

Council Boundary Change Proposals

Guideline No. 7

*Public Initiated Proposals for Changes in a Council's
Composition or Representative Structure*

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 requesting consideration of changes to the composition or the representative structure of a council. This includes changes such as—

- Changing ward boundaries;
- Establishing or abolishing wards;
- Changing the composition of the elected member body (changing the number of elected members or changing from a directly elected mayor to a chairperson elected by the council or vice versa).

Councils are required to undertake representation reviews periodically. A review must comprehensively examine all aspects of the composition of the council and its internal structure. Councils must follow the process for these reviews that is prescribed in section 12 of the Act, and satisfy the Electoral Commissioner that the process of their review has complied with these statutory requirements.

The Act provides a method by which members of the public can make proposals to the Minister requesting consideration of changes to the composition or the representative structure of a council.

Dissatisfaction with an elected member/s is not in itself a reason for making a proposal to the Commission. This is a matter for you to pursue with the elected member/s in question. A proposal must focus on the benefits that changing the internal structure of a council would provide for the community.

Note that public initiated proposals requesting consideration of changes to the composition or the internal boundaries of the council cannot be made less than two years after the council has completed a representation review, or two years prior to the date a council is required to undertake a representation review. If you are not certain whether this would preclude a proposal you are considering, contact the Commission to discuss this.

In line with the Commissions 'Publication Policy' the Commission will, upon receipt of a Publicly Initiated proposals, make the proposal publicly available on its website.

Who can make a public initiated proposal?

A public initiated proposal may be referred to the Commission by at least 10% 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).

In the case of a proposal to alter the composition of a council or the issue of wards within a council, **eligible electors** are electors who are within the area of the affected council.

When considering proposals for structural reform the Commission must pay attention to what are known as the 'section 26 principles'. The principles outline factors that are taken into account when considering what form a council should take. The principles are included as an attachment to this sheet. It is important that you read them and use them as a basis for your proposal.

The following steps set out the process that must be followed by eligible electors and the Commission in regards to a public initiated proposal relating to the composition of a council or the issue of wards within a council. 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.

As previously stated, making a proposal 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.

Prior to initiating a proposal with the Commission, you must ascertain the views of the Council. 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.

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).

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 council 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 changes to the composition or representative structure of the council is the best option, including consideration of the section 26 principles in Attachment 1.

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 information will assist you to provide the type of information that the Commission requires to make an informed decision. If you are having trouble obtaining this information, contact the Commission for assistance. There's no set format for providing this information – including it all in a letter addressed to the Commission is acceptable.

1. An outline of the proposal

Provide a brief explanation of the proposal—for example, 'it is proposed that the number of wards in Council X be changed from Y to Z'.

2. A map

Include a suitable map, showing the area in question. If your proposal is based on changes to a whole council area, or to the elected member body, include a map of the council area (that includes ward boundaries if existent).

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.

For example, the proposal could outline how a change to the ward structure would be desirable in order to draw together communities with common economic, social or regional issues. Alternatively, it may outline how population changes in the area impact on the composition of the elected member body, or how the suggested changes will improve communication between elected members and the community. The section 26 principles in Attachment 1 may assist you to prepare this.

4. Outcome of any prior discussion with the relevant council

The Commission requires people thinking of making a proposal to contact their council to discuss the reasons why they feel a proposal is necessary. In your proposal, outline the content and the results of these discussions.

5. Description 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.

6. Results of the most recent representation review undertaken by the Council

Councils are required to comprehensively review their composition and ward structure periodically. This has traditionally been at least once in every eight years. You may wish to include comments on this review and a copy of the report produced by your Council, particularly if dissatisfaction with this process is the impetus for your proposal to the Commission.

7. Anything else you feel is relevant

Feel free to include information on any other issue or point that supports or is relevant to your proposal.

Consideration of the proposal by the Commission

On receipt of the proposal, the Commission will assess it 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, for example, the issues raised in the inquiry were dealt with through a previous representation review in line with Section 12 of the Act.

The Commission may also decide to defer consideration of a proposal if it is of the view that the proposal cannot be finalised and gazetted by 31 December of the calendar year preceding a periodic council election.

As part of its assessment of a proposal the Commission will undertake consultation, including with the Electoral Commission of South Australia (ECSA). Guideline 9 sets out the engagement and consultation requirements for 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.

Prior to making recommendations to the Minister, the Commission will seek advice from ECSA to determine if the inquiry may result in a requirement for a council affected by the proposal to undertake a review to ensure appropriate ward quotas, as required by Section 12 of the Act.

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), the 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) 7133 1311

Email: boundaries.commission@sa.gov.au

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

Guideline Versions – Guideline 7		
Version	Comments	Date
1.0	Version 1 Published	01/01/2019
2.0	Version 2 Published	19/11/2019

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.

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]

[illegible]

[illegible]