

Information paper

SOUTH AUSTRALIAN

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COMMISSION



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The South Australian Local Government Boundaries Commission is an independent statutory authority established under the *South Australian Local Government Grants Commission Act 1992*.

The three members are appointed on a part-time basis by the Governor. Commission members are usually appointed for terms of up to three years.

The following provides some general advice regarding the South Australian Local Government Boundaries Commission (the Commission) and its processes. Councils or members of the public who have further questions regarding the Commission processes can contact the Commission staff.

Phone: (08) 7133 1311

Email: Boundaries.Commission@sa.gov.au

Commission's role

The Local Government Boundaries Commission is the independent body that assesses and investigates council boundary change proposals and makes recommendations to the Minister for Local Government.

Legislative requirements

The Commission's responsibilities and procedures are set out in Chapter 3, Part 2 of the *Local Government Act 1999* (the Act).

Commission's processes

The Commission has prepared nine guidelines that detail how it receives, assesses, and progresses council boundary change proposals.

- Guideline 1 - General Information
- Guideline 2 - Administrative Proposals
- Guideline 3 - General Proposals - Submitting a Proposal to the Commission
- Guideline 4 - General Proposals - Investigations
- Guideline 5 - General Proposals - Appointing Investigators
- Guideline 6 - Public Initiated Submissions
- Guideline 7 - Public Initiated Submissions - Alteration to the Composition or Representative Structure of a Council
- Guideline 8 - Costs
- Guideline 9 - Engagement and Consultation

These guidelines must be read in conjunction with Chapter 3, Part 2 of the Act and can be found on the Office of Local Government's website at

Who can initiate a boundary change proposal?

Proposals may be referred to the Commission –

- By resolution of either house of Parliament
- By the Minister
- By a Council or Councils
- By the prescribed percentage or number of eligible electors.

Council Initiated (refer to *Guideline 3 - General Proposals - Submitting a Proposal to the Commission*)

The capacity for councils to initiate boundary change proposals changed in 2019, allowing individual councils to submit a proposal. Previously, all affected councils needed to agree on a proposed boundary change before a proposal could be considered.

The Commission has developed a potential proposal template for Council initiated proposals. This template is available on the Commission's webpage.

Publicly Initiated (refer to *Guideline 6 - Publicly Initiated Submissions*)

10% of eligible electors of the affected area can submit a boundary change proposal. In the past the requirement was a minimum of 20 eligible electors.

The Commission has developed a potential proposal template for publicly initiated proposals. This template is available on the Commission's webpage.

Administrative and General Proposals

The Act now divides proposals into two categories:

Administrative

Where an anomaly with a council boundary would be 'generally recognised by the affected parties'. The requirements and assessment of Administrative Proposals are outlined in Guideline 2 for Council initiated proposals and Guideline 6 for publicly initiated proposals.

General

General proposals can cover a wide range of boundary change proposals, from relatively minor boundary changes through to full council amalgamations. –The requirements of a General Proposal are outlined in Guideline 3 for Council initiated proposals and Guideline 6 for publicly initiated proposals.

What does the Commission consider when making a recommendation?

The Section 26 Principles in the Act ultimately form the basis of any recommendation the Commission makes to the Minister.

The principles cover a broad range of matters that the Commission should consider and ultimately inquire into if the proposal is investigated, these include:

- financial matters
- land use and planning matters
- council employee matters
- representation matters
- community and service matters.

What boundary proposals are currently being considered by the Commission?

In accordance with the Commission's Publications Policy, the Commission publishes all proposals on its webpage. A full list of proposals that are currently being considered or have been completed can be found at www.dit.sa.gov.au/local-government/boundaries-commission/current-proposals

How long will the boundary change process take?

The Act does not provide a timeframe for the process to be undertaken. However the Commission is aware of the need for it to be completed in a reasonable timeframe to provide certainty to councils and communities.

Can a proposal be made for any reason?

