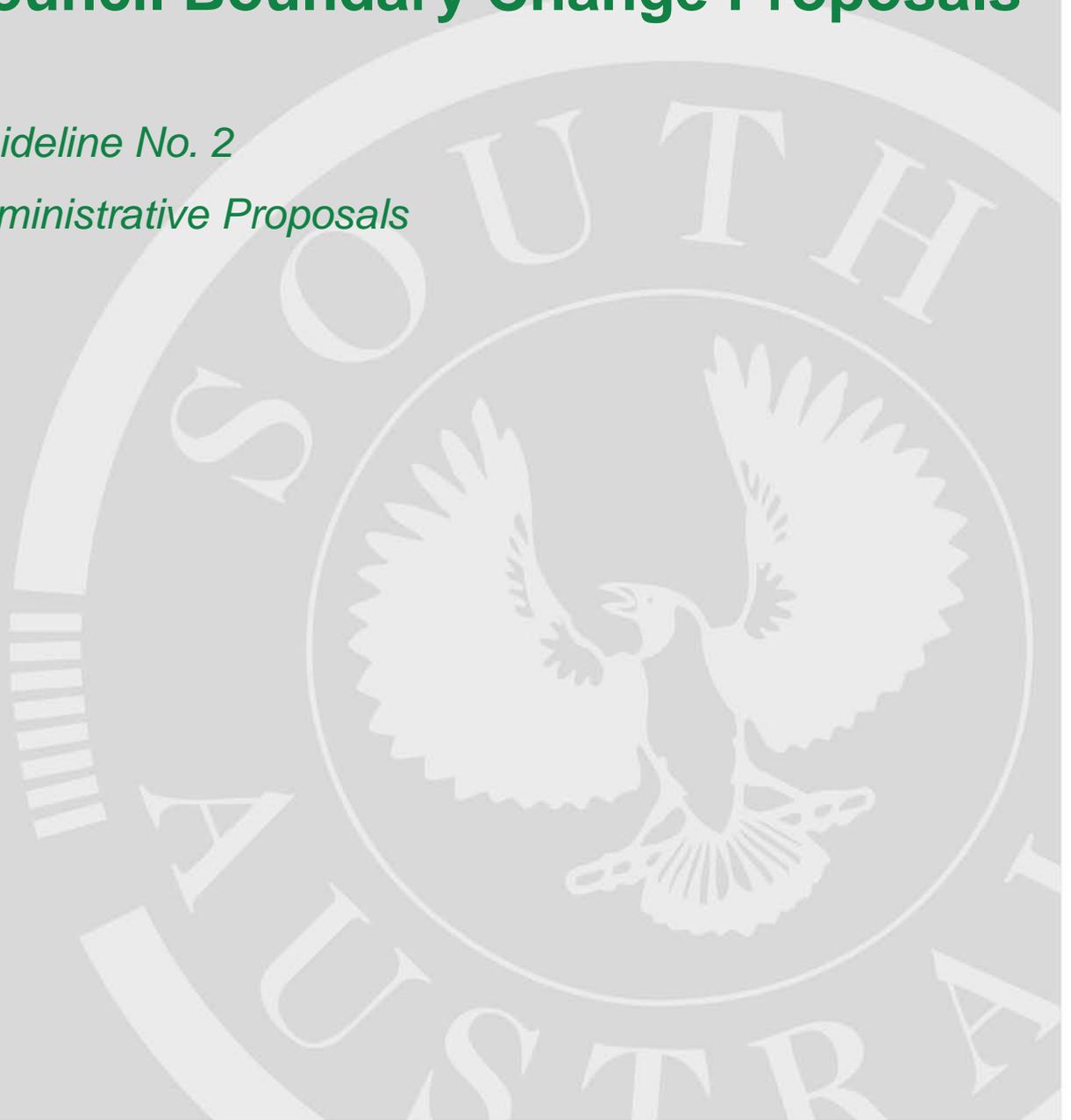


# Council Boundary Change Proposals

*Guideline No. 2*

*Administrative Proposals*



This Guideline should be read in conjunction with the procedures for boundary change proposals which are set out in Chapter 3, Part 2 of the *Local Government Act 1999* (the Act). The Act is accessible via the [South Australian Legislation website](#).

The Boundaries Commission (the Commission) is the body established to undertake the initial assessment of proposals, oversee investigations, and make recommendations to the Minister responsible for the Act (the Minister). This role is undertaken by the Local Government Grants Commission.

This Guideline has been issued by the Commission to provide information on administrative proposals, including the steps that need to be taken to prepare a submission, and how a submission is considered and progressed by the Commission.

### What is an administrative proposal?

Section 30 of the Act includes a simplified pathway for consideration of boundary change proposals that are minor administrative matters, including—

- to facilitate a development that has been granted an authorisation under the *Planning, Development and Infrastructure Act 2016*;
- to correct an anomaly that is, in the opinion of the Commission, generally recognised e.g. where the boundary intercepts one or more privately owned properties;
- where the common boundary of two or more councils requires adjustment following the physical realignment of a common road;
- a proposal to incorporate vacant unincorporated land into a council area; or
- any other matter prescribed in regulation.

