

## **PART B**

# *Establishment and operations of the Board*



## 2. THE LOCAL GOVERNMENT BOUNDARY REFORM BOARD

This section first discusses issues related to the establishment of the Board, follows with an outline of the legislation's key elements, and concludes with a description of the Board's operations and processes.

The intention in this section is to document process, systems, and structure, but not to interpret or analyse related issues. Thus, this section provides the basis for the Report's later analysis of 'critical success factors', and 'lessons learned' (section 3).

### 2.1 ESTABLISHING THE LOCAL GOVERNMENT BOUNDARY REFORM BOARD

In September 1995, prior to establishing the Board, the State Government established a team within the (then) Department of Housing and Urban Development, headed up by an Executive Director, Local Government Reform. The object was to prepare the groundwork for the structural reform process. Some of the key activities undertaken in the lead up to the Board's establishment — critical to the success of the structural reform initiative — are described in more detail below.

Concurrently, legislation was drafted to establish a Local Government Boundary Reform Board to facilitate the structural reform of Local Government. The draft legislation was circulated in September 1995, providing an opportunity to stimulate debate within Local Government. This was followed by a relatively short consultation period on the draft. The *Local Government (Boundary Reform) Amendment Bill 1995* was introduced to Parliament in November 1995.

#### THE STATE GOVERNMENT'S APPROACH

In introducing the legislation to Parliament, the State Government emphasised that its approach diverged from the MAG Report in two key areas:

- amalgamations were to be voluntary, meaning that a neat map with even-sized Local Government areas was not a primary prerequisite. Amalgamations were to be based on function, economy and effectiveness of local representation
- a preference was expressed for whole of Council areas to amalgamate, to avoid the division of existing community networks, although it was recognised that there may be cases where excision of part of a Council area may be sensible (Hansard, Second Reading Speech, 25 October 1995).

At the time, the Government noted the long-held view that reducing the number of Councils would make a significant contribution to the efficiency and effectiveness of service

delivery in Local Government. By reducing the number of administrative units, and combining their functions, economies of scale would result, to the benefit of all parties. The Government also recognised that both public and private sector organisations were responding and adapting to changing social and economic conditions. While there was a genuine desire in Local Government to reform, this had been frustrated in part by the process for change available through the legislation. In establishing a Board, one of the Government's intentions was to break the impasse that had developed in the structural reform of Local Government as a result of the Panel method of dealing with Council amalgamation proposals. It should be noted, however, that the Panel system was never envisaged as a vehicle to drive structural reform on a significant scale.

**Key principle: voluntary amalgamations**

The Government's new legislation rested on the key principle of voluntary amalgamations. This represented a departure from the prescriptive approach to structural reform adopted by the State Government in Victoria (section 6.1 includes comment from a senior Victorian Government representative on this approach). The three key elements of the Victorian State Government's structural reform program — implemented in 1993 — were forced amalgamations, compulsory competitive tendering, and the interim appointment of Commissioners to replace elected Councils. There were widespread concerns that this approach would be replicated in South Australia.

To facilitate the structural reform of Local Government in South Australia, the legislation included two processes:

- voluntary proposals submitted by Councils
- proposals formulated by the Board.

Although Councils could develop their own structural reform proposal at any time throughout the Board's life, it was only after March 1996 that the Board was able to develop its own proposals.

The Government believed this 'carrot and stick' approach was the best way to ensure the Board was able to accelerate its work. This was an important consideration given the Government's expectation that the Board would complete the bulk of its work in time for the May 1997 Local Government elections. The inclusion of a sunset clause in the legislation — whereby the Board would cease operating in September 1997 — was also regarded as a key mechanism in expediting its work.

Following an extensive Parliamentary debate, the Bill was passed in December 1995, and the Board commenced its operations in January 1996.

## 2.2 KEY ELEMENTS OF THE LEGISLATION

### DEFINITION OF STRUCTURAL REFORM

A structural reform proposal is defined in the legislation as a proposal to:

- constitute a Council
- amalgamate two or more Councils
- abolish a Council and incorporate its area into the areas of two or more Councils
- alter the boundaries of a Council area
- establish a cooperative scheme for the integration or sharing of staff and resources within a federation of Councils.

### OBJECTIVES OF THE BOARD

The objectives of the Board required it to adopt appropriate practices and procedures to enhance the ability of Local Government to provide services in an efficient, effective, fair and responsive manner. The Act outlines the Board's objectives as follows:

- a significant reduction in the number of Councils in the State
- a significant reduction in the total costs of providing the services of Local Government authorities under this Act
- significant benefits for ratepayers under this Act.

### OBJECTS

The legislation establishing the Board required it to have regard to principles (listed below), and also to the following objects of Local Government:

- to provide a representative, informed and responsible decision-maker in the interests of developing the community and its resources in a socially just and environmentally sustainable manner
- to ensure a responsive and effective provider and coordinator of public services and facilities at the local level
- to provide an initiator and promoter of effort within a local community
- to represent the interests of a local community to the wider community.

