

Guidelines

May 2003



Council response to a public initiated submission to alter the external boundaries of a council or its composition or representative structure

Local Government
Act 1999
Chapter 3, s.28 (4)(c)
and s.28 (9)(c)

Section 28 of the Local Government Act 1999 (“the Act”) enables a group of 20 or more eligible electors to submit to a council a public initiated submission to alter its external boundary or composition or representative structure.

A council in receipt of a public initiated submission must give written notice of its decision to the eligible electors and the Boundary Adjustment Facilitation Panel in accordance with these guidelines [s28(7) of the Act].

When can a public initiated submission made?

The Act prohibits the making of a public initiated submission within the two year period following the formation of a new council, (including through amalgamation), or in the same period following changes to its external boundaries as a result of a structural reform proposal made under the Act [s28(3)].

Advisory Note:

Any boundary alteration that has been completed within the previous two years should be brought to the attention of residents in any discussions with the council about a possible submission.

If a submission is made, it is desirable for a copy of the submission to be provided to each elected member as soon as practicable

Verification of “eligible electors”

The Chief Executive Officer of the council must verify that at least twenty of the electors who signed the submission comply with the definition of “eligible elector” as defined by section 28(1) of the Act. Verification of elector eligibility can be done by referring to the voters’ roll, assessment records or other reliable sources.

Advisory Note:

Where, in assessment of proposed electors, the Chief Executive Officer is satisfied that less than twenty signatories to the submission are “eligible electors”, the council should advise the Panel, and all those assessed as being an eligible elector, of that fact. The council can then decline to deal with the submission any further.

Boundary Adjustment Facilitation Panel

7th Floor
Roma Mitchell House
136 North Terrace
Adelaide SA 5000

Telephone
(08) 8204 8700

Facsimile
(08) 8204 8734

E-Mail
localgov@saugov.sa.gov.au

Website
www.sacentral.sa.gov.au/
agencies/olg/olgbr.htm

Local Government Boundary Adjustment Facilitation Panel

Council consideration of a submission

On receipt of a public initiated submission the council must consider the issues determined by it to be relevant to the matter and, depending on the circumstances, decide whether or not it is willing to conduct a representation review [sections 12 and 33 of the Act] or formulate (or participate in the formulation of) a structural reform proposal [section 27 of the Act].

Advisory Note:

It is suggested that the council notify, in writing, each of the eligible electors the date on which Council will consider the submission in order to give them the opportunity to attend the council meeting.

Notification of the council's decision

The following matters represent guidelines as to what steps must be followed by the council in giving written notification of its decision.

The council must notify in writing each of the eligible electors and the Panel of its decision whether or not it is willing to conduct a representation review or formulate (or participate in the formulation of) a structural reform proposal not more than **ten weeks** after receipt of the submission [section 28(7) of the Act].

The notification should contain the following information:

- where Council resolves that it is not prepared to conduct a review or formulate a proposal - an explanation of the reasons for so resolving, in reasonable detail
- the text of the resolution by which Council took the decision and the date of such resolution
- any errors of fact, or misleading statements and/or implications, it believes the public initiated submission contains, together with a statement of what Council considers the correct fact or situation in each case.
- any other matters which Council considers relevant, and/or which might promote in the community and the Panel an awareness of its decision, and an understanding of the reasons for such decision.

Important note:

The council should ensure that receipt of the submission is accurately recorded in the council's records and that suitable steps are taken to ensure that the council can consider the submission and make its decision known within the ten week timeframe.

The council may no more than five weeks after receipt of the public initiated submission, apply to the Panel for an extension of time for its decision, on the grounds of the complexity of the proposal.

Upon making the application the council must immediately provide written notification to the five persons nominated in the submission that an application for an extension has been made.

Pending a decision by the Panel on an application, until the date of the notification of such decision to the council, and during any period of extension which may be granted by the Panel at its sole discretion, the ten weeks period for making and notifying a decision will not run.

Important Note:

The Panel gives notice that it will only grant an extension in exceptional circumstances.