With regard to the first matter, the Commission has no involvement in planning legislation processes. Development applications and authorisations are separate matters under the relevant planning legislation. In order for a proposal to be treated as an administrative proposal, it would need to be referred to the Commission following the conclusion of the development approval process.

### Who can submit an administrative proposal?

Proposals may be referred to the Commission—

- by resolution of either House of Parliament; or
- by the Minister; or
- by a council or councils; or
- by the prescribed percentage or number of eligible electors.

An **elector** is a person, body corporate or group of persons enrolled on the voters roll for a council (this means people who can vote in a council election because they live or own property in that council).

**Eligible electors** are defined in section 27(1) of the Act, however, in general terms, they are—

- In the case of a proposal to move an area of one council to another council: electors either in the area proposed to be moved or in the council that would receive the area.

- In the case of a proposal to move an area of the State not within a council area to a council area: an elector who would, if the proposal were to proceed, be an elector within the newly incorporated area.

Further information on the process for public initiated submissions is contained within Guideline 6.

## How to prepare a submission to the Commission

Proposals must set out in general terms the nature of the proposal and comply with the requirements of the proposal guidelines. The following matters must be included in a submission:

### 1. *An outline of the submission*

Provide a brief explanation of the submission

### 2. *A map*

Include a suitable map, showing the area in question.

### 3. *Grounds for making the submission*

A submission must set out in detail the grounds on which the submission is made and the issues that you think should be considered in an assessment of the change to boundaries.

### 4. *Any other relevant information*

This could include details on consultation undertaken on the proposal, or links to related processes (such as a development assessment process).

## What happens following a submission to the Commission?

The Commission will assess the proposal and determine whether it meets the requirements of the Act and guidelines.

The Commission may refuse to inquire into a proposal if the Commission considers that—

- The proposal is vexatious, frivolous or trivial; or
- If it is not in the public interest to inquire into the proposal; or
- The proposal is the same as or substantially similar to a proposal that has already been inquired into; or
- There is some other good reason to refuse to inquire into a proposal.

If the Commission determines to inquire into an administrative proposal, the Commission will conduct an inquiry as the Commission thinks fit, provided that a reasonable amount of consultation is conducted in accordance with any guidelines published by the Commission.

Due to the nature of administrative proposals and their likely impact on a relatively small number of ratepayers, the consultation requirements are not as detailed as those for more significant (general) proposals. The level of consultation undertaken by the Commission will depend on the nature of the proposal, the number and location of affected properties, and whether there has been previous consultation. The Commission will advise the initiator of the proposal and any council affected by the proposal of the process to be undertaken.

For example, if there is a very minor proposal, the Commission may decide not to consult with the community. This may involve proposals involving small numbers of ratepayers or where they have been consulted in other ways, or even referred the proposal themselves. Guideline 9 sets out the engagement and consultation requirements for boundary change proposals.

When considering any boundary change proposal the Commission must refer to the objects of the Act as a whole, and in particular, the Principles contained within section 26 of the Act (Attachment 1). The Commission is obliged to take these principles into consideration when making recommendations about boundary changes.

After conducting an inquiry into an administrative proposal, the Commission must consult with the Minister (including on any recommendations that the Commission proposes to make in relation to the proposal).

The Commission will then prepare and publish a report on the inquiry that includes the Commission's recommendations and provide a report to the Minister. If the Commission determines to recommend an administrative proposal, the proposal may involve such variations as the Commission thinks fit.

The Minister will then determine whether the proposal should proceed or not.

Following completion of an inquiry, the Commission must give public notice of the Minister's determination. The Commission must also notify the person or body who referred the proposal to the Commission, any council affected by the proposal, and any registered industrial association that represents the interests of employees of councils.

### **Contact Details:**

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**ATTACHMENT 1****26—Principles**

(1) The Commission should have regard to—

- The objects of the Act
- The roles, functions and objectives of councils under this Act; and
- The following principles:
  - The resources available to local communities should be used as economically as possible while recognising the desirability of avoiding significant divisions within a community;
  - Proposed changes should, wherever practicable, benefit ratepayers;
  - A council should have a sufficient resource base to fulfil its functions fairly, effectively and efficiently;
  - A council should offer its community a reasonable range of services delivered on an efficient, flexible, equitable and responsive basis;
  - A council should facilitate effective planning and development within an area, and be constituted with respect to an area that can be promoted on a coherent basis;
  - A council should be in a position to facilitate sustainable development, the protection of the environment and the integration of land use schemes
  - A council should reflect communities of interest of an economic, recreational, social, regional or other kind, and be consistent with community structures, values, expectations and aspirations
  - A council area should incorporate or promote an accessible centre (or centres) for local administration and services
  - The importance within the scheme of local government to ensure that local communities within large council areas can participate effectively in decisions about local matters
  - Residents should receive adequate and fair representation within the local government system, while over-representation in comparison with councils of a similar size and type should be avoided (at least in the longer term)
  - A scheme that provides for the performance of functions and delivery of services in relation to 2 or more councils (for example, a scheme for regional governance) may improve councils' capacity to deliver services on a regional basis and therefore offer a viable and appropriate alternative to structural change
- The extent and frequency of previous changes affecting the council or councils under this Chapter or the repealed Act.
- The Commission should, so far as is relevant, give preference to structural changes that enhance the capacity of local government to play a significant role in the future of an area or region from a strategic perspective.