### PRINCIPLES

In addition to the objects of the Act, the legislation also required that the Board should, in arriving at its recommendations for structural reform proposals, have regard to the following principles:

- the desirability of achieving significant economies in the use of resources within Local Government, while avoiding significant divisions within the community

- that ratepayers should be able to receive a reduction in their Council rates through the implementation of structural reform proposals under this Part
- 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 the management of environmental issues 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
- 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
- if the area of a Council that is not divided into wards is to be amalgamated with the area of a Council that is divided into wards, the new area should be divided into wards
- in certain circumstances a scheme that provides for the integration or sharing of staff and resources by two or more Councils may offer a community or communities a viable and appropriate alternative to boundary reform options.

## **FUNCTIONS**

The functions of the Board under the Act are set out below:

- to assist Councils that are working towards an amalgamation or rationalisation of areas, or towards the rationalisation, integration or sharing of works and services
- to facilitate the provision of financial incentives to Councils that are participating in significant reform proposals in order to assist in the finalisation and implementation of those proposals
- to recommend criteria, to be prescribed by regulation, against which the performance of Councils as Local Government authorities under this Act can be assessed, and then to assess the performance of Councils in the State against those prescribed criteria
- to consider proposals for the making of proclamations under this Part submitted by Councils by agreement, and to make recommendations to the Minister on the basis of those proposals

- to conduct inquiries into the efficiencies and operations of Councils which, on the basis of the Board's assessments against the prescribed performance criteria, warrant further investigation, and which have not participated in the formulation and submission of structural reform proposals
- to make recommendations to the Minister about proposals for the making of Proclamations under this Part in respect of matters that have not otherwise been dealt with by Proclamations based on proposals submitted by Councils
- to assess or develop, in consultation with the proponents, three-year financial and management plans for the 1997–98, 1998–99 and 1999–2000 financial years for Councils that are to be constituted or formed under structural reform proposals under this Part
- to provide advice to the Minister on matters referred to the Board by the Minister
- to conduct other inquiries and to consider various proposals relevant to the operation of this Part, and to the performance of other functions contemplated by this Part.

The functions of the Board required it to develop performance criteria, against which Councils could be assessed. Once developed, the performance criteria were prescribed in regulations under the Act (discussed in section 2.3).

## **PROCEEDINGS**

The Board was legally obliged to open all meetings to the public, except when dealing with matters deemed confidential. The Board dealt with only two matters 'in camera', relating to a potential conflict of interest. The legislation also required the Board to make copies of confirmed minutes available upon request.

Early in the life of the Board, it determined a policy with respect to the release of information or documents other than the confirmed minutes. In essence, the policy was to not release other information, other than through the provisions under the Freedom of Information Act (FOI). During the life of the Board, three FOI requests were made, and the requested information provided for two of these requests.

The Board (and its Committees) maintained a policy of meeting in Council chambers across metropolitan and country South Australia, endeavouring where possible to meet in areas where amalgamation proposals or issues affecting particular communities were being discussed.

## **PROCEDURES AND POWERS**

### **Hearings, inquiries and submissions**

Under the Act, the Board's procedures and powers allowed it to hold hearings and inquiries, receive and consider written submissions, and conduct opinion surveys and polls.

In addition, the Board was not bound by the rules of evidence.

The Board also had certain powers to issue a summons to require a person's attendance, require a person to answer questions, and to require a person or a Council to produce books, papers or other records. These powers were not used.

### **Committees**

The legislation required the Board to establish two committees, the Metropolitan Councils Reform Committee and the Country Councils Reform Committee. These committees were to provide the Board with advice and assistance on matters relevant to Councils within and outside metropolitan Adelaide. The Board decided that the main role of the committees was in assisting the Board in deciding whether Councils submitting a structural reform proposal had carried out a reasonable amount of community consultation. The legislation provided that the Board could decline to accept a proposal, unless or until it was satisfied that a reasonable amount of community consultation had occurred.

### **JUDICIAL REVIEW**

The legislation provided that the Minister and the Board would not be subject to judicial review in relation to their actions in connection with structural reform inquiries and reports, provided they acted within their jurisdiction. This provision was included because the Government recognised that the tight timeframe for the structural reform process required a dynamic approach dependent upon all parties adopting procedures that were as flexible and cooperative as possible. The Government took the view that these qualities could not exist in a litigious environment (Hansard, Second Reading Speech, 25 October 1995).

### **SUNSET CLAUSE**

The inclusion in the legislation of a 30 September 1997 sunset clause was regarded by the Government as a key element in creating a sense of urgency for voluntary structural reform. Expediting the work of the Board was critical, given the need for new Councils to be elected in time for the May 1997 Local Government elections. The sunset date also meant that the Board could not take on a role outside of amalgamations, or become some sort of 'watchdog' over Councils.

In July 1997, amendments to the Act extended the Board's life for 12 months, to 30 September 1998. The extension was intended to provide for the completion of Board formulated proposals still before the Board, and for the management of further proposals for boundary changes between 30 September 1997 and the enactment of new Government legislation.

