

Council Boundary Change Proposals

Guideline No. 6

Proposals Initiated by Members of the Public



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 reform 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 assist members of the public wishing to prepare a public initiated proposal to alter the external boundary of a council.

Public initiated proposals are submitted to the Commission by members of the public for consideration of council boundary alterations, changes in ward or representation structures, or the inclusion of land not within a council area into a council. Members of the public cannot initiate a council amalgamation or the creation of a new council.

It's important to note at the outset that dissatisfaction with the services provided by a council is not sufficient reason to make a proposal to the Commission. For example, you may be unhappy with the rates that your council imposes. This is not a reason for changing council area but is something that you should discuss and resolve with your council.

This Guideline explains the steps that need to be taken to prepare a proposal to alter the external boundary of a council, and how a proposal is considered and progressed by the Commission. Information on the process for alterations to the composition or representative structure of a council is contained within Guideline 7.

Public initiated proposals requesting consideration of changes to external council boundaries cannot be made until two years after other significant boundary changes to that area. If you are not certain whether this would preclude a proposal you are considering, contact the Boundaries Commission to discuss this.

Who can make a public initiated proposal?

A public initiated proposal may be referred to the Commission by at least 10% of 'eligible electors' in respect of a proposal.

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 in the area proposed to be moved or in the council that would receive the area; or,
- 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 council area.

For the purpose of determining the prescribed percentage, each group or body corporate entered onto the voters roll is one elector.

The following steps set out the process that must be followed by eligible electors and the Commission in regards to a public initiated proposal. You are encouraged to follow this step by step guide if you are considering making a proposal to the Commission.

Stage 1 — Initial consideration of a potential proposal

1. Determine whether a proposal is the best way to proceed

This is the first step in the process. Discuss your concerns with as many people as possible within your community to determine whether there is sufficient support for a proposal to proceed.

You must contact your council to discuss the reasons why you feel making a proposal is necessary. As previously stated, making a proposal for boundary change to the Commission is not an avenue to express dissatisfaction with the services or representation your council provides. Talking to your council in the first instance may resolve any issues you have.

As proposals must be made by at least 10% of eligible electors, you should also contact your council to confirm the required number of eligible electors with respect to a proposal. (This confirmation from the Council Chief Executive Officer must be included in the proposal to the Commission).

It is important to keep accurate records of any consultation and/or correspondence relating to your proposal. It is suggested that copies are kept of all correspondence, and minutes recorded at meetings held. This will help you when you come to prepare your proposal.

If you feel that making a proposal to the Commission is the best way forward, it's a good idea to contact the Commission at this point to talk through what needs to be included in the proposal, and the following process.

2. Collect signatures of eligible electors

As discussed above, proposals need to be made by at least 10% of eligible electors. Complete Form 1 which is attached at the end of this Guideline. Each eligible elector must complete and sign the declaration form attached at the end of this Guideline. The form may be photocopied as long as the details displayed at the top of the page are completed for every copy.

At this point, you should contact the relevant councils to verify the eligibility of each elector making the proposal. (Certification from the Council Chief Executive Officer must be included in the proposal to the Commission).

Although it is not necessary for more than the prescribed percentage of eligible electors to make a proposal, it is expected that a proposal would have wider support within the community. You may wish to include some evidence in the proposal that indicates the level of support for the proposal, for example a petition or letter of support that was available for signing.

3. Write to the Commission

Write to the Commission outlining the nature of the potential proposal and the reasons why you consider boundary change as the best option, including consideration of the section 26 principles as described in Attachment 1.

This correspondence must be submitted by nominated representatives of the eligible electors making the submission. These nominated representatives must be willing to represent the interests of the eligible electors who would be directly affected by the proposal, and be the main contact points for the Commission in any consideration or investigation of the proposal.

At least 5 eligible electors will need to be nominated where over 50 eligible electors are required to meet the 10% requirement. Proposals with less than 50 eligible electors required to meet the 10% will require one nominated eligible elector. Nominated eligible electors must provide their contact details on the form attached.

Ensure that the confirmation of the required number of eligible electors and the certification of the eligibility of each elector making the proposal is enclosed with the proposal.

At this point, the Commission will consider the correspondence and advise whether a detailed proposal can be referred for consideration. Advice from the Commission that a proposal can be submitted does not guarantee that the proposal will be formally accepted.

