

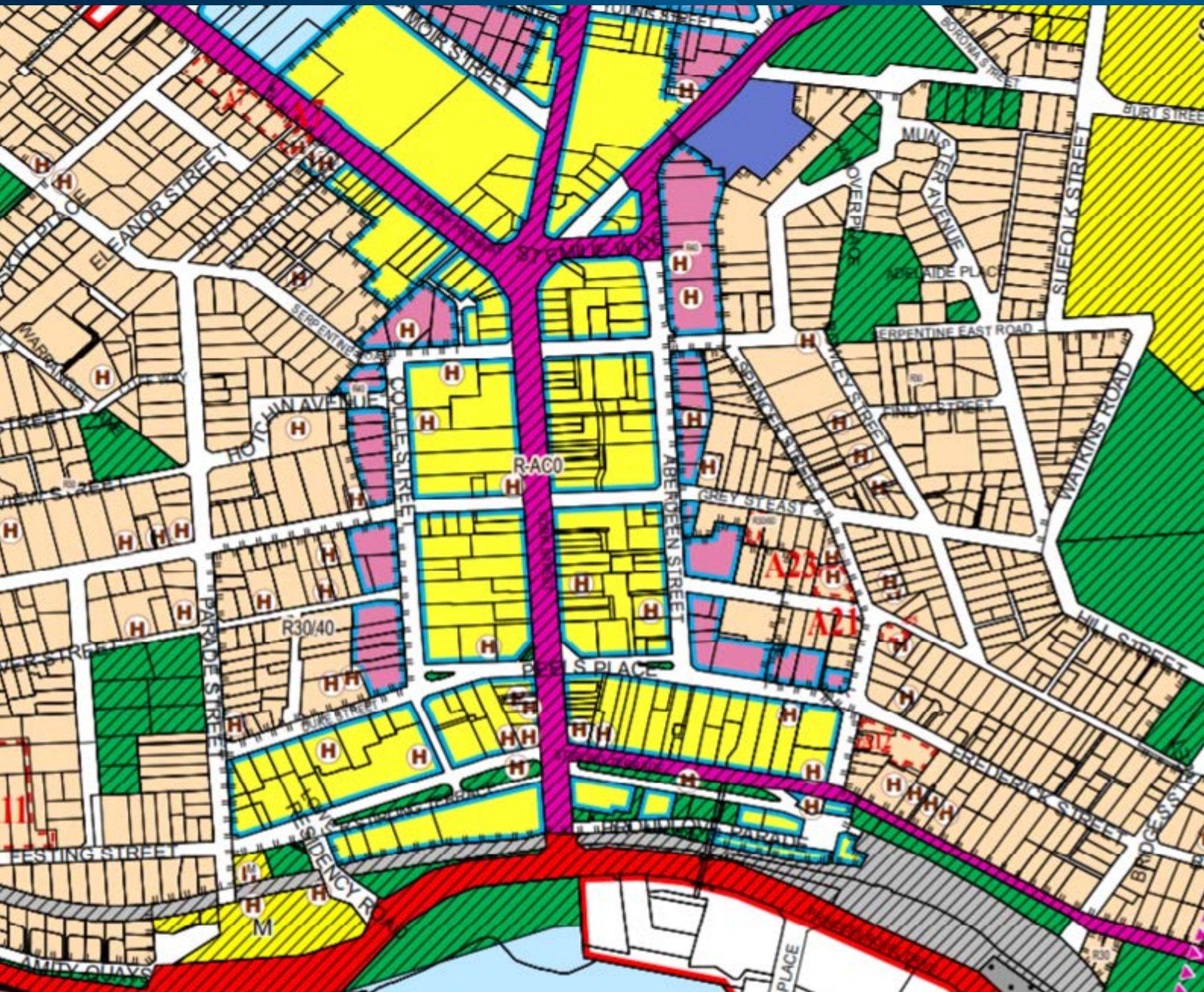
# Scheme Amendment Resolution Guide

A tool to aid in the writing of Officer Recommendations to Council for Scheme Amendments



WALGA

WORKING FOR LOCAL GOVERNMENT





# PART 1: INTRODUCTION TO THIS GUIDE

## INTRODUCTION

Local Planning Schemes (LPS) are a Local Government's most important planning instrument. Planning schemes set out the way land is to be used and developed, classify areas for land use and include provisions to coordinate infrastructure and development within a Local Government area. Local Planning Schemes are also a fundamental driver for Local Governments to achieve economic, social and environmental objectives.

However, LPS are not static documents; they require amendment, to ensure that they remain contemporary and relevant to the needs of the community, and planning theory and policy.

The process of amending a LPS is established in the Planning and Development (Local Planning Scheme) Regulations 2015 (Regulations), requiring the Council to make a decision on a Scheme Amendment twice:

- the first on consideration of the acceptability of the proposal by way of an initial adoption for public consultation, and
- the second to consider any public submissions received and to recommend the finalised scheme proposal to the Minister for Planning. This Guide aims to support the Council's first decision through the writing of Council Resolutions for Scheme Amendment proposals.

The issue of inconsistent wording of Council resolutions across the sector and the concept for preparing a guide to address this, was brought to the attention of the Association by officers of the City of Fremantle. Research subsequently undertaken has found that there is limited consistency across Local Governments in both the content and style of Council resolutions related to Scheme Amendments. Therefore, there is scope to improve both the consistency and legibility of Officer Recommendations that lead to Council resolutions, while retaining appropriate scope for inclusion of local nuances. This Guide will attempt to support improved consistency across the sector.