### **BOARD MEMBERSHIP**

The legislation provided for an eight member Board, with seven members appointed by the Governor. Of these seven:

- four were nominated by the Minister
- two were selected from a panel nominated by the Local Government Association

- one was selected from a panel nominated by the United Trades and Labor Council
- at least two were to reside in metropolitan Adelaide
- at least two were to reside outside metropolitan Adelaide
- at least one was to be a woman
- at least one was to be man.

Each of these members had a deputy, who was nominated by the same body and appointed at the same time.

The Executive Director, Local Government Reform, was also a member of the Board, and did not have a deputy. The role of the Executive Director was as principal executive of the Board and manager of its staff and resources.

Board members included people with a strong background in Local Government, as well as expertise in economic development and industrial relations at local and statewide levels.

The membership of the Board is listed at Appendix B.

## **VOLUNTARY STRUCTURAL REFORM PROPOSALS — DRAFT AND FINAL**

The legislation provided for two types of voluntary (or Council formulated) proposals: draft and final proposals.

### **Draft proposals**

Councils were able to submit a draft proposal or outline of a proposal to the Board at any stage. The Board's guidelines suggested that a draft proposal could be submitted for consideration after the completion of either the first or second phase of investigation. However, it was not essential to lodge a draft proposal formally with the Board prior to submitting a final structural reform proposal.

A draft proposal, by its very nature, would not be as complete as a final proposal. Its purpose was to elicit formal advice about how the proposal could be improved, or other areas that should be investigated and clarified, prior to submitting the final proposal.

Once a draft proposal was submitted, the Board was required to undertake a preliminary assessment against the criteria and principles prescribed by the legislation. Appendix C lists the key elements of this technical assessment (this procedure was consistently applied to both draft and final proposals). A report was then submitted to the Board for review. Councils were given the option to make a presentation at the draft proposal stage, to enable the Board to seek clarification where required. The next step involved the Board providing a formal response to Councils, offering its advice regarding the draft.

A diagram showing each step in the process followed by the Board in receiving a draft proposal can be found at Appendix D.

### **Final proposals**

In this process, the onus was on Councils to review their opportunities with neighbouring Councils, and explore an option which would give the maximum benefits to their community. Once agreement had been reached with one or more Councils to pursue an amalgamation, the results of this detailed investigation formed the basis of a proposal, which was forwarded to the Board for consideration. The Board then prepared a report to the Minister, with its recommendation for approval.

Assessing a final proposal involved two concurrent processes:

- referral to the relevant Board Committee for advice regarding community consultation
- referral to the Board staff to provide a technical assessment for the Board's consideration (coinciding with the issuing of a Public Notice advising the Board's receipt of the proposal).

The detailed process followed by the Board in assessing final proposals is set out in the diagram at Appendix E.

In considering whether there had been a reasonable amount of community consultation prior to the Board receiving a final proposal, the committees referred to the Board's guidelines on 'Consulting the Community'. These guidelines outlined the purpose of consultation, and described a variety of techniques to assist in conducting community consultation. They included a checklist on the consultative process for inclusion in the final structural reform proposal. This was used by the committees as a framework for considering whether there had been a reasonable amount of community consultation in the course of the proposal's being developed by Councils. This involved reviewing the consultation process, not the adequacy of the proposal, or whether the proposal should proceed.

Assessing final proposals involved the Board considering, in the first instance, the committee's assessment of the amount of community consultation. If this process was considered to be reasonable, the Board then moved to considering the technical assessment of the proposal, so that both matters could be addressed at the same Board meeting. This process was adopted to streamline the progress of proposals, and to ensure decisions could be reached as promptly as possible.

The assessment elements used by the Board for community consultation are listed at Appendix F. As explained earlier, in assessing a final proposal, the Board used the same assessment procedure as for draft proposals (see Appendix C).

The Board had no powers to amend the proposal, or substitute an alternative proposal, without the consent of the Councils involved.

### **BOARD FORMULATED PROPOSALS**

Although Councils could develop their own structural reform proposals at any time throughout the Board's life, it was only after March 1996 that the Board was able to develop its own proposals.

The intention was that the Board should be able to formulate proposals, 'where no satisfactory Council proposed schemes exist, or where Councils cannot agree on which one to pursue' (Hansard, Second Reading Speech, 25 October 1996).

After all attempts to facilitate a voluntary proposal failed, the Board would determine a possible grouping of Councils, and then conduct a performance assessment of these Councils against defined performance criteria (prescribed in regulation and outlined in section 2.3) to determine if there would be any community benefit in bringing them together. This would be followed by an extensive consultation and inquiry process, to allow the Board to further investigate and develop a proposal, and establish whether there was community support.

