

Undertaking an Elector Representation Review

Guidelines for Councils

Introduction

As Electoral Commissioner, I am required to issue a certificate of compliance for elector representation reviews submitted by councils. The review must report on the representation structure for compliance with criteria outlined in the *Local Government Act 1999* (the Act).

This handbook has been prepared to assist councils through the steps of a review process. While designed to highlight the relevant statutory provisions, it is not a substitute for a detailed understanding of the legislation and should be read in conjunction with the relevant sections of the Act.

Information has been written in time sequence and presents elector representation review information in a clear manner to enable councils to make good governance decisions.

If you have any concerns regarding the legislative requirements, please contact your council's legal advisor. My office can provide assistance with roll products.



David Gully
Acting Electoral Commissioner

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Note

All references to legislative provisions relate specifically to the *Local Government Act 1999*, *Local Government (Elections) Act 1999* and section(s) unless otherwise specified.

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Electoral Representation Review Timeframe

Suggested timeframes and activities to take into consideration when planning and commencing an electoral representation review.

section 12	Commence Representation Review Project	2 months <ul style="list-style-type: none">• advise council members of impending review• council to pass resolution to commence an electoral representation review• council endorsed project plan including clear expectations set around community and elected member engagement. Resource and budget implications, workshops and briefings for council members to educate them on the review process and expectations. Realistic timeframes for decision making, voters roll status and accuracy, council meeting schedule• select or appoint a qualified person to prepare an options paper addressing representation and governance issues and undertake to review activities on behalf of council.
section 26(1)	Representation Options Paper	3 Months <ul style="list-style-type: none">• preparation of options paper• consideration of principles and matters outlined in the Act• representation review criteria• principles which must be taken into account<ul style="list-style-type: none">- eg: changes should benefit ratepayers, reflect communities of interest, local community participation, co-operation and effective form of government• ward quotas<ul style="list-style-type: none">- matters to be considered eg: communities of interest, topography, communication between electors and demographic changes• explores options forwarded for council composition and structure• council to adopt options paper for release and public consultation.
section 33		

section 12(7)	First Public Consultation	Minimum 6 Weeks	<ul style="list-style-type: none"> • place public notice in SA Government Gazette, and a copy in any local newspapers circulating within the area of the relevant council informing the public of preparation and availability of the options paper and invite written submissions • a notice is to be published on a website determined by the Chief Executive Officer. The notice must include the website address at which the options paper is available for viewing • allow a minimum of six weeks for written submissions to be received • determine where other releases for the options paper will appear – website, media releases, community newspapers, regular columns in the local paper, information sessions for focus groups.
section 12(8a), section 26(1)(c), section 33	Representation Review Report	2 Months	<ul style="list-style-type: none"> • council must consider options and issues identified, along with any public written submissions received • align elected members decision making with public submissions • prepare a report on proposed representation structure as resolved by council and how it meets the relevant principles and matters outlined in sections 26 and 33.
section 12(9)	Second Public Consultation	Minimum 3 weeks	<ul style="list-style-type: none"> • place public notice in SA Government Gazette, a copy in any local newspapers circulating within the area of the relevant council informing the public of the council review report and inviting written submissions with the proposal council considers should be carried into effect • the notice is to include the website address at which the representation review report is available for viewing. A notice must be published on a website determined by the Chief Executive Officer • allow a minimum of three weeks for written submissions to be received.
section 12(10)	Public Consultation & Finalise Representation Report	1 Month	<ul style="list-style-type: none"> • an opportunity for persons or their representative to appear before council or committee in support of their written submission • council to consider and adopt a final proposal for future composition and structure • prepare report to submit to the Electoral Commissioner and include all appropriate supporting documentation and council minutes on any decisions determined.
section 12(12-21)	<i>Note: If the report proposes a change to the principal member of council, a poll must be conducted – 12 weeks section 12(11a-d)</i>		

section 12(12-21)

Submit Final Representation Review Report

1 Month

- forward the representation review report and supporting documentation to the Electoral Commissioner
- if requirements have been met, the Electoral Commissioner will issue a certificate of compliance and specify a date for council to place a notice in the SA Government Gazette
- if a certificate of compliance is not issued, the Electoral Commissioner refers the matter back to council with an explanation for council to take action.

Implement Changes to the Representative Structure

- modify changes to the voters roll before roll close preceding the next periodic election.
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Electoral Representation Review

What is the Purpose of a Review?

What is a Review?

An electoral representation review is held to determine whether a council community would benefit from a change to its composition or ward structure. The Act sets out the requirements for a representation review. The council must manage the electoral representation review in the context of a prescribed process.

section 12(3)

A prescribed review must comprehensively examine:

- all aspects of the composition of the council, and
- the potential division of the council area into wards, or the abolishment of existing wards, and
- a notice under this section may also change the name of a council.

Timing of Review

The Act requires a council to conduct a review of its representation:

- at least once in each relevant period as prescribed by the regulations. The Minister for Local Government from time to time will publish in the SA Government Gazette a timing schedule for determination of the relevant period for each council to conduct their electoral representation review, or
- a council may undertake a review at any time into specific aspects of its composition or ward structure or those matters generally. The process includes:
 - initiating the preparation of a representation options paper
 - detailed public consultation processes
 - preparing a report on the public consultation and council's response to the issues arising from the written submissions
 - providing a final representation review report to the Electoral Commissioner.

section 12(24)

Alternatively, council may be requested to undertake a review within a period specified by the Electoral Commissioner if the area of the council is divided into wards and the number of electors represented by a council member for a ward varies from the ward quota by more than 20%. The Electoral Commissioner will notify council in writing if this has occurred.

What is the Purpose of the Review?

An electoral representation review gives councils and their community the opportunity to examine their present composition and structure and allows the opportunity to plan and implement changes that will better reflect the future requirements of their community.

section 26(1)

A review must take into account principles set out in section 26 of the Act, in particular:

- changes should benefit ratepayers
- arrangements should reflect communities of interest, values and aspirations and avoid significant dislocations within the community
- encourage local community participation in decisions about local matters
- provide effective local governance and foster co-operation with other councils.

section 33

In addition to the above requirements, council must take into account the composition and electoral structures, in particular:

- the number of council members
- the division of the area into wards and/or whether existing wards should be abolished
- ward quotas
- communities of interest, topography, communications between electors and demographic changes.

