

Council Boundary Change Proposals

Guideline No. 4

Investigation of General Proposals Initiated by Councils

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 the investigation of general proposals, including how a submission is considered and progressed by the Commission. This Guideline specifies the requirements for council initiated proposals. Guideline 6 details the process for submissions initiated by members of the public who are eligible electors.

The Commission may defer the start of an inquiry if it is of the view that the proposal cannot be finalised and gazetted within a reasonable time before a periodic council election. If the Commission forms this view, it will advise the initiating council of this prior to providing a cost estimate for the inquiry in accordance with Guideline 8.

Section 31 of the Act sets out the process for inquiries into 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.

The Commission can appoint one or more investigators to undertake a detailed inquiry into the proposal. However, the Commission must appoint investigators when a general proposal is referred to them by either the Minister or by resolution of either House of Parliament. Further information on the appointment of investigators is contained within Guideline 5.

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 on boundary changes.

In addition to these principles, an inquiry must consider the matters in section 31(3)(b)—

- 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.

Other matters an inquiry may consider include—

- Division of assets and liabilities – including land and buildings, plant and equipment, cash, investments, interests in and business activities, debtors, debt, overdraft, staff entitlements;
- Impact of any significant contracts;
- Ability of communities to access council services and relevant communication issues between councils and communities;
- Assessment of any significant differences in rating policies of the councils involved, the impacts on ratepayers and how these are to be addressed in both the short and longer term;
- Potential conflicts that may arise from existing patterns of land use if the proposal was implemented, for example, predominantly residential areas being aligned with intensive agricultural lands.
- Assessment of any significant differences in fees and charges of the councils involved;
- Material impact of legal orders and proceedings;
- Assessment of any significant differences in service levels provided by the councils involved; and
- Implications for council employees, including any proposed transfer of staff and conditions of employment.

Provision of Information

Section 32A of the Act provides powers for the Commission or an investigator to obtain information in connection with an inquiry. The Commission or its investigators may seek relevant information from affected councils to inform consideration of the above matters, including—

Statistical and social data

- Number of residents affected.
- Number of properties affected, separated into residential, primary production, commercial and industrial and compare these to the total number of properties in the area of the council(s).
- Social profile of the community—for example, age distribution, ethnicity, income levels, employment patterns.
- Social and economic history of the area.

Financial information

- Details of rate and grant revenues that will be affected by the proposal.
- Identify real property and other significant council assets affected by the proposal.

Council representation arrangements

- Explain how the proposal will impact on ward quotas (if any) and the representation available to residents, owners and occupiers of property.
- Give details of interim representation arrangements that are proposed in the short term, or as a transitional measure, and their suggested duration.
- Outline the arrangements proposed in relation to any changes to office holders or elected members. If proclamations will be required, the matters to be covered should be set out clearly.

As part of its assessment of a general proposal the Commission is required to consult widely with councils and the public. Guideline 9 details how the Commission and its investigators will undertake engagement and consultation on boundary change proposals. The Commission will design an engagement plan for each general proposal.

The Commission may defer the continuation or completion of an inquiry, or of certain aspects of an inquiry, if it is of the view that the proposal cannot be finalised and gazetted within a reasonable time before a periodic council election.

Finalisation of an Inquiry

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 Commission may also include a recommendation that the Minister write to the Electoral Commission of South Australia (ECSA) if the acceptance of a recommendation would have an impact on representation in council ward areas.

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.

The Minister may, in the case of a general proposal referred to the Commission by a council that the Commission has recommended in the report not proceed—at the request of 1 or more councils, consult with the relevant councils about the matter. After consultation, if the Minister determines that it is appropriate to make a recommendation to the Governor in the circumstances of the particular case, forward the general proposal 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.

Contact Details:

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Guideline Versions – Guideline 4		
Version	Comments	Date
1.0	Version 1 Published	01/01/2019
2.0	Version 2 Published	01/06/2022

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.