The legislation prescribed the following rigorous and lengthy process for the Board to follow when formulating a proposal, consistent with principles of natural justice:

- the terms of the Board formulated proposal are to be discussed at length with the affected Councils prior to the Board's considering whether to proceed
- when the Board formulates the proposal, public notice must be given setting out the substance of the proposal and inviting submissions in writing with at least six weeks allowed for replies
- after the time for submissions has expired, the Board must hold a hearing in relation to a proposal
- at the hearing, any person who has made a written submission is entitled to be heard
- the Board may also hear and consider other evidence and submissions and then determine if a proposal should proceed, lapse or be amended
- if Councils accept the proposal, it can be recommended to the Minister for Proclamation
- if one or more of the affected Councils rejects a Board initiated proposal, a poll must be conducted by postal voting over the whole affected area, to allow the Board to ascertain the overall result and voting according to various Council areas
- the poll requires a 40% turnout across the whole area affected by the proposal and a majority vote against the proposal to prevent a Board initiated merger from proceeding.

This process reinforced the democratic nature of structural reform, allowing local communities to have their say on their future.

This process is represented in a diagram at Appendix G.

The minimum time for this process was estimated at 34 weeks. This estimate did not factor in any additional time which might be required, for example, to encourage the Councils involved to reconsider a voluntary merger.

### **FINANCIAL MANAGEMENT PLANS**

The legislation required proponents to include a financial and management plan in the structural reform proposal for the 1997–98, 1998–99 and 1999–2000 financial years for the proposed new Council.

In guidelines endorsed by the Board to assist Councils in understanding these requirements, it was suggested that the plan include:

- a summary financial plan (the Board’s guidelines provided a suggested standard format)
- a broad vision statement for the proposed new Council
- an outline of transition plans covering proposed implementation of a new organisation structure, a process for the selection of financial and other systems and a process for adoption of common accounting policies
- advice on the status of recognising, valuing and recording non-current assets and any planned improvements to asset management systems
- advice on any proposed plans to improve management of financial risks
- advice on any expected savings from structural reform and how they are proposed to be applied, and any material impact the reform proposal is anticipated to have on the quality and extent of Council services.

### **RATING PROVISIONS**

To ensure that some portion of the savings resulting from amalgamations was passed on to electors, the legislation required that the revenues collected from rates set for the 1997–98, and 1998–99 financial years were to be no more than the revenues collected for the 1995–96 financial year as adjusted to reflect changes in the Adelaide Consumer Price Index between 1995 and 1997.

To encourage structural reform, this rate capping provision applied to all Councils, regardless of whether or not they amalgamated.

The legislation also contained provisions for differential rates to be used by newly-formed Councils to gradually realign rating relativities, to ease the transition for ratepayers of amalgamating Councils which might previously have had quite different rate structures.

## WARD TOLERANCE

In July 1996, following suggestions made by the Board, the State Government introduced amendments to the Act, allowing for some transitional flexibility in ward quota provisions to assist with the structural reform of Councils. The amendment allowed newly formed Councils with wards to defer the need to meet the requirement of the Act that each elected member represent an equivalent number of electors within a tolerance of 10%, subject to compliance being achieved before the second general election of Councils, or by an earlier date fixed by Proclamation. The intention was to ensure that the principle of 'one vote one value' was restored within a reasonable period of time.

## 2.3 OPERATIONS OF THE BOARD

### EARLY KEY ACTIVITIES

The first step in developing the approach to structural reform was the appointment in September 1995 of an Executive Director, Local Government Reform. Key activities took place during the first three months of the reform initiative, from October to December 1995, and early on following the establishment of the Board in January 1996. Some of these are summarised below.

#### Communication/liaison with Councils

Between October and December 1995, the Executive Director visited every region in the State to explain the draft legislation, the overall approach and the development of the structural reform process. This was essential for keeping Councils informed and providing input into the process.

An information brochure was distributed late in 1995 to assist Councils and the community to understand the Government's approach to structural reform, and how the process was intended to work.

In the early development of the process, considerable consultation occurred with Councils and the LGA. This was particularly the case with the development of the guidelines, and performance criteria and indicators (all described below).

Early in March 1996, the Executive Director travelled throughout the State to conduct information sessions with Councils. Held in conjunction with the LGA, these sessions were primarily about the development of performance criteria, but also provided an opportunity to promote the broader structural reform agenda. These were held in Naracoorte, Murray Bridge, Port Lincoln, Salisbury, Marion, Wallaroo and Melrose.

The Board's objectives in holding these sessions were to:

- inform Councils and communities of its activities and progress

- clarify assessment processes for draft and final proposals
- present draft performance criteria
- provide an understanding of performance criteria.

### **Guidelines for voluntary structural reform**

The Board's functions included providing assistance to those Councils working towards an amalgamation of areas, or towards rationalisation, integration or sharing of works or services. To this end, a series of guidelines was prepared to assist Councils to develop structural reform processes and proposals in a manner consistent with the stated objects of Local Government and the principles outlined in the Act. It was emphasised that there was no requirement, legal or otherwise, to undertake every task identified in the guidelines.

In developing guidelines, it was recognised that Councils needed a process that helped them to work through the various combinations with their neighbours, and then offer practical advice for investigating specific options more fully. This was important, as previous amalgamation attempts had failed in the final stages, often because elected members had reconsidered their decisions on the basis of personal or emotional reasons rather than on objective information.