Elector Representation Review Project

The Act provides the framework for councils to conduct an elector representation review.

Council is to determine and allocate a person who will have overall management of the review process. Additionally, council should allocate appropriate resources and budget requirements and consider forming an internal working party to assist with the process.

Council should prepare a realistic project plan which will ensure the timeframes for decision making will meet the legislative timelines for the preparation of the options paper, review report and final report including the public consultation periods.

The project plan should provide information on the process and scope of the review and include a working group comprising the project leader, staff with experience in areas such as rates for voters roll figures, community engagement, media liaison and mapping.

Advise council members of the impending review as for many this will be a new procedure and will require a detailed discussion to inform them of their responsibilities and expectations. Explain the timeframes and complex nature of a review including:

- council project plan
- research and analysis requirements
- community engagement strategies
- scheduled workshops
- voters roll status/accuracy
- select/appoint a qualified person to prepare the representation options paper.

Council must pass a resolution to commence an elector representation review.

Electoral Representation Review Project Checklist

During this period council should prepare and plan for the review. A comprehensive electoral representation review could take a minimum of 42 weeks and requires significant resources to be completed successfully. There are a further four weeks for the Electoral Commissioner to determine if the statutory requirements have been met and issue a certificate of compliance.

- Develop a project plan and timeline for the review process
- Advise council members of impending review
- Council to pass resolution to commence an electoral representation review
- Select or appoint a qualified person to prepare the representation options paper
 - this may require a tender process if seeking an external consultant.

Representation Review Options Paper Overview

Objectives of the Representation Review Options Paper

The representation review options paper (options paper) is a primary method in which councils can communicate with their community about the elector representation review. Accordingly, the options paper must be written in plain English so that all members of the community have the opportunity to read and understand the options presented.

Council must be satisfied that the person appointed to prepare the options paper is suitably qualified to:

- prepare a paper on the alternative composition and structure options available for council to consider
- address any representation and governance issues that may arise from the review.

The options paper must explore options for changes to council's representative structure and provide a detailed explanation of the effect of any change in structure or composition on the existing arrangements.

The preparation of the options paper is a significant undertaking as a number of issues and options need to be thoroughly examined and included in the paper.

Introduction

The introduction should provide a background to the review and discuss the stages associated with the full review process including the:

- representation review options paper
- first public consultation
- representation review report
- second public consultation
- structure adopted
- final review report
- certification.

The legislative requirements of the process should also be discussed in the introduction along with any information specific to issues relevant to the council that are to be discussed in the review.

Council Background

Discuss any historical information that is specific to the council such as name of the council, names of wards or the type and title of the principal member. Previous elector representation review outcomes should be included as well as details of any recent public discussions with council relating to the review.

Current Structure

Provide information and examine the existing composition and electoral structure of the council including details of current elector numbers, ward structure and quotas if applicable.

Composition of Council

Provide an assessment of the advantages and disadvantages of the options available for the structure and composition of council. If the council is comprised of more than 12 members, examine whether the number of members should be reduced. If the area of the council is divided into wards, examine whether the division of the area should be abolished.

If wards exist, are there any issues concerning ward boundaries or the existing names of those wards?

The report must include current elector numbers separated between House of Assembly and Council Supplementary rolls, detailing how and when they were derived and the number of electors represented by a council member. Does the current number of members, odd or even, have an impact on decision making by council?

Discuss and describe all possible council structure types such as area councillors, ward councillors and council members at large. Include information relevant to the election of each type of councillor in the event of an election or supplementary election.

Legislative Principles and Matters Which Must be Considered

- has proper analysis and consideration of the advantages and disadvantages of a new structure been undertaken
- does the proposed new structure reflect communities of interest (economic, recreational, social, regional or other kind)
- is the proposed new representation structure consistent with community structures, values, expectations and aspirations
- does the proposed structure take into account the population of the area, each ward and the topography of the area to ensure ease of communication between electors and their elected representatives
- does the proposed structure take into account demographic changes that may occur in the foreseeable future
- does the new structure ensure adequate and fair representation while avoiding over representation
- does the proposed structure compare favourably with other councils of a similar size and type – include comparisons
- are there any specific principles or special requirements relating to the council area that should be included?

Options

If wards are proposed, they must satisfy criteria for ward quotas. A proposal relating to the formation or alteration of wards must observe the principle that the number of electors in a ward divided by the number of council members for that ward does not vary from the ward quota by more than 10% at the date the proposal is finalised.

Any option involving wards must contain clearly described indicative structures and discussion on the advantages and disadvantages of each and include maps showing boundaries, the number of electors and council members per ward.

Options must give consideration to any identified demographic trends and any predicted elector number fluctuations to ensure ward quotas do not vary more than 10% at the date of certification. The report must contain accurate calculations of the impact of any trends or projections on elector representation. For example a major residential subdivision may result in a large number of electors in an area that previously contained few.

Summary

Provide a concise summary for the options paper including reasons for the review and discuss the review process.

The summary should also include information on the opportunity for interested persons to provide written submissions in response to the options paper.

Representation Options Paper Checklist

Introduction

- review process
- legislative requirements
- key issues relating to the process.

Council background

- historical information specific to the council
- outcomes of previous elector representation reviews.

Current structure

- current composition and structure
- current elector numbers including
 - per ward (if applicable)
 - ward quotas (if applicable).

Composition of council

- specific roles and rights of the principal member of council Mayor/Chairperson including advantages/disadvantages
- number of councillors
- area/ward councillors
- elector representation
 - elector numbers
 - comparisons with other councils of a similar size and type
 - councillor/elector ratios
- consideration to changing the current arrangements
- investigate, describe and prepare various options for the council structure and composition.

Legislative principles and matters which must be considered

- demographic trends
- elector representation for each option and how and when they were derived
 - House of Assembly/Council Supplementary roll including tables/graphs
- if there are more than 12 council members, could that number be reduced
- ward quotas for each proposed option and how they satisfy the criteria
- population projections
- advantages/disadvantages of either a ward structure or abolishing wards
- does the new structure reflect communities of interest (economic, social, regional or other kind)
- take into account the populations of the area, each ward and the topography of the area for communication between elected members and electors.

