Director-General in the same way as they apply to the examination of a proposal by the Boundaries Commission.
- (3) For the purpose of examining a joint proposal of 2 or more councils for the amalgamation of two or more areas under section 218A, the Boundaries Commission or Director-General, as the case requires, must seek the views of electors of each of those areas:
  - (a) by means of:
    - (i) advertised public meetings, and
    - (ii) invitations for public submissions, and
    - (iii) postal surveys or opinion polls, in which reply-paid questionnaires are distributed to all electors, or
  - (b) by means of formal polls.
- (4) The period over which the views of electors are to be sought as referred to in subsection (3) must be a period of at least 40 days.
- (5) Part 3 of Chapter 4 applies to a formal poll taken by the Boundaries Commission or Director-General in the same way as it applies to a council poll referred to in that Part.
- (6) If a proposal that is not supported by one or more of the councils affected by it, or that is an amalgamation proposal (as defined in section 218G), has been referred to the Director-General under subsection (1):
  - (a) the Director-General must furnish the Director-General'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.

- 
- (7) 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 Director-General'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.
- (8) The Minister may decline to recommend to the Governor that the proposal be implemented.

## **Division 2C      How do proposals for the amalgamation of areas affect elections?**

### **218G      Definitions**

In this Division:

*amalgamation proposal* means a proposal referred to in section 218E for the amalgamation of two or more areas under section 218A.

*election requirements of this Act* means the requirements of Parts 4 and 5 of Chapter 10 with respect to the holding of an ordinary election referred to in section 287 or a by-election referred to in section 292.

### **218H      Postponement of elections while proposals being formulated**

- (1) The Minister may, by order published in the Gazette, postpone the election requirements of this Act in relation to two or more councils affected by an amalgamation proposal that two or more councils have resolved to formulate for the purposes of Division 2B.
- (2) An order under this section may not be made in respect of a council unless the council has resolved to seek the making of such an order.



- (3) The latest date to which the election requirements of this Act may be postponed by an order under this section is:
  - (a) the date occurring 12 months after the order is made, or
  - (b) if the postponement is extended by a further order under this section, 31 December in the calendar year following that in which the first such order was made.
- (4) A further order referred to in subsection (3) (b) may be made only if the Minister is satisfied that substantial progress has been made in the formulation of the proposal to which the earlier order relates.
- (5) On the making of an order under this section:
  - (a) the election requirements of this Act are suspended for the period specified in the order, and
  - (b) the retiring councillors continue in office (subject to this Act) until an election is held.
- (6) The suspension ceases to have effect if the order is revoked under section 218I.
- (7) If while an order under this section is in force a casual vacancy occurs in the office of a mayor elected by the electors, the casual vacancy is to be filled in accordance with the provisions of section 295 as if it were a casual vacancy in the office of a mayor elected by the councillors.

**218I Revocation of postponement granted under sec 218H**

- (1) The Minister may, by order published in the Gazette:
  - (a) revoke a former order that has been made in connection with an amalgamation proposal, and
  - (b) if:
    - (i) the day on which an election would (but for the former order) have been required to be held has passed, or
    - (ii) the day on which an election is required to be held will occur within 3 months after the day on which the order is made,appoint a day as the day on which the election is to be held.

- (2) Such an order may be made if the Minister is satisfied:
  - (a) that work in connection with the formulation of the proposal is no longer being carried out, or
  - (b) that the proposal has been abandoned.
- (3) The day appointed by the order as the day on which an election is to be held is to be a Saturday occurring not less than 3 months, and not more than 4 months, after the day on which the order is made.
- (4) On the making of an order under this section:
  - (a) the suspension by the former order of the election requirements of this Act is terminated, and
  - (b) an election is to be held in accordance with those requirements:
    - (i) on the day ascertained in accordance with those requirements, or
    - (ii) if the order appoints a different day, on the day so appointed.
- (5) In this section, *former order* means an order under section 218H.

**218J Postponement of elections after proposals made**

- (1) The Minister may, by order published in the Gazette, postpone the election requirements of this Act in relation to two or more councils affected by an amalgamation proposal that two or more councils have made to the Minister for the purposes of Division 2B.
- (2) An order under this section may not be made in respect of a council unless the council has resolved to seek the making of such an order.
- (3) The latest date to which the election requirements of this Act may be postponed by an order under this section is:
  - (a) 31 December in the calendar year following that in which the order is made, or
  - (b) if the proposal has been the subject of an order under section 218H, 31 December in the calendar year following that in which the first such order was made.

- (4) On the making of an order under this section:
  - (a) the election requirements of this Act are suspended, and
  - (b) the retiring councillors continue in office (subject to this Act) until an election is held.
- (5) The suspension ceases to have effect if the order is revoked under section 218K.
- (6) If while an order under this section is in force a casual vacancy occurs in the office of a mayor elected by the electors, the casual vacancy is to be filled in accordance with the provisions of section 295 as if it were a casual vacancy in the office of a mayor elected by the councillors.