The guidelines were developed in consultation with the LGA, the Officers Network of the LGA, and the Institute of Municipal Management (IMM).

The guidelines were released in a package as *The Voluntary Structural Reform Information Kit* (initially including Series 1 – 7). Throughout the life of the Board, the guidelines were supplemented with new editions as fresh issues arose. The complete list of the guidelines is included in the references section of this Report.

### **The strategic approach to voluntary structural reform: three phases**

The strategic approach to voluntary structural reform described in the Board's guidelines was in three phases, the timeframes for which would vary, depending on individual circumstances.

The guidelines encouraged Councils developing a major structural reform proposal to consider the largest combination of Councils in the first instance.

For each of the three phases the guidelines stipulated an expected timeframe, objectives and major tasks.

#### **Phase one: Exploration process**

The indicative timeframe for this phase was one month. Its objectives were to:

- identify, investigate and negotiate options for structural reform with neighbouring Councils

- identify the most suitable combination of Councils and determine resources and management arrangements for further investigation.

#### **Phase two: Research and consultation**

The indicative timeframe for this phase was two months. Its objectives were to:

- research and document information to explore the structural reform proposal
- provide comprehensive data to a structural reform committee for analysis of the similarities and difference between Councils
- consult with stakeholders likely to be affected by the proposal.

#### **Phase three: Major voluntary structural reform proposal**

The expected timeframe for this phase was two months. Its objective was to:

- develop and prepare a major structural reform proposal, by addressing the significant components outlined in the Voluntary Structural Reform Process Guidelines (that is, based on the research, analysis and consultation undertaken in phase 1 and phase 2).

### **Resourcing**

The Board comprised eight members and seven deputies. The Executive Director was a Board Member and also the manager of a team of staff supporting the operations of the Board.

At the height of the Board's activity, the team totalled eleven staff: a personal assistant; four client managers who were responsible for ongoing assistance and liaison with Councils; an assessments manager, responsible for reviewing proposals submitted by Councils for compliance with the relevant legislation; an executive officer to the Board; three administrative officers; and a manager of proposals formulated by the Board. Since September 1997, its resources have been scaled down considerably.

Funding from the State Government was supplemented by a grant from the Commonwealth Government.

### **Commonwealth Local Government Development Program funding**

In the lead up to the Board's establishment, funding was successfully sought from the Commonwealth Government's Local Government Development Program (LGDP) for facilitating structural reform (\$400 000), and undertaking a broad study of benchmarking for the performance assessment of Local Government (\$85 000).

The grant for structural reform was used to assist in meeting the cost of facilitators (\$200 000), and to assist in providing support for technical consultancies for groups of Councils (\$200 000). This money was matched dollar for dollar by the State. The grant for the benchmarking and performance assessment project (around \$85 000) extended beyond the structural reform initiative, and led to the development of performance criteria (described on the next page).

### **Facilitators**

It was recognised that many Councils would probably need encouragement to take the first steps towards investigating structural reform options. Therefore, an early task of the Board was to establish a panel of experienced and skilled facilitators, to assist Councils in their efforts to develop and prepare voluntary structural reform proposals.

The role of the facilitators was to provide support, primarily in ensuring that appropriate forums and processes were established and effectively used by Councils in addressing the wide range of issues to be considered. The intention was that initially facilitators would focus on facilitating discussions and ensuring that effective processes were in place.

By supporting Councils in applying the Board's Voluntary Structural Reform Process guidelines, facilitators would be able to:

- assist Councils to identify, investigate and negotiate options for structural reform with neighbouring Councils and identify the most suitable combinations of Councils for further investigation
- support Councils to investigate, research and document proposals and as necessary consult with stakeholders affected
- assist in the preparation of structural reform proposals based on those guidelines.

### **Status Reports**

A comprehensive Status Report from all Councils in the State was first considered by the Board at its April 1996 meeting, which documented each Council grouping in the State involved in amalgamation discussions. The Status Report also identified Councils not actively involved in the process, for whatever reason, and analysed the implications of the situation for progressing structural reform. The Status Report became a standing agenda item for updating at each Board meeting, and was an invaluable tool for monitoring the progress of structural reform across the State.

### **Performance Criteria**

The Act required that the Board develop performance criteria, a subset of the benchmarking and performance assessment project, funded from the Commonwealth LGDP grant. The Board consulted extensively with Councils and the LGA in the development of the criteria, subsequently prescribed as the Local Government (Performance of Councils — Prescribed Criteria) Regulations 1996.

Performance criteria were developed to assist Councils and the Board to compare current performance or capacity with the likely situation following structural reform. It was not the Board's intention that they be used as an absolute measurement against some arbitrary benchmark. Rather, the measure would determine whether or not a local community would benefit from structural reform.