Options

- all options include detailed advantages/disadvantages for each option
- maps include detailed boundaries, elector numbers and number of members for each option
- how the elector numbers were derived and ward quotas.

Summary

- summarise the process and requirements for the options paper
- highlight the main issues in the options paper
- provide closing dates for written submissions and where the options paper is available
- provide details on the next phase of the review process and the representation review report.

Council to adopt the release of the representation review options paper for public consultation

First Public Consultation Overview

Public consultation of the options paper must comply with the requirements prescribed in the Act. In particular the Electoral Commissioner will be seeking evidence that council has allowed for the legislated timeframe for public notices.

Councils must give their communities and other interested parties the opportunity to examine and provide written submissions on the representation review options paper.

Council is required to give public notice to:

- inform the public of the preparation and availability of the options paper
- invite interested persons to make written submissions to the council on the subject of the review within a minimum six week period.

Public notices must be placed in the:

- **SA Government Gazette, and**
- **in the case of a notice to be published on a website determined by the Chief Executive Officer, and**
- **notification of the fact of publication of the notice and the website address at which the notice is available for public inspection is published in newspapers circulating within the area of the relevant council.**

The options paper must be made available for inspection without charge and for purchase (on payment of a fee fixed by council) and available on the website.

In addition to the prescribed notification requirements, it would be good practice for councils to undertake additional engagement of stakeholders to communicate the options paper and the review process.

Placing the options paper on the council website, organising workshops, focus groups/public information sessions and elector surveys can be useful tools for community engagement and opportunities for change and to raise awareness.

Other public initiatives for notification of the review include:

- council community newsletters/mail outs
- additional localised advertising in community areas
- a regular column in a local paper (if applicable).

First Public Notice

Example public notice - first public consultation period.

Elector Representation Review	
"Council"	Logo
<p>Notice is hereby given that the "council name" is undertaking a review to determine whether a change of arrangements are required in respect to elector representation. This will result in the electors of the area being more adequately and fairly represented.</p> <p>Pursuant to the provisions of section 12(7) of the Local Government Act 1999, notice is hereby given that council has prepared a representation options paper that examines the advantages and disadvantages of the various options available in regards to the composition and structure of council, and the division of the council area into wards.</p> <p>Copies of the representation options paper are available on the Council's website at "website address" and for inspection and/or purchase at the Council office at "council address".</p> <p>Written submissions are invited from interested persons from "Day & Date", and should be directed to "CEO Name", "Council address" or email "email address", to be received by close of business on "Day & date <minimum 6 weeks>".</p> <p>Information regarding the representation review can be obtained by contacting "name" on telephone "phone number" or email "email address"</p> <p>"CEO Name" Chief Executive Officer</p>	

First Public Consultation Period Checklist

Council must provide the community the opportunity to examine the options paper and provide written submissions for council's consideration.

- Prepare and lodge public notices as per the prescribed requirements allowing a six week minimum timeframe for inviting written submissions and informing the community of the availability of the options paper
- Make copies of the options paper available for:
 - inspection without charge
 - purchase (on payment of a fee fixed by council)
 - inclusion on website.
- Provide a community engagement plan detailing how the community can be involved in activities associated with the review such as:
 - workshops
 - information sessions
 - surveys.

Representation Review Report

Objectives of the Representation Review Report

Following the analysis of feedback and information gathered as part of the first public consultation, council is required to endorse a position on their future structure and composition.

The representation review report is designed to provide a consolidated outcome of the initial stages of the elector representation review process including the strategy for public consultation undertaken and communicate council's preferred position on future composition and structure of the council to the community.

This report must contain details of how council came to the endorsed position and must include any reasons for not endorsing other options.

section 26(1)(c) section 33

The report must also contain analysis of how the endorsed position relates to the principles in section 26(1)(c) and matters in section 33 of the Act.

A key aim of the report is to communicate the council's preferred option for the future. The report must contain a clear and detailed description of the proposal including but not limited to:

- detailed maps showing existing boundaries and proposed boundaries
- calculations used to determine the numbers of electors in each proposed ward.

The representation review report will be subject to a three week period of public consultation.

Introduction

This section provides the background of the review process and provides information on the council's approach to undertaking the review, including reference to the legislative requirements. The introduction should highlight the key issues addressed in the review and contain an overview of the options considered in the representation options paper.

Public Consultation and Submissions Received

Provide a summarised overview of the public consultation strategy undertaken by council for the review. Prepare and provide a schedule of written submissions and any other submissions received by council during the public consultation period and provide analysis of each submission and council's response to any issues raised.

Representation Structure Proposal

Describe all proposals considered in the review process and provide a clear description of council's endorsed option. Additionally, provide the reasons behind any decision not to adopt other options discussed in the review.

The report must provide evidence of how the proposal relates to the principles under section 26(1)(c) and the matters referred to in section 33 of the Act.

Along with detailed, clearly labelled maps showing the present and proposed ward boundaries (if applicable), the report must also contain a schedule which includes:

- details of calculations used to determine the numbers of electors in each proposed ward (both House of Assembly and Council Supplementary roll)
- separate figures showing the number of House of Assembly electors and the number of persons entitled to vote under section 14 of the *Local Government (Elections) Act 1999*.

It should be noted that as per section 33(3) of the Act, a ward quota may exceed the 10% tolerance referred to in section 33(2) if based on demographic changes predicted by a Commonwealth or State government agency, it appears that the ward quota will not be exceeded by 10% at the date of the next periodic election. Supporting documentation to be supplied.

Summary

This section should summarise the reason for having the review and the process undertaken by council. The report must clearly outline the council endorsed proposal and provide information to make a submission on the representation review report during the next public consultation period and the closing date for submissions.

Representation Review Report Checklist

Following consideration of the representation options paper and written submissions, council must prepare a report on the consultation with the public and the response to the issues arising from the submissions. Use the checklist to ensure the representation review report meets prescribed requirements.

Introduction

- review process and the legislative requirements
- background on current structure and composition.