Stage 2 — Referral of a Proposal to the Commission

Prepare a submission to the Commission that sets out in detail the grounds on which the proposal is made. The following points are the Commission's guidelines on the content of a proposal. If you are having trouble obtaining this information, contact the Commission for assistance (see below for contact information). There's no set format for providing this information—including it all in a letter addressed to the Commission is acceptable.

Points 1, 2, 3, 4 and 5 **MUST** be included in your proposal—point 6 refers to supporting information that you **MAY** wish to include.

1. An outline of the proposal

Provide a brief explanation of the proposal – for example; “it is proposed that the area known as Jones Park West be removed from Council X and be included in Council Y”.

2. A map

Include a suitable map (where relevant), showing the area in question.

3. Grounds for making the proposal

A proposal needs to set out in detail the grounds on which the proposal is made and the issues that you think should be considered in an assessment of the change to the boundaries. The section 26 principles will assist you to prepare this (see Attachment 1 and Attachment 2).

When considering proposals for boundary changes, the Commission must pay attention to these principles. The principles outline factors that should be taken into account when considering what form a council should take. They cover issues such as the ability of a council to fulfil its functions from the resource base available to it, and the reflection of a ‘community of interest’ in the area and structure of a council. It is suggested you read through them and use as a basis for your proposal.

4. Outcome of any prior discussion with the relevant councils

The Commission requires people thinking of making a proposal to contact both their current council (the 'relinquishing council') and the council that the eligible electors propose to move the relevant area into (the 'receiving council'). In your proposal, provide details of these discussions, and the councils' view or position on the proposal.

The proposal must also outline any assistance any council has provided to the eligible elector group on the development of their proposal.

The proposal must also include advice from the relevant council Chief Executive Officer certifying the eligibility of electors.

5. Outcome of any public consultation

You are not required to undertake broad public consultation on your proposal other than the work you will need to do to gain the support of the required number of eligible electors. However, if you have consulted with your community more broadly, you may wish to include a description and results of that consultation in your proposal.

Remember, although it is not necessary for more than the prescribed percentage of eligible electors to make a proposal it is expected that the proposal has wider support within the community. Include some evidence in the proposal that indicates the level of support for the proposal, for example a petition or letter of support that was available for signing.

6. Anything else you feel is relevant

Feel free to include information on any other issue or point you feel supports, or is relevant to your proposal. This may include such material as—

- The history of the area, and how this impacts on your proposal;
- Predominant land uses of the area;
- A community profile—who lives in the area, the approximate population, and the main industries, commercial centres and employers for the area;
- Any areas of social, cultural, or environmental significance.

Consideration of the proposal by the Commission

On receipt of the proposal, 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.

The Act gives the Commission flexibility to deal with proposals to ensure that the most effective inquiry into an identified issue is undertaken. For example, the Commission may deal with similar or competing proposals that are referred to it.

If the Commission determines to inquire into a proposal, there are separate processes for administrative proposals and general proposals.

Administrative proposals are those that are made to correct historical anomalies in council boundaries, to allow for development that is approved elsewhere, or for other, largely administrative reasons. The process for conducting an inquiry into these proposals is therefore streamlined. Section 30 of the Act sets out the requirements for administrative proposals. Further information is contained within Guideline 2.

The Act also provides for more significant proposals to be considered. Section 31 of the Act sets out the requirements for general proposals and provides for an independent analysis of significant boundary change or amalgamation proposals (general proposals), with expertise relevant to each proposal. Further information on general proposals is contained within Guideline 3.

Administrative proposals

As administrative proposals only impact a small number of ratepayers the consultation requirements are not as onerous as those for significant 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 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. If the Minister determines that the proposal proceed, it will be forwarded to the Governor with a recommendation that a proclamation be made. If the Minister determines that a proposal not proceed, the Minister must prepare a report for both Houses of Parliament.

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.

General proposals

The Act provides for an independent analysis of major proposals by one or more investigators consisting of expertise that is determined to be necessary for each proposal. Further information on the appointment of investigators is contained within Guideline 4.

The Commission can appoint one or more investigators to undertake a detailed inquiry into the proposal.

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 reform. In addition to these principles, an inquiry must consider—

- The financial implications and impact on resources that the proposal is likely to have on any council affected by the general proposal; and
- The extent of support for the general proposal and boundary reform in the area within the community affected by the general proposal; and
- The extent of support for the general proposal of any council affected by the general proposal; and
- The impact of the various rights and interests of any council employees affected by the general proposal; and
- Any other principles prescribed by regulations.