The regulations prescribed the following performance criteria:

- governance — the capacity of the Council to represent and serve the public interests of the community through its elected members and their advocacy role, and the use of community consultation and social development strategies
- financial — the current and potential viability of the Council with particular reference to growth potential, debt levels, revenue capacity, infrastructure maintenance, rating capacity, service provision costs, ability to attract and manage grant funding from State and Commonwealth agencies and appropriate administrative costs
- service provision and delivery — the capacity of the Council to meet the service provision needs of the community in an efficient and effective manner
- environment — the capacity of the Council to meet its statutory and potential community service obligations on matters relevant to the environment
- economic development — the capacity of the Council to identify and contribute to the economic development potential of the region and community expectations in the local area, including infrastructure provision and maintenance, and participation on economic development authorities
- statutory — the capacity of the Council to meet statutory responsibilities, particularly in areas such as health, development, roads and traffic management
- management — the capacity of management to efficiently and effectively support the Council in its governance role, the structures within the Council, and the capacity of management to provide leadership and to achieve agreed outcomes.

The regulations stipulated that these criteria were to be applied with due regard to the particular features of the Council, including its local demography, geography and economy.

## 2.4 THE PROCESS

### STRUCTURAL REFORM PROPOSALS

#### Draft proposals

During the life of the Board, only three draft proposals were submitted:

- the City of Brighton and the City of Glenelg
- the Corporation of the City of Campbelltown and the Corporation of the City of Payneham
- the District Council of Port MacDonnell and the District Council of Mount Gambier.

Of these, the Councils of Brighton and Glenelg, and Port MacDonnell and Mount Gambier, followed the draft proposal with a final proposal. The Payneham Council later became involved in discussions resulting in the formation of the City of Norwood, Payneham, and St Peters.

### **Final proposals**

In total, the Board approved 34 voluntary proposals involving whole-of-Council amalgamations, comprising 81 Councils. In addition, the Board processed a number of boundary alterations (identified separately below). Two other proposals were considered that related to ward boundaries (see below).

In all, 78% of South Australian Councils actively participated in the voluntary structural reform process.

Appendix H lists these new entities, as well as their former Council areas.

In one case on the Eyre Peninsula, the Councils went through the process of developing a proposal which ultimately was not lodged with the Board.

### **The Eyre Peninsula**

Following extensive community consultation and the conduct of a poll of electors, the Councils of Port Lincoln, Lower Eyre Peninsula and Tumby Bay, advised the Board that they did not wish to pursue further structural reform. From the outset of their structural reform investigations, the three Councils followed a rigorous process to develop a proposal, in consultation with their communities and the Board's client manager.

The structural reform proposal which was developed offered modest recurrent savings of around \$400 000, no job losses, and a significant reorganisation of the Councils' internal capacity to improve the quality and range of services to their communities.

The Councils determined to follow the model of community consultation identified in the Act (section 21), as a requirement for Board formulated proposals. A summary of information outlining the 'for' and 'against' cases was referred to the State Electoral Office for review, prior to distribution to the communities of the three Councils. A poll of electors was then conducted late in 1996.

The results of the poll showed the community overwhelmingly rejected the structural reform proposal, by a ratio of 2:1.

Following the declaration of the poll, all three Councils resolved to advise the Board, that, in accordance with the wishes of their communities, they did not wish to pursue further structural reform investigations.

The Board, in accepting the resolution of the Councils, noted that:

- the Councils had conducted a comprehensive evaluation of their structural reform options
- the consultation process in developing the proposal was thorough

- the information given to the community prior to their poll was scrutinised by the State Electoral Office to ensure the 'for' and 'against' arguments were presented fairly and objectively
- the process was undertaken in close consultation with the Board.

As a consequence, the Board:

- accepted the outcome of Councils' poll as a reasonable reflection of community sentiment
- recognised that the process they went through was thorough and professional
- determined that it would not pursue further structural reform investigations.

The Report discusses this further in relation to 'lessons learned' (section 3.3).

### **Boundary alterations**

From its inception until well into 1997, the Board concentrated on facilitating whole of Council amalgamations, with an understanding that boundary alterations would be handled when new Councils began operating.

Legislation extending the life of the Board until September 1998 enabled it to assist those Councils which wished to work through processes of identifying or implementing boundary alterations.

The Board produced a set of guidelines to assist Councils wishing to develop proposals for boundary alterations. The guidelines stressed that they could be adapted to meet specific circumstances.

Some fifty opportunities for boundary alterations were tentatively flagged during the first phase of the structural reform process. These are listed at Appendix I. The Board's view on prospects for progressing these boundary alterations is discussed in section 7.1.

To date, the Board has processed five boundary alterations, including:

- a parcel of land from the (then) City of Noarlunga to the Corporation of the City of Marion
- a realignment of the boundary between the (then) City of Happy Valley and the Corporation of the City of Marion.

The following two boundary alterations were linked directly to amalgamations:

- part of the (then) District Council of Willunga to the (then) District Council of Port Elliot and Goolwa
- part of the (then) District Council of Mount Pleasant to the Mid Murray Council.

The following two boundary alterations were rejected by their Councils, despite polls recording that a majority of the affected communities were in favour:

- the Adelaide Hills Council rejected the transfer of Skye and Auldana to the City of Burnside
- the Mid Murray Council rejected the transfer of the Hundred of Cadell to the District Council of Loxton Waikerie.