Initial public consultation on the representation review options paper

- public consultation undertaken
- summary of submissions received
- analysis of each submission and council's response to any issues raised.

Representation structure proposal

- include all options considered in the review process and reasons behind council not deciding to adopt any other options
- council's endorsed option and rationale behind the decision
- evidence of how the proposal relates to the principles in section 26(1) of the Act and matters referred to in section 33 of the Act (if applicable).

Summary

- summarise the process and requirements of the representation review report
- recommendation of the preferred structure and composition
- provide closing dates for written submissions and where the representation review report is available
- provide details on the next phase of the review process.

Council to adopt the release of the representation review report for public consultation

Second Public Consultation Overview

Public consultation of the representation review report must comply with the requirements prescribed in the Act. In particular, the Electoral Commissioner will be seeking evidence that council has allowed the legislated timeframe for public notices and that all respondents have been given the opportunity to speak to their submissions.

section 12(9)

Councils must give their communities and other interested parties the opportunity to examine and provide written submissions on the representation review report.

Council is required to give public notice to:

- inform the public of the preparation and availability of the representation review report
- invite interested persons to make written submissions to the council on the subject of the review within a minimum three week period.

The public notices must be placed in the:

- **SA Government Gazette, and**
- **in the case of a notice to be published on a website determined by the Chief Executive Officer, and**
- **notification of the fact of publication of the notice and the website address at which the notice is available for public inspection is published in newspapers circulating within the area of the relevant council.**

The representation review report must be available for inspection without charge and for purchase (on payment of a fee fixed by council) and available on the council website.

As with the previous consultation period, councils are encouraged to utilise other means of advertising to maximise community awareness of the review process and the ability for community members to participate.

Other community engagement initiatives for notification of the review include:

- council newsletters/mail outs
- additional localised advertising in community areas
- a regular column in a local paper (if applicable).

section 12(10)

In addition to providing written feedback, authors or their representatives of any submission, must be given the opportunity to speak to their submission before council.

Depending on numbers of respondents, this may require the scheduling of an additional council meeting.

Second Public Notice

Example public notice - second public consultation period.

Elector Representation Review	
"Council"	Logo
<p>Notice is hereby given that the council has undertaken a review to determine whether alterations are required in respect to elector representation, including ward boundaries and the composition of council.</p>	
<p>Report Council has prepared a report which details the review process, public consultation undertaken and a proposal council considers could be carried into effect. A copy of this report is available from "Council Address" during office hours, the council website "Website Address" or contact "CEO Name" by telephone on "Telephone Number".</p>	
<p>Written Submissions Written submissions are invited from interested persons from "Day and Date", and should be directed to "CEO Name", "Council Address" or email "Email Address", to be received by close of business on "Day and Date" <minimum 3 weeks>.</p>	
<p>Any person(s) making a written submission will be invited to appear before a meeting of council or council committee to be heard in respect of their submission.</p>	
<p>Information regarding the representation review can be obtained by contacting "Name" on telephone "Telephone Number" or email "Email Address"</p>	
<p>"CEO Name" Chief Executive Officer</p>	

Second Public Consultation Period Checklist

Public Consultation of Representation Review Report

Council must provide community members with the opportunity to examine the representation review report and provide written submissions for council's consideration. Any person or their representative providing a written submission at this stage of the process shall be invited to speak to their submission before council.

- Prepare and lodge public notices as per the prescribed requirements allowing a three week minimum timeframe for inviting written submissions and informing the community of the availability of the representation review report
- Make copies of the representation review report available at council office for:
 - inspection without charge
 - purchase (on payment of a fee fixed by council)
 - inclusion on website.
- Provide details on the development of the representation review report and further details on the remaining elector representation review process
- Schedule a meeting to hear from persons who submitted a written submission
- Invite, by letter, the authors or their representative of any submissions received to speak to their submission before council

Conduct a Poll Overview

section 12(11 a-d)	<p>If the council report proposes that the composition of the council be altered so that the principal member (section 51(1)) changes to a Mayor rather than a Chairperson or to a Chairperson rather than a Mayor, a poll must be conducted on the matter before council can finalise its report.</p> <p>The role of Mayor and Chairperson are the same except for the manner in which they are elected, voting rights and length of term in office. A Mayor is elected by the community as a whole and the Chairperson is chosen by members of the council.</p>
section 12(13)	<p>A proposal involving a change to the principal member of council will only be certified by the Electoral Commissioner if a poll of electors has been held and the proposed change is the successful outcome of that poll.</p>
<i>Local Government (Elections) Act 1999</i> sections 9, 10, 33-36 and 52-54	<p>Prescribed requirements for conducting a poll are contained within the <i>Local Government (Elections) Act 1999</i>.</p> <p>The Electoral Commissioner will assume the role of Returning Officer for the poll and the staff of the Electoral Commission of SA will provide assistance to council.</p>

Conduct a Poll Checklist

A poll is only required if there is a proposed change to the principal member. Should a poll be required, it must be completed before the elector representation review can be finalised.

- Has council endorsed a proposal to change from a Mayor to a Chairperson or Chairperson to a Mayor**
- Research the specific provisions relating to the conduct of a poll as per the *Local Government (Elections) Act 1999***
 - review sections 9, 10, 33-36 and 52-54.
- Contact the Electoral Commission of South Australia to advise of the intention to conduct a poll**
 - the Electoral Commissioner is the appointed Returning Officer of any such poll.
- Note the timeframes involved in conducting a poll**
 - in conjunction with an election, a minimum of 12 weeks
 - stand-alone poll, a minimum of 8-10 weeks.

Finalise Representation Report Overview

Objectives of the Final Report

Following the feedback on all written submissions received during the representation review process, council is required to endorse the final position on their future structure and composition.

For council to finalise the report, information is requested on the second public consultation period. Council must consider any submissions received and confirm the final position, updating the representation review report as necessary.

Any changes made to the representation review report must be clearly documented with any explanation of the reasons behind the decision to change should be included.

The final report must contain details of any submissions received during the second consultation period, including names of the respondents, copies of the submissions and details of whether the respondent chose to speak before council.

Council must also provide all copies of public notices and details of the consultation period undertaken.

