

Mr Henry Inat
Chief Executive Officer
Town of Gawler
PO Box 130
GAWLER SA 5116

Dear Mr Inat,

Thank you for your letter dated 5 March 2020 and your email of 11 May 2020 requesting clarification on a number of matters relating to Administrative Boundary Proposals and the Boundaries Commission's (the Commission's) expectations for community consultation for General Proposals.

I understand that you and staff from the Town of Gawler (the Council) recently met with the Office of Local Government (OLG) to discuss a number of matters that you have raised in your letter and that this meeting provided some clarity to the Council regarding a number of these matters.

In the Commission's consideration of the Council's potential proposal (Stage 1), the Commission suggested that the Council may wish to consider the option of referring an Administrative proposal to the Commission where proposed boundary changes are minor administrative matters.

The Commission also advised the Council that Section 30 of the *Local Government Act 1999* (the Act) provides a simplified pathway for the consideration of boundary change proposals that are administrative in nature. This specifically includes a proposal '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'.

Potential Administrative Proposal

I note that the Council has provided a table that outlines areas for which Council seek clarity on whether they could be considered as part of an Administrative Proposal. I can confirm, that the proposal in its current form, does not include areas that the Commission would considered to be administrative.

However, as advised through previous correspondence between OLG and the Council, the Commission has determined that aspects of the Council's proposed 'reform areas' could be considered to be administrative in nature.

As previously advised, some parts of the Council's identified areas 8 and 9 could be considered to be administrative in nature as the current council boundary appears to dissect private landowner's properties. These could be considered to be an anomaly under Section 30 of the Act.

In order for such areas to be considered in an administrative proposal the anomaly would need to be, in the Commission's view, 'generally recognised'. In determining its view, the Commission would take into account if the anomaly was recognised by the Town of Gawler, the City of Playford and the property owner(s).

However, the Council would need to amend its proposal, so that areas such as 8 and 9 do not propose a boundary realignment with a suburb boundary, but propose a boundary change to ensure that council boundaries do not divide private land.

The Council may wish to develop an Administrative proposal that included a number of boundary changes in the one proposal. The Commission would not expect the Council to refer separate proposals for each Administrative matter.

Timeframes for Administrative Proposals

As no two proposals will be the same and the level of consultation or investigation will differ between proposals, the Commission is not in a position to provide timeframes for the determination of either Administrative or General Proposals.

Community Consultation requirements for Administrative Proposals

In regard to the Commission's requirement for consultation on Administrative Proposals, these requirements are broadly outlined in the Commission's Guideline 2.

To provide some clarity on this matter, it is important to remember that Administrative Proposals are considered to be recognised anomalies between affected councils and the property owner(s).

Therefore, the Commission would expect the Council to consult with these relevant parties. It would be appropriate to include information regarding these discussions and confirmation that all parties recognise that an anomaly exists with the Council's current boundary.

If the Council decides to progress with an Administrative Proposal, the consultation on these proposed changes could be included in the Council's broader consultation for its General Proposal.

Community Consultation requirements for General Proposals

The Commission has given significant consideration to the Council's request of 11 May 2020 seeking clarification on community consultation requirements for a General Proposal.

As a result, the Commission has formed the view that Guideline 3 does not provide sufficient clarity for councils when considering undertaking community consultation for a General Proposal.

For this reason, the Commission has amended Guideline 3 (attached) to provide clarity on community consultation requirements.

You will note that the amendments to Guidelines 3 now place greater emphasis on a 'calendar of events' rather than the need to provide evidence of 'appropriate consultation' with the community. This reflects the Commission's view that it is not appropriate for initiating councils to undertake extensive consultation on the boundary changes that it is proposing, given the difficulties that an initiating council may have in consulting communities not within their area, and, more importantly, the limitations in consulting on a proposal that has not yet been investigated, and would therefore not be in a position to include all information about the impact of the proposed boundary changes on all who would be affected by the change.

It is more appropriate and more effective for the Commission to undertake this engagement as part of its investigation, which of course it must do in accordance with both the *Local Government Act 1999* and its own Guidelines.

However, the Commission notes that it is reasonable that an initiating council would undertake community consultation that is necessary to determine whether it should proceed with a proposal to the Commission. Guideline 3 therefore clarifies that a council should provide

evidence of key council decisions, announcements, notices, details of any public meeting(s), press articles and any correspondence received in support or objection to the Council's proposal.

Further, Councils should give consideration to Attachment 2 of Guideline 3, which provides a number of questions that Councils may wish to consider when formulating a general proposal. These questions, along with the Section 26 principles, guide the Commission in balancing various council and community interests.

In regards to the Council's request for the Commission to undertake community consultation on behalf of the Council, the Commission has determined that as an independent body, the Commission is not in a position to undertake consultation on behalf of a Council. As noted above, if the Commission decides to investigate a proposal it will undertake consultation in line with Guideline 9, which will include the design of a specific engagement plan in consultation with affected Councils.

I also note that you have requested to meet with the Commission, however, at this stage, the Commission is of the view that discussions at officer level are more appropriate at this stage of the process.

I trust that this information is of assistance to you. If you have further questions, please contact Mr Thomas Rossini in the Office of Local Government on 7109 7443, or thomas.rossini@sa.gov.au.

Yours sincerely



Bruce Green
Chair, SA Local Government Boundaries Commission

16 July 2020