The Board also has considered and recommended that the Government approve a proposal to alter the boundaries of the City of Port Augusta, at the most southern extremity across the Spencer Gulf.

### **FURTHER INVESTIGATIONS**

Commencing in April 1996, the Board undertook a performance criteria survey of selected Councils. The Councils surveyed were those which indicated they had no intention of merging, or had made little progress in negotiations with neighbouring Councils. The survey sought detailed responses in a broad range of areas, including the role of strategic plans, community consultation about structural reform, and rate levels.

The Board sponsored a number of investigations related to structural reform opportunities. Some of these arose from the results of performance surveys, while others arose from the perceived need to clarify or assist the voluntary investigations conducted by Councils.

Structural opportunity assessments arising from the performance surveys were commissioned by the Board for the following groupings of Councils:

- Kanyaka-Quorn and Hawker
- Yankalilla, Victor Harbor, Port Elliot and Goolwa, Strathalbyn (and part of Willunga)
- Robe and Lacepede
- Robe and Wattle Range
- Lucindale and Naracoorte
- Lucindale, Lacepede and Robe
- Prospect and Walkerville
- Mitcham and Unley
- Mitcham, Unley and Marion
- Campbelltown and Burnside.

In two of these cases, voluntary proposals resulted from some or all of the groupings. In one case, a Board formulated proposal arising from this process was accepted by the Councils, resulting in the formation of a new Council.

Two metropolitan Councils which participated in the Board's performance criteria survey and preliminary assessment decided to undertake a voluntary investigation of opportunities, rather than have the Board assume that responsibility. The Board felt obliged to support this approach, but no amalgamation resulted.

In four cases, the Board sponsored other investigations, for the purposes of clarifying opportunities:

- Cleve, Kimba, and Franklin Harbor
- Elliston, Le Hunte, and Streaky Bay
- Gawler, Playford, Mallala, Kapunda Light and Barossa
- Brown's Well.

One voluntary amalgamation occurred as a direct result of this intervention, and, in the other cases, the process has delivered comprehensive and useful information that may prove beneficial for future consideration of structural reform.

The Board also requested the City of Mount Gambier and the District Council of Grant to produce a consolidation study to further explore opportunities for resource sharing.

During 1996, the Board commenced investigating amalgamation options in the Fleurieu region. The Board initially facilitated voluntary discussions among the District Councils of Strathalbyn, Port Elliot and Goolwa, Victor Harbor, Willunga (part) and, at a later stage, the District Council of Mount Barker.

This led to a decision by the Board to undertake its own investigations of the possibility of a merger between Strathalbyn, Port Elliot and Goolwa, Victor Harbor, Willunga (part) and Yankalilla. That decision was prompted by a request from those Councils involved in the voluntary process.

One outcome of these processes has been the voluntary merger of the District Council of Strathalbyn and the District Council of Port Elliot and Goolwa to form the new Alexandrina Council on 1 July 1997. Part of the District Council of Willunga was included in that merger, under arrangements to establish the City of Onkaparinga.

In the South East of the State, when the Councils involved decided not to pursue discussions about a possible amalgamation of the District Councils of Lucindale, Lacedpede and Robe, the Board commenced investigations of a range of options including mergers of the District Council of Robe and Wattle Range Council, the District Councils of Lacedpede and Robe, and the District Councils of Lucindale and Naracoorte.

The Board assessed the performance of each Council against the performance criteria prescribed under regulations, and consulted with each Council on the terms of the proposal to amalgamate.

Of all the Council groupings further investigated during the life of the Board, the following three proceeded to the stage of Board formulated proposals:

- District Council of Victor Harbor and the District Council of Yankalilla
- District Council of Robe and the District Council of Lacepede
- District Council of Lucindale and the District Council of Naracoorte.

### **District Council of Victor Harbor and the District Council of Yankalilla**

The first Board formulated proposal involved the District Councils of Victor Harbor and Yankalilla. In August 1997, the Board considered the terms of a proposal for an amalgamation between these two Councils, and agreed to proceed with a Board formulated proposal.

Following the completion of its inquiries and community consultation on the terms of the proposal, the Board decided in February 1998 that the proposal should lapse. In making its decision, the Board was sensitive to the fact that there was no desire, particularly from a significant majority of the Yankalilla community, to amalgamate, and that this would override the benefits. The Board's proposal was met with a strong and united stand from the Yankalilla community, and an apparent lack of interest from the Victor Harbor community. Both Councils were opposed to a merger. The Board also believed that proceeding to a poll on the proposal — as required under the legislation — may have resulted in ongoing community division. As required under the Act, the Board completed its report to the Minister for Local Government, and provided copies for both Councils.

Given that the issue of resource sharing had been raised in community consultation, the Board also determined that it should approach both Councils to convene a meeting of representatives to explore opportunities for resource sharing.

### **District Council of Robe and the District Council of Lacepede**

At its meeting on 22 September 1997, the Board considered the terms of a proposal for an amalgamation between the District Council of Lacepede and the District Council of Robe and agreed to proceed with a Board formulated proposal.