The final report to the Electoral Commissioner should include detailed information regarding the review process and provide evidence of the extent the principles and matters contained in section 26 and 33 of the Act influenced the decision to adopt the proposed composition and structure. The 'one vote one value' principle is to be observed.

Introduction

This section provides the background of the review process and provides information on the councils approach to undertaking the review. This information includes the key issues addressed in the review. An overview of all the options considered throughout the process.

Background

Detail the current structure and composition of the council and any other pertinent information regarding the history of the council.

Proposal

Describe all proposals/options considered throughout the process and provide the details of the councils endorsed decision and provide details of the reasons behind the decision not to adopt the other options discussed during the review.

Review Process

Discuss the project plan and community consultation council undertook in the review process.

Public Consultation

The analysis of the feedback and written submissions following public consultations:

- first public consultation
- second public consultation.

Proposed Composition and Structure

Information on how and why the council adopted the final structure and composition:

- composition of council
- council name
- principal member
- wards
- councillors.

Provisions Relating to the Act

Evidence of how the proposal relates to the principles under section 26(1)(c) and the matters referred to in section 33 of the Act:

- quota
- community of interest
- population and demographic trends
- topography
- communication
- the 'one vote one value' principle has been observed.

Conclusion

Summary of the review process and key issues relating to compliance. Councils adopted position on the representation structure and composition:

- council name
- principal member
- council area – wards/no wards
- ward names (if applicable)
- number of members – per ward (if applicable), or
- number of area councillors.

Finalise Representation Review Report Checklist

This checklist will assist councils to finalise the representation review report and prepare the documentation for submission to the Electoral Commissioner.

- Update the representation review report**
 - update the report to include any changes that have occurred as a result of the second public consultation period
 - ensure that the report contains copies and dates of placement of all the prescribed public notices
 - the report must contain details of all council resolutions that are relevant to the review.

- Public submissions received**
 - include a summary of all written submissions received
 - attach copies of any submissions received
 - provide a list of any respondents that took the opportunity to appear before council
 - provide analysis of each submission and council's response.

- Representation structure proposal**
 - if there are any changes to the proposed structure put forward in the representation review report, the report must be updated to reflect the changes
 - provide a clear description of council's endorsed option
 - provide reasoning behind the decision to change the option
 - provide evidence of how the proposal relates to the principles under section 26(1)(c) and the matters referred to in section 33 of the Act
 - provide the reasons behind any decision not to adopt other options discussed in the review
 - provide a schedule which includes:
 - details of calculations used to determine the number of electors in each proposed ward (both House of Assembly and Council Supplementary roll)
 - separate figures showing the number of House of Assembly electors and the number of persons entitled to vote under section 14 of the *Local Government (Elections) Act 1999*
 - attach detailed, clearly labelled maps showing the current and proposed ward boundaries
 - copies of the Council Supplementary roll.

- Submit final report to the Electoral Commissioner**
 - ensure the final report has been endorsed by council
 - include council meeting minutes in relation to adopting the composition and structure
 - the final report will include the following:
 - a copy of the representation options paper
 - a copy of the representation review report
 - all submissions received from both consultation periods and associated information
 - copy of the Council Supplementary roll
 - all publications of public notices pertaining to the process.

Tips to Achieve Certification

Council is required under the Act to observe all statutory requirements for the review process. Failure to observe requirements or provide evidence within the submission to the Electoral Commissioner may result in failure to achieve a certificate of compliance.

sections 12 ,26, 33

To assist councils in gaining certification the following tips are provided:

- appoint qualified and experienced personnel to undertake or consult on the review process
- read and have a clear understanding of the appropriate sections of the Act relating to an elector representation review
- comply with requirements of placement and timeframes for all public notices – notices are required twice within the review process and once upon certification
- use the checklists when preparing the representation options paper and representation review report to make sure they examine the required elements of the review
- make sure proper consideration is given to the representation principles and matters outlined in the Act and include council's responses to submissions and reasoning behind any decision making
- adhere to any specified timeframes and give the community every opportunity to be involved in the review process
- liaise with the Electoral Commission of SA at all times before and during the review process if clarification or further information is required.

Implement Changes to the Representative Structure

The Electoral Commissioner will notify council in writing of a certificate of compliance and specify a day by which council must publish a notice in the SA Government Gazette to advise of the completed review and any proposed changes.

section 12(18)

For changes to come into effect for the next periodic election the notice must appear prior to January 1 in the year of the next periodic election.

section 12(13-21)

Should the Electoral Commissioner find that the report does not meet the statutory requirements, council will be provided with a written explanation as to why certification has not been met. Council must take appropriate action and may alter the report before referring it again to the Electoral Commissioner.

However, if a council alters their report and determines the alteration is not of a minor nature, it must:

- make copies of the report available for public inspection as if the report constitutes a new report
- place a public notice in the SA Government Gazette, and a copy in newspapers circulating within the area of the relevant council, and the public notice to be published on a website determined by the Chief Executive Officer
- invite interested persons to make written submissions to council on the altered report
- allow at least three weeks to receive submissions. Any person or their representative who provides a written submission in response to the altered report must be given the opportunity to be heard in respect of their submission before council.

Final Public Notice – No Boundary Changes

Example final public notice - no boundary changes.

Elector Representation Review	
“Council”	Logo
Final Recommendation Notice is hereby given that the “Council Name”, in accordance with the requirements of section 12(4) of the Local Government Act 1999, has reviewed its composition and elector representation arrangements.	
Certification Pursuant to section 12(13)(a) of the said Act, the Electoral Commissioner has certified that the review undertaken by council satisfies the requirements of section 12 and may therefore now be put into effect as from the day of the first periodic election held after the publication of this notice.	
The revised representation arrangements are as follows: “Type in Representation Arrangements”.	
“CEO Name” Chief Executive Officer	

Final Public Notice – Boundary Changes

Example final public notice – boundary changes.