As part of its assessment of a general proposal the Commission will undertake consultation. Guideline 9 sets out the consultation and engagement requirements for boundary change proposals.

At the conclusion of an inquiry, the Commission must prepare and publish on a website a report that includes the Commission's recommendations and provide a report to the Minister. If the Commission determines to recommend a general proposal, the proposal may involve such variations as the Commission thinks fit.

The Commission may include in a report recommendations relating to the delivery of services on a regional basis by councils as an alternative to boundary change, or any other recommendation the Commission considers appropriate.

The Minister may send the report back to the Commission for reconsideration in accordance with any suggestions by the Minister. However, if this does occur, the Commission must then publish an amended report and provide a copy of the amended report to the Minister. The Minister may then determine whether a proposal recommended by the Commission should proceed.

If the Minister determines that the proposal proceed, it will be forwarded to the Governor with a recommendation that a proclamation be made. If the Minister determines that a proposal not proceed, the Minister must prepare a report for both Houses of Parliament.

Following completion of an inquiry, the Commission must give public notice of the Minister's determination. The Commission will also notify you (as the referrer of the proposal), any council affected by the proposal, and any registered industrial association that represents the interests of employees of councils.

Contact Details:

Boundaries Commission

GPO Box 2329 Adelaide SA 5001

Phone: (08) 7109 7145

Email: boundaries.commission@sa.gov.au

Website: www.dpti.sa.gov.au/local_govt/boundary_changes

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.

ATTACHMENT 2

The principles guide the Commission in balancing various council and community interests. While general in nature, they address a range of considerations, including communities of interest, effective governance, operational capacity, delivery of services, effective planning and development, accessibility, and adequate and fair representation. Consideration will also be given to regional activities that may offer a viable and appropriate alternative to boundary change.

The principles emphasise the importance of ensuring that boundary changes enhance the capacity of local government within the area to continue to deliver results to local communities in a more strategic and effective way.

Below are some questions you may wish to consider when formulating a proposal—

- How will the proposal align resources to where they are most needed and provide value to ratepayers?
- How will the proposal increase the council's ability to improve operational capacity and financial sustainability?
- What impact will the proposal have on the resource base of affected councils?
- How will the proposal enhance the capacity of the council to deliver better services to the community?
- How does the proposal support communities of interest?
 - Similar interests are important for groups that have been represented together because of their close geography or social and economic interests. Factors contributing to a sense of community included shared interests and shared use of community facilities.
 - Is there a sense of belonging or stronger community connection with the area which can be clearly defined?
 - Identify common interests that would be likely to benefit from the proposal, such as economic, social, heritage, cultural and recreational.
 - Consider the functional relationships and whether the proposal meets the community's needs, for example, use of services, road and transport links, shopping etc.
- How will the proposal improve representation?
- Has consideration been given to delivering services on a regional basis as an alternative to boundary change?

REPRESENTATIVE NOMINATED ELIGIBLE ELECTORS

DECLARATION BY ELIGIBLE ELECTORS TO MAKE A PUBLIC INITIATED SUBMISSION TO CHANGE A COUNCIL’S EXTERNAL BOUNDARY, COMPOSITION OR REPRESENTATIVE STRUCTURE

We the undersigned declare that we are each an eligible elector in accordance with section 27(1) of the *Local Government Act 1999*, and that we are the representative nominated eligible electors for this public initiated submission.

Full Name of Nominated Elector	Signature	Date Signed	Contact Details	Postal Address
			Ph: Email:	

FORM 1 — LOCAL GOVERNMENT ACT 1999 (SECTION 27)

DECLARATION BY ELIGIBLE ELECTORS TO MAKE A PUBLIC INITIATED SUBMISSION TO CHANGE A COUNCIL’S EXTERNAL BOUNDARY, COMPOSITION OR REPRESENTATIVE STRUCTURE

We the undersigned declare that we are each an eligible elector in accordance with section 27(1) of the *Local Government Act 1999*, and that we support a public initiated submission proposing that

.....

[insert a brief outline in 1 or 2 sentences of the intent of the proposal being submitted]

Full Name of Elector	Signature	Date Signed	Property Description Giving Entitlement to be an Elector	Postal Address