**218K    Revocation of postponement granted under sec 218J**

- (1) The Minister may, by order published in the Gazette:
  - (a) revoke a former order that has been made in connection with an amalgamation proposal, and
  - (b) if:
    - (i) the day on which an election would (but for the former order) have been required to be held has passed, or
    - (ii) the day on which an election is required to be held will occur within 3 months after the day on which the order is made,appoint a day as the day on which the election is to be held.
- (2) Such an order may be made if the Minister has declined to recommend to the Governor that the proposal be implemented.
- (3) The day appointed by the order as the day on which an election is to be held is to be a Saturday occurring not less than 3 months, and not more than 4 months, after the day on which the order is made.
- (4) On the making of an order under this section:
  - (a) the suspension by the former order of the election requirements of this Act is terminated, and

- 
- (b) an election is to be held in accordance with those requirements:
    - (i) on the day ascertained in accordance with those requirements, or
    - (ii) if the order appoints a different day, on the day so appointed.

- (5) In this section, *former order* means an order under section 218J.

**[9] Section 263 Functions of the Boundaries Commission**

Omit section 263 (2). Insert instead:

- (2) For the purpose of exercising its functions, the Boundaries Commission:
  - (a) may hold an inquiry if the Minister so approves, and
  - (b) must hold an inquiry if the Minister so directs,but may not hold an inquiry otherwise than as referred to in paragraph (a) or (b).
- (2A) Despite subsection (2), the Boundaries Commission must hold an inquiry for the purpose of exercising its functions in relation to a proposal for the amalgamation of two or more areas that has been referred to it in accordance with section 218F.
- (2B) Reasonable public notice must be given of the holding of an inquiry under subsection (2).

**[10] Section 263 (3) (e1)–(e5)**

Insert after section 263 (3) (e):

- (e1) the impact of any relevant proposal on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities,
- (e2) the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned,
- (e3) the impact of any relevant proposal on rural communities in the areas concerned,

- (e4) in the case of a proposal for the amalgamation of two or more areas, the desirability (or otherwise) of dividing the resulting area or areas into wards,
- (e5) in the case of a proposal for the amalgamation of two or more areas, the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented,

**[11] Section 387 Formation of county councils**

Insert after section 387 (2) (b):

- (b1) the name of each council (referred to in this Part as a *constituent council*) whose area lies wholly or partly within the county council's area of operations,

**[12] Section 397 Amendment and dissolution of county councils**

Insert after section 397 (2) (c):

- (c1) may vary the number of persons to be elected by each constituent council to the county council's governing body, or

**[13] Section 400 Application of Act to county councils**

Omit "Divisions 1 and 2" from section 400 (1).

Insert instead "Divisions 1–2C".

**[14] Section 429 Minister or Director-General may require councils to provide information**

Omit "(including information concerning any auditor's report or any report provided to the council with respect to the council or its work and activities)" from section 429 (1).

**[15] Section 429 (3)**

Insert after section 429 (2):

- (3) The information that a council may be required to provide under this section includes:
  - (a) information concerning any auditor's report, and
  - (b) information concerning any other report provided to the council with respect to the council or its work and activities, and
  - (c) information as to any factors (of the kind referred to in section 263 (3)) that are relevant to a proposal referred to in Division 2 or 2B of Part 1 of Chapter 9.

**[16] Section 498 The ad valorem amount**

Insert after section 498 (2):

- (3) An ad valorem amount specified for a parcel of land may not differ from an ad valorem amount specified for any other parcel of land within the same category or subcategory unless:
  - (a) the land values of the parcels were last determined by reference to different base dates, and
  - (b) the Minister approves the different ad valorem amounts.

**[17] Section 499 The base amount**

Insert after section 499 (3):

- (4) A base amount specified for a parcel of land may not differ from a base amount specified for any other parcel of land within the same category or subcategory unless:
  - (a) the land values of the parcels were last determined by reference to different base dates, and
  - (b) the Minister approves the different base amounts.

**[18] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts**

Insert at the end of clause 1 (1):

*Local Government Amendment (Amalgamations and Boundary Changes) Act 1999*

**[19] Schedule 8, Part 14**

Insert after Part 13:

**Part 14 Provisions consequent on enactment of Local Government Amendment (Amalgamations and Boundary Changes) Act 1999**

**49 Proposals for boundary changes**

- (1) Any action that has been commenced before the commencement of this clause under Division 2 of Part 1 of Chapter 9, being action in relation to the alteration of the boundaries of one or more areas, may be continued and completed under that Division as if the amending Act had not been enacted.
- (2) A proclamation may be made under section 218B as a consequence of action referred to in subclause (1), whether taken before or after the commencement of this clause, as if that action had been taken under Division 2B of Part 1 of Chapter 9.
- (3) In this clause, *amending Act* means the *Local Government Amendment (Amalgamations and Boundary Changes) Act 1999*.

---

## Schedule 2 Amendment of Environmental Planning and Assessment Act 1979

(Section 4)

**[1] Section 109T Accreditation of accredited certifiers**

Omit “Director-General” wherever occurring in section 109T (5).  
Insert instead “Director”.

**[2] Section 109U Auditing of accredited certifiers**

Omit “The Director-General of the Department of Local Government  
(referred to in this section as the *Director-General*)” from section 109U (1).  
Insert instead “The Director”.

**[3] Section 109U (3) and (4)**

Omit “Director-General” wherever occurring.  
Insert instead “Director”.

[Minister's second reading speech made in—  
Legislative Assembly on 22 June 1999  
Legislative Council on 30 June 1999]