Elector Representation Review	
“Council”	Logo
Final Recommendation Notice is hereby given that the “Council Name”, in accordance with the requirements of section 12(4) of the Local Government Act 1999, has reviewed its composition and elector representation arrangements.	
Certification Pursuant to section 12(13)(a) of the said Act, the Electoral Commissioner has certified that the review undertaken by council satisfies the requirements of section 12 and may therefore now be put into effect as from the day of the first periodic election held after the publication of this notice.	
The revised representation arrangements are as follows: “Type in Representation Arrangements”.	
The Council of “Council Name” will comprise of “principal member” and “number of members per ward”.	
The Council area will be divided into “number of wards”, as defined in the following schedules (if applicable).	
First Schedule “name of ward” – short description of outer boundary <detailed ward map>	
Second Schedule “name of ward” – short description of outer boundary <detailed ward map>	
“CEO Name” Chief Executive Officer	

Glossary

Area Council Member	A person elected to represent electors across the whole council area, rather than in a particular ward.
Body Corporate	An entity legally incorporated in a corporation e.g. company, incorporated association cooperative, trade union, friendly society or other like incorporated body; excludes partnerships, private trusts or unincorporated bodies.
Council	An area constituted under the <i>Local Government Act 1999</i> .
Council Member	A person appointed or elected as a council member of a council to represent the council area or a ward. This includes the Mayor or Chairperson.
Elector	A person, body corporate or group of persons enrolled on the voters roll for a council; a designated person to vote on behalf of a body corporate or group.
Electoral Commission of SA (ECSA)	The Electoral Commissioner is the Chief Executive of the Electoral Commission of SA and is the Returning Officer for all local government elections. ECSA staff assist the Electoral Commissioner in the discharge of statutory duties.
Electoral Commissioner	The person responsible for the administration of local government and state parliamentary electoral legislation in South Australia. The Electoral Commissioner is the appointed Returning Officer for each council and determines the certification of elector representation reviews.
Group	Consists of natural persons or bodies corporate or a combination of both.
Local Government Act 1999	Legislation providing for the system of local government, council constitution, membership, staffing, administration, financial, regulatory and other matters.
Local Government (Elections) Act 1999	Legislation regulating the conduct of local government elections and polls for which the appointed Returning Officer is the Electoral Commissioner.
Prescribed Level of Voter Participation	For the purposes of section 12(11c)(c), a number represented by multiplying the total number of persons entitled to cast a vote at the poll by half of the turnout percentage for the council.
Polling Day	The closing time for the receipt of returned voting material.
Public Notice	A notice published in the SA Government Gazette and in the case of a notice to be published on a website determined by the Chief Executive Officer, and notification of the fact of the notice and the website address at which the notice is available for inspection is published in newspapers circulating within the area of the relevant council.

Qualified Person	The Act prescribes that the representation options paper is written by a person who, in the opinion of council, is qualified to write a paper on the alternatives that could be considered for the council composition and structure and address any representation and governance issues that may arise from the review.
Quota	The number of electors for the council area (as at relevant date) by the number of members who constitute the council (ignoring any fractions resulting from the division and expressed as a quota).
Ratepayer	A person appearing in a council assessment record as owner or occupier of rateable property.
Relevant Date	Date on which a proposal relating to the formation/alteration of wards of a council is finalised or date of next periodic election with regard to calculating whether a ward quota will be outside the 10% tolerance based on predicted demographic changes.
Representation Options Paper	A paper prepared by a qualified person to address representation and governance issues for a council undertaking a review of its composition and structure.
Representation Review	A review to determine a council's composition and structure. It may relate to a specific aspect of the council composition, the wards or matters generally. This will occur at least once in each relevant period as prescribed by the regulations. The Minister for Local Government from time to time will publish in the Gazette a timing schedule for determination of the relevant period for each council.
Voters Roll	The voters roll is a combined list of House of Assembly electors and council records containing details of natural persons, bodies corporate and groups who have made application for enrolment. With the exceptions of House of Assembly electors, the Council Supplementary roll expires on 1 January of each election year and electors must renew their enrolment.
Ward	A division of a council area.
Ward Quota	A ward quota is the number of electors for the area (as at relevant date) divided by the number of councillors for the area who represent wards (ignoring any fractions resulting from the division expressed as a quota). The number of electors represented by a council member must not vary from the ward quota by more than 10%.
Ward Representation	If there are two or more representatives for a ward, the number of electors represented by each council member is taken to be the number of electors for the ward (as at relevant date) divided by the number of councillors for the ward.

Local Government Act 1999 Excerpts

section 12

12—Composition and wards

- (1) A council may, by notice in the Gazette after complying with the requirements of this section—
 - (a) alter the composition of the council;
 - (b) divide, or redivide, the area of the council into wards, alter the division of the area of the council into wards, or abolish the division of the area of a council into wards.
- (2) A notice under this section may also—
 - (a) change the council from a municipal council to a district council, or change the council from a district council to a municipal council;
 - (b) alter the name of—
 - (i) the council;
 - (ii) the area of the council;
 - (c) give a name to, or alter the name of, a ward,
(without the need to comply with section 13).
- (3) A council must, before it publishes a notice, conduct and complete a review under this section for the purpose of determining whether its community would benefit from an alteration to its composition or ward structure.
- (4) A review may relate to a specific aspect of the composition of the council, or of the wards of the council, or may relate to those matters generally—but a council must ensure that all aspects of the composition of the council, and the issue of the division, or potential division, of the area of the council into wards, are comprehensively reviewed under this section at least once in each relevant period that is prescribed by the regulations.
- (5) A council must, in order to commence a review, initiate the preparation of a paper (a representation options paper) by a person who, in the opinion of the council, is qualified to address the representation and governance issues that may arise with respect to the matters under review.
- (6) The representation options paper must examine the advantages and disadvantages of the various options that are available to the council under subsection (1) (insofar as the various features of the composition and structure of the council are under review) and, in particular (to the extent that may be relevant)—
 - (a) if the council is constituted of more than 12 members—examine the question of whether the number of members should be reduced; and
 - (b) if the area of the council is divided into wards—examine the question of whether the division of the area into wards should be abolished,
(and may examine such other relevant issues as the council or the person preparing the paper thinks fit).
- (7) The council must—
 - (a) by public notice—
 - (i) inform the public of the preparation of the representation options paper; and
 - (ii) invite interested persons to make written submissions to the council on the subject of the review within a period specified by the council (being a period of at least 6 weeks); and
 - (b) publish a copy of the notice in a newspaper circulating within its area.
- (8) The council must ensure that copies of the representation options paper are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council during the period that applies under subsection (7)(a)(ii).