No. The following reasons are not sufficient for members of the public or councils to make a submission to the Commission:

- the rates charged by a council
- the rate in the dollar applied by a council
- dissatisfaction with the services provided by a council
- dissatisfaction with particular elected members.

These are issues that should be resolved between councils and their ratepayers.

Any party considering making a boundary change proposal should consider the Principles outlined in Section 26 of the Act. These will be the basis for the Commission's decisions on all proposals.

Proposal process

The following is a general overview of the council boundary change proposal process. As no two proposals will be the same, and the level and extent of engagement and investigation will differ for each proposal.

Stage 1

Potential proposal

The council or member(s) of the public submits a potential boundary change proposal to the Commission for feedback.

Commission response

The Commission will provide advice as to whether the proponent can proceed to prepare a General Proposal or if further work needs to be undertaken.

Stage 2

General Proposal

The council or member(s) of the public submits a more extensive general proposal.

Commission response

The Commission will determine whether to inquire into the proposal or not.

Determination of costs and agreement to proceed with an investigation

The Commission will prepare an investigation plan, determine the number of investigators required, establish an estimate of the costs and advise the initiating council of the costs. The initiating council will then decide whether to proceed with the investigation (or not).

Commission investigation

The Commission will thoroughly investigate the proposal, including undertaking engagement with affected councils and communities.

Inquiry report

The Commission will make a final recommendation in a report presented to the Minister for Local Government.

Final decision

Ministerial decision

The Minister for Local Government makes the final decision having considered the recommendations made by the Commission.

Proclamation

If the Minister determines the proposal should proceed, it will be forwarded to the Governor with a recommendation that a proclamation be made.

If the Minister determines the proposal should NOT proceed, a report must be prepared for both Houses of Parliament.

Why is there a two-stage approach?

The two-stage process has been introduced so the Commission can provide early advice on potential proposals (Stage 1).

Stage 1 is not a YES or NO stage – at this point the Commission will simply outline if the potential proposal aligns to the Section 26 Principles. The Commission will also determine whether:

- a General Proposal (Stage 2) can be referred to the Commission OR
- further work needs to be undertaken by the proponent.

The feedback from the Commission at Stage 1 will help councils or eligible electors determine if they want to undertake the extensive work required to develop a General Proposal.

Although not mandatory, initiators are strongly encouraged to contact Commission staff before developing a potential proposal.

Cost of investigations

The Commission can recover costs associated with undertaken investigations initiated by Councils. Costs for proposals initiated by members of the public will be covered by the State Government.

It is not possible to predict the costs of a proposal as they will vary depending on the complexity of each case. For this reason the Commission will provide a cost estimate to initiating Councils prior to an investigation being confirmed, refer to *Guideline 8 - Costs*. The initiating Council will need to decide whether or not to progress with the investigation based on the cost estimate.

If the Commission is investigating a general proposal, it can appoint one or more investigators to undertake a detailed inquiry into the proposal.

Guideline 5 – General Proposals – Appointing

Investigators provides further information on the Commission's process for appointing investigators.

What input can affected councils have throughout the process?

This will depend on what type of proposal has been referred to the Commission. Guidelines 2 through to Guideline 6 outline affected councils' involvement throughout the process.

Regardless of the initiator, the Commission will engage with all relevant councils closely throughout the process to ensure all parties are informed and appropriately engaged.

What is the point of no return for a Council?

Once a General Proposal (Stage 2) application is referred to the Commission, the Commission has decided an investigation is appropriate, and the council has agreed to accept the estimated investigation costs, the Commission will proceed with an inquiry into the proposal.

At this point the proposal cannot be withdrawn or terminated by the Commission or the council.

Who makes the ultimate decision on a boundary change proposal?

The Minister for Local Government will make the final decision based on recommendations made by the Commission. These recommendations must be published by the Minister.