Following the completion of its enquiries and community consultation, the Board decided at its meeting of 8 September 1998 that the proposal should lapse.

The rationale for this decision was based on the Board's recognition that there was a strong belief in the Robe community that alternative amalgamation options should be explored. The community consultation process revealed a keen interest by some for the District Council of Robe to investigate an amalgamation with the Wattle Range Council. Neither Robe nor Lacepede wished to form the District Council of Kingston and Robe. In addition, the Board thought that proceeding to a poll on either the current or an amended proposal was likely to cause significant division within the communities. Furthermore, due to the

insignificant response from the Lacepede community, it was not possible to draw substantive conclusions about their views on the amalgamation proposal. There was, however, little or no support from Lacepede for an amalgamation throughout the process.

The Board considered whether it should conduct further enquiries or continue public consultation on the proposal. The Board decided not to proceed, but resolved to commission the State Electoral Office to conduct a community survey of Robe electors on its behalf, to test the level of support for investigating a merger of Robe and Wattle Range.

### **District Council of Lucindale and the District Council of Naracoorte.**

At its meeting on 22 September 1997, the Board considered the terms of a proposal for an amalgamation between the District Council of Lucindale and the District Council of Naracoorte and agreed to proceed with a Board formulated proposal. The Board invited written submissions and commissioned a consultant to undertake a review of the proposal.

The District Council of Lucindale had requested that an independent study be conducted into the social and economic impacts of the proposed amalgamation of the Lucindale area. The District Council of Naracoorte had requested the Board to assist with an assessment of economic and tourism opportunities which might be enhanced by an amalgamation. The review reported on these matters as well as addressing many of the community concerns raised by some Lucindale ratepayers as part of the consultation process. The review made recommendations to amend the Board proposal.

The Board subsequently convened public information sessions in each Council area on 13 May 1998, which provided residents and ratepayers with an opportunity to raise issues relevant to the proposal, and canvass matters which led to the amendments to the original proposal.

In light of extensive community consultation on the proposal, and having concluded its inquiries and consultation on the proposal, the Board determined at its meeting of 4 August 1998:

- that the proposal to give effect to an amalgamation between the District Council of Lucindale and the District Council of Naracoorte be amended
- that there had been adequate consultation on the matter
- to delegate to the Chairman of the Board authority to approve the contents of an amended terms of proposal document
- to approve the release of an information leaflet to Naracoorte and Lucindale residents and ratepayers summarising the amended proposal
- to forward the terms of the proposal to the District Council of Lucindale and the District Council of Naracoorte

- to authorise the Chairman to write to both Councils asking whether they accept or reject the Board's terms of proposal and advising of the actions that the Board could take as a result of the decision
- to forward a copy of the report to both Councils.

On 11 August 1998, the District Council of Naracoorte advised that Council had unanimously accepted the Board's terms of proposal to amalgamate. On 20 August 1998, the District Council of Lucindale advised the Board that it had accepted the Board's terms of proposal to amalgamate.

A formal Memorandum of Agreement between the two Councils — underpinning details of the Board's proposal — was then finalised. In addition, both Councils supported the option of the Board recommending to the Minister for Local Government that the amalgamation should proceed.

At its meeting of 25 August 1998, the Board supported both Councils by unanimously recommending to the Minister that the amalgamation of the District Council of Lucindale and the District Council of Naracoorte should proceed.

As required under the legislation, the Board provided a report to the Minister with its recommendation, with a copy of the report to the District Council of Lucindale and the District Council of Naracoorte. The new Council was proclaimed on 17 September 1998, and will commence operations on 1 December 1998.

## **STRUCTURAL REFORM PROPOSALS OUTSTANDING**

### **Ceduna**

At its meeting of 8 September 1998, the Board decided that it would accept a structural reform proposal submitted by the District Council of Ceduna to enable further investigations and consultations on the proposal. The proposal was to alter the boundaries of the Council north as far as the Transcontinental Railway Line and west to the Western Australian border, taking into the Council area a part of the Unincorporated Area of the State and the Yalata Communities.

The Board, at its final meeting of 29 September 1998, endorsed a proposed approach to further investigation of the proposal, and determined to refer the matter to the Boundary Adjustment Facilitation Panel. The Board emphasised the importance of undertaking further consultation with the communities.

### **Lacepede**

In late August 1998, the District Council of Lacepede wrote to the Board seeking assistance in investigating options to rationalise its management, administration and operations. The Council floated the possibility of a 'Federation' with a neighbouring Council, constituted as

a Section 200 Authority under the Act. While some initial help has been provided, this matter was not finalised by 30 September 1998.

### **Port Augusta**

The Board has also considered and recommended that the Government approve a proposal to alter the boundaries of the City of Port Augusta at the most southern extremity across the Spencer Gulf. At the time of writing this Report, the proposal was being considered by the Government.

### **Skye and Auldana**

The boundary alteration involving the transfer of the suburbs of Skye and Auldana from the Adelaide Hills Council to the City of Burnside. Although negotiations are continuing, the issue was not resolved by 30 September 1998.