- (8a) The council must, at the conclusion of the public consultation undertaken under subsection (7)(a), prepare a report that—
- (a) provides information on the public consultation and the council's response to the issues arising from the submissions made as part of that process; and
 - (b) sets out—
 - (i) any proposal that the council considers should be carried into effect under this section; and
 - (ii) in respect of any such proposal—an analysis of how the proposal relates to the principles under section 26(1)(c) and the matters referred to in section 33 (to the extent that may be relevant); and
 - (c) insofar as a decision of the council is not to adopt any change under consideration as part of the representation options paper or the public consultation process—sets out the reasons for the council's decision.
- (9) The council must—
- (a) make copies of its report available for public inspection at the principal office of the council; and
 - (b) by public notice—
 - (i) inform the public of the preparation of the report and its availability; and
 - (ii) invite interested persons to make written submissions to the council on the report within a period specified by the council (being a period of at least 3 weeks); and
 - (c) publish a copy of the notice in a newspaper circulating within its area.
- (10) The council must give any person who makes written submissions in response to an invitation under subsection (9) an opportunity to appear personally or by representative before the council or a council committee and to be heard on those submissions.
- (11) The council must then finalise its report (including in its report recommendations with respect to such related or ancillary matters as it thinks fit).
- (11a) If the report proposes that the composition of the council be altered so that—
- (a) the council will have a Chairperson rather than a Mayor; or
 - (b) the council will have a Mayor rather than a Chairperson,
- then the proposal cannot proceed unless or until a poll has been conducted on the matter and the requirements of subsection (11c) have been satisfied.
- (11b) The council may, with respect to a proposal within the ambit of subsection (11a)—
- (a) insofar as may be relevant in the particular circumstances, separate the proposal (and any related proposal) from any other proposal contained in the report (and then it will be taken that the council is reporting separately on this proposal (and any related proposal));
 - (b) determine to conduct the relevant poll—
 - (i) in conjunction with the next general election for the council (so that the proposal (and any related proposal) will then, if approved at the poll, take effect from polling day for the following general election); or
 - (ii) at some other time (so that the proposal (and any related proposal) will then, if approved at the poll, take effect in the manner contemplated by subsection (18)).
- (11c) The following provisions apply to a poll required under subsection (11a):
- (a) the Local Government (Elections) Act 1999 will apply to the poll subject to modifications, exclusions or additions prescribed by regulation;
 - (b) the council must—
 - (i) prepare a summary of the issues surrounding the proposal to assist persons who may vote at the poll; and

- (ii) obtain a certificate from the Electoral Commissioner that he or she is satisfied that the council has taken reasonable steps to ensure that the summary presents the arguments for and against the proposal in a fair and comprehensive manner; and
 - (iii) after obtaining the certificate of the Electoral Commissioner, ensure that copies of the summary are made available for public inspection at the principal office of the council, are available for inspection on a website determined by the chief executive officer, and are published or distributed in any other way that the Electoral Commissioner may direct;
 - (c) the proposal cannot proceed unless—
 - (i) the number of persons who return ballot papers at the poll is at least equal to the prescribed level of voter participation; and
 - (ii) the majority of those persons who validly cast a vote at the poll vote in favour of the proposal.
- (11d) For the purposes of subsection (11c)(c), the prescribed level of voter participation is a number represented by multiplying the total number of persons entitled to cast a vote at the poll by half of the turnout percentage for the council, where the turnout percentage is—
- (a) the number of persons who returned ballot papers in the contested elections for the council held at the last periodic elections, expressed as a percentage of the total number of persons entitled to vote at those elections (viewing all elections for the council as being the one election for the purposes of this provision), as determined by the Electoral Commissioner and published in such manner as the Electoral Commissioner thinks fit; or
 - (b) if no contested elections for the council were held at the last periodic elections, a percentage determined by the Electoral Commissioner for the purposes of the application of this section to the relevant council, after taking into account the turnout percentages of other councils of a similar size and type, as published in such manner as the Electoral Commissioner thinks fit.
- (12) The council must then, taking into account the operation of the preceding subsection, refer the report to the Electoral Commissioner.
- (12a) The report must be accompanied by copies of any written submissions received under subsection (9) that relate to the subject-matter of the proposal.
- (13) On receipt of a report, the Electoral Commissioner must determine whether the requirements of this section have been satisfied and then—
- (a) if of the opinion that the requirements have been satisfied—give an appropriate certificate; or
 - (b) if of the opinion that the requirements have not been satisfied—refer the matter back to the council together with a written explanation of the reasons for not giving a certificate under this subsection.
- (14) The validity of a determination of the Electoral Commissioner under subsection (13) cannot be called into question.
- (15) If a certificate is given by the Electoral Commissioner under subsection (13)(a)—
- (a) the Electoral Commissioner must specify in the certificate a day by which an appropriate notice (or notices) for the purposes of this section must be published by the council in the Gazette; and
 - (b) the council may then, by notice (or notices) in the Gazette, provide for the operation of any proposal under this section that it has recommended in its report

- (16) If the matter is referred back to the council under subsection (13)(b), the council—
- (a) must take such action as is appropriate in the circumstances (and may, as it thinks fit, alter its report); and
 - (b) may then refer the report back to the Electoral Commissioner.
- (17) However, a council must, if it makes an alteration to its report under subsection (16)(a), comply with the requirements of subsections (9) and (10) (as if the report (as altered) constituted a new report), unless the council determines that the alteration is of a minor nature only.
- (18) A proposal under this section takes effect as follows:
- (a) if the day of publication of the relevant notice under subsection (15) occurs before 1 January of the year in which a periodic election is next due to be held then, unless paragraph (c) applies, the proposal will take effect as from polling day for that periodic election;
 - (b) if the day of publication of the relevant notice under subsection (15) occurs on or after 1 January of a year in which a periodic election is due to be held (and before polling day for that periodic election) then, unless paragraph (c) applies, the proposal will take effect as from polling day for the periodic election next following the periodic election held in the year of publication;
 - (c) if a general election (not being a periodic election) is held after the expiration of 7 months from the day of publication of the relevant notice under subsection (15) (and before polling day for the next periodic election after publication) then the proposal will take effect from polling day for that general election.