If the Minister determines the proposal should proceed, it will be forwarded to the Governor with a recommendation that a proclamation be made. The proclamation will include detail of the boundary change and its implementation. It may also outline:

- any transfer of assets and/or liabilities;
- compensation to be paid to any affected council; and
- other relevant matters arising from the boundary change.

If the Minister determines that the proposal should not proceed, a report on the matter must be prepared for both Houses of Parliament.

Is the initiating council responsible for transferring assets or liabilities to the receiving council?

One critical part of any investigation is the potential asset and financial implications for all affected councils.

An investigation must consider:

- the financial implications and impacts on resources that the proposal is likely to have on any affected council
- division of assets and liabilities – including land and buildings, plant and equipment, cash, investments, interests in and business activities, debtors, debt, overdraft, staff entitlements.

Guideline 4 – General Proposals – Investigations outlines what an investigation must consider in more detail.

The outcome of the investigation will be included in the inquiry report, including regarding the asset and financial implications for each affected council.

What community consultation will the Commission undertake?

In line with *Guideline No. 9 - Engagement and Consultation*, the Commission will thoroughly investigate all aspects of a proposal it decides to investigate.

This will include thorough consultation with the affected communities and councils.

The Commission uses four key principles for any engagement and consultation it undertakes on boundary change proposals:

1. Engagement is fit for purpose

2. Engagement is genuine
3. Engagement is inclusive and respectful
4. Engagement is informed and transparent.

The consultation activities undertaken by the Commission will vary for each investigation. Any consultation will include comprehensive community engagement and a full consideration of the impact of any boundary change on all affected councils, particularly where that change is significant.

Administrative proposals—the Commission will determine appropriate consultation on administrative proposals in the context of the four principles.

General proposals—the Commission will design a specific engagement plan in consultation with affected councils for every general proposal based on the four principles.

What are the community consultation requirements for General Proposals initiated by Councils?

It is not appropriate for an initiating council to undertake extensive consultation on boundary changes it is proposing. This is due to:

- the practical difficulties associated with consulting communities not within the initiating council area, and
- the inability to include information relating to another council affected by proposed boundary change/s to everyone who would be affected by the change.

It is more appropriate, fair and effective for the Commission to undertake this engagement as part of its investigation, which it must do in accordance with both the Act and its guidelines.

The Commission expects an initiating council to undertake community consultation limited to that necessary to decide whether it should proceed with a proposal to the Commission (Stage 1).

Guideline 3 – General Proposals – Submitting a Proposal to the Commission outlines what the council should provide in its initial proposal including:

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

Will the Commission consider engagement or petitions undertaken by councils or communities?

The Commission understands that affected councils and community representatives may wish to engage in their own right and keep their communities informed about potential proposals and investigations. This might include:

- a letter drop;
- undertaking a survey or petition; and
- hosting community forums.

The choice to undertake this consultation is completely up to the council or the community.

However, the Commission is an **independent statutory authority** and is required to undertake consultation independently of councils or communities.

The Commission will consider information emanating from self-initiated engagement, but it will not necessarily be the basis for the Commission's recommendations to the Minister for Local Government.

Do Local Government elections or representation reviews affect the process?

If the Commission believes that a proposal or investigation should not progress or should be delayed due to an imminent local government election or representation review process, the Commission will make a determination as to how it will proceed and inform all affected parties.

Further information

You should read these responses in conjunction with:

- Chapter 3, Part 2 of the *Local Government Act 1999*
- the Commission's Guidelines which can be found at www.dit.sa.gov.au/local-government/boundaries-commission/making-boundary-change

South Australian Local Government Boundaries Commission

If you have queries regarding the Commission's processes or guidelines or would like to discuss a potential boundary change, contact the Commission's staff.

The Boundaries Commission may be contacted via:

Postal address:

GPO Box 2329, ADELAIDE SA 5001

Phone: 7133 1311

Email: Boundaries.Commission@sa.gov.au

Website: [www.dit.sa.gov.au/local-government/
boundaries-commission](http://www.dit.sa.gov.au/local-government/boundaries-commission)