(18a) Subsection (18) has effect subject to the operation of subsection (11b)(b)(i).

(19) If a council—

- (a) subject to subsection (22), fails to undertake a review in accordance with the requirements of this section; or
- (b) fails to take appropriate action if a matter is referred back to the council by the Electoral Commissioner under subsection (13)(b); or
- (c) fails to publish an appropriate notice in the Gazette by the day specified by the Electoral Commissioner in a certificate under this section,

the chief executive officer must refer the matter to the Electoral Commissioner.

Maximum penalty: \$2 500.

- (20) On the referral of a matter under subsection (19), the Electoral Commissioner may take such action as, in the circumstances of the particular case, appears appropriate to the Electoral Commissioner and may then, by notice in the Gazette, give effect to a proposal that could have been carried into effect by the council under this section.
- (21) The Electoral Commissioner may recover from councils costs reasonably incurred by the Electoral Commissioner in performing his or her functions under this section.
- (22) The Minister may exempt a council from the requirement to hold a review under this section on the basis that relevant issues have already been addressed by a proposal under this Chapter.
- (23) An exemption under subsection (22) may be granted on conditions determined by the Minister, including a condition that the council carry out a review under this section by a date specified by the Minister.
- (24) If—
- (a) the area of a council is divided into wards; and
 - (b) the Electoral Commissioner notifies the council in writing that the number of electors represented by a councillor for a ward varies from the ward quota by more than 20 per cent,

then the council must undertake a review under this section within a period specified by the Electoral Commissioner.

- (25) For the purposes of subsection (24)—
- (a) if two or more councillors represent a ward, the number of electors represented by each councillor will be taken to be the number of electors for the ward (as at a date determined by the Electoral Commissioner) divided by the number of councillors who represent the ward (ignoring any fractions resulting from the division); and
 - (b) the ward quota is the number of electors for the area (as at a date determined by the Electoral Commissioner) divided by the number of councillors for the area of the council who represent wards (ignoring any fractions resulting from the division).

section 26

26—Principles

- (1) The Minister should, in arriving at recommendations for the purposes of this Chapter (but taking into account the nature of the proposal under consideration), have regard to—
- (a) the objects of this Act; and
 - (b) the roles, functions and objectives of councils under this Act; and
 - (c) the following principles:
 - (i) the resources available to local communities should be used as economically as possible while recognising the desirability of avoiding significant divisions within a community;
 - (ii) proposed changes should, wherever practicable, benefit ratepayers;
 - (iii) a council should have a sufficient resource base to fulfil its functions fairly, effectively and efficiently;
 - (iv) a council should offer its community a reasonable range of services delivered on an efficient, flexible, equitable and responsive basis;
 - (v) 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;
 - (vi) a council should be in a position to facilitate sustainable development, the protection of the environment and the integration of land use schemes;
 - (vii) 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;
 - (viii) a council area should incorporate or promote an accessible centre (or centres) for local administration and services;
 - (ix) 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;
 - (x) in considering boundary reform, it is advantageous (but not essential) to amalgamate whole areas of councils (with associated boundary changes, if necessary), and to avoid significant dislocations within the community;
 - (xi) 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);
 - (xii) the importance within the scheme of local government that a council be able to co-operate with other councils and provide an effective form of government to the community;

- (xiii) a scheme that provides for the integration or sharing of staff and resources between two or more councils may offer a community or communities a viable and appropriate alternative to structural change options; and
 - (d) the extent and frequency of previous changes affecting the council or councils under this Chapter or the repealed Act.
- (2) The Minister 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.

section 33

33—Ward quotas

- (1) In addition to the other requirements of this Chapter, the following matters must be taken into account, as far as practicable, in the formulation of a proposal that relates to the boundaries of a ward or wards:
- (a) the desirability of reflecting communities of interest of an economic, social, regional or other kind;
 - (b) the population of the area, and of each ward affected or envisaged by the proposal;
 - (c) the topography of the area, and of each ward affected or envisaged by the proposal;
 - (d) the feasibility of communication between electors affected by the proposal and their elected representatives;
 - (e) the nature of substantial demographic changes that may occur in the foreseeable future;
 - (f) the need to ensure adequate and fair representation while at the same time avoiding over-representation in comparison to other councils of a similar size and type (at least in the longer term).
- (2) A proposal that relates to the formation or alteration of wards of a council must also observe the principle that the number of electors represented by a councillor must not, as at the relevant date (assuming that the proposal were in operation), vary from the ward quota by more than 10 per cent.
- (2a) For the purposes of subsection (2)—
- (a) if it is proposed that two or more councillors represent a particular ward, the number of electors represented by each councillor will be taken to be the number of electors for the ward (as at the relevant date) divided by the number of proposed councillors for the ward (ignoring any fractions resulting from the division); and
 - (b) the ward quota will be taken to be the number of electors for the area (as at the relevant date) divided by the number of councillors for the area who represent wards (assuming that the proposal were in operation and ignoring any fractions resulting from the division); and
 - (c) the relevant date, in relation to a proposal that relates to the formation or alteration of wards of the council, will be taken to be the date on which the proposal is finalised for the purposes of this Chapter.
- (3) The 10 per cent tolerance referred to in subsection (2) may be exceeded if, on the basis of demographic changes predicted by a Commonwealth or State government agency, it appears that the ward quota will not, as at the next periodic elections, be exceeded by more than 10 per cent (the relevant date in this case being the date of the next periodic elections).
- (4) If under the repealed Act a proposal relating to the formation or alteration of wards did not comply with the corresponding provisions to subsections (2) and (3) and the relevant proposal proceeded (either in its original or an amended form) then, unless otherwise determined by proclamation, the relevant council (or each relevant council) must conduct (and complete) a review of its composition and wards under Part 1 so as to enable appropriate changes in the composition and wards of the council to take effect on or before the date of the second general election of the council after the proposal took effect or, if an earlier date has been fixed by proclamation, on or before that date.