“ This Guide provides information that Local Governments can refer to when reviewing their templates for Officer Recommendation to Council. ”



## PURPOSE OF THIS GUIDE

This Guide has been prepared, to:

- support Local Governments in improving consistency in the structure and application of officer recommendations for Scheme Amendments across the sector,
- provide guidance on the preparation and drafting of Officer Recommendations for Scheme Amendments to support consistent decision making (Parts 2 and 3), and
- provide template LPS Amendment Officer Recommendations (Part4).

It is important to remember that most Local Governments process a small number of Scheme Amendments each year however, some Local Governments may not process any Scheme Amendments in a given year. To illustrate this, WALGA's 2018/19 Local Government Performance Monitoring Project found that an average of three (3) Scheme Amendments were processed by each of the 26 Local Government participants in the 2018/19 financial year, with approximately half of participants processing either one or none. Therefore, another purpose of the Guide is to provide supporting explanatory information to those Local Governments preparing or assessing a Scheme Amendment who may be unfamiliar with the process.

## STRUCTURE OF THIS GUIDE

This Guide is in four parts with each part designed to be read progressively, culminating in template Officer Recommendations that Local Governments may choose to apply. All parts of this Guide are suggestive, meaning that Local Governments can choose those parts that help to address their local needs. The design also accommodates the varying levels of resource availability across Local Government jurisdictions.

## HOW THIS GUIDE COULD BE USED

Local Governments can use this Guide when reviewing their model Officer Recommendation templates, or as a guide for structuring Officer Recommendations when providing a Scheme Amendment for Council's consideration. Local Governments undertaking a review of their templates could modify the structure of their template Officer Recommendations in line with the template Officer Recommendations in Part 4.

Local Governments could also consider the principles discussed in Part 2 and 3, to ensure that appropriate language and due diligence is applied when drafting and considering a Scheme Amendment.

# PART 2: PRINCIPLES AND MATTERS TO CONSIDER

This part sets out a number of principles and matters that Local Government officers could consider when drafting an Officer Recommendation related to a local planning matter, as well as advice that is more general in nature on key principles to consider when drafting Officer Recommendations.

## CLEAR, CONCISE AND CONCLUSIVE

An Officer Recommendation should be written in plain English, be clear and concise, and avoid ambiguous statements. Clear and concise language is fundamental in ensuring a legible planning system.

The Officer Recommendation must be conclusive, defining the course of action and must 'stand-alone', meaning that a person reading the recommendation (and eventually Council's decision) will readily understand the context and the course of action, without reference to the officer report or attachments to the report.

The Officer Recommendation should not include information that has not already been detailed or explained in the Officer Report.

## COMMAND TENSE

An Officer Recommendation must use command tense, to make clear the intention that will potentially become the Council's decision. For example:

- That Council endorses....
- That Council approves....
- That Council refuses...
- That Council notes....
- That Council receives....

## MUST RUN ITS COURSE

The Regulations do not afford Local Governments the ability to rescind a decision to prepare or adopt a Scheme Amendment. Therefore, once Council passes a resolution to prepare or adopt a Scheme Amendment the process must run its course, as outlined in the Regulations. Local Governments should be cognisant of this when deciding to present a Scheme Amendment to Council for an initial decision.

## MANNER AND FORM

Regulation 5 of the Regulations outlines that:

*"If documents must be provided to the Commission under these regulations the documents must be provided in a manner and form approved by the Commission."*

Part 5 of the Regulations relates to amending a Local Planning Scheme and outlines a number of occasions where a Local Government, when undertaking its functions, must use a manner and form approved by the Western Australian Planning Commission (WAPC or Commission). The relevant forms can be found at: [Planning and Development \(Local Planning Schemes\) Regulations 2015: Scheme and Amendment forms.](#)

Appendix 1 of this Guide includes a template outlining the manner and form that can be used when preparing Scheme Amendments.

## SUPPORTED BY AN OFFICER REPORT

Scheme Amendments must be supported by a written officer report that outlines the proposal and explains its planning merits. Regulation 35(3) outlines that:

“An amendment to a local planning scheme must be accompanied by all documents necessary to convey the intent and reasons for the amendment.”

The officer report should, amongst other things, outline:

- the justification for the proposal,
- compliance with the local and state planning frameworks, and
- the environmental suitability of the proposal.

The manner and form (Form 2A) should be placed at the beginning and end of a Scheme Amendment so that they form a single document.

Technical appendices, which allow a Local Government to determine whether a Scheme Amendment is suitable for Council adoption, should be included to support the report.

## REFUSING TO ACCEPT A SCHEME AMENDMENT

Where a Local Government does not support a Scheme Amendment proposed by an applicant, the Local Government administration can determine to refuse to present such a proposal to Council for adoption. Where Council considers such matters, they should be written in a manner consistent with the appropriate template resolution in Part 4 below.

An administrative decision to not progress a proposed Scheme Amendment or a decision of Council to refuse to adopt (initiate) an amendment cannot be appealed by the proponent at the State Administrative Tribunal.

An Officer Recommendation to refuse a proposed Scheme Amendment should include the reasons for refusal.

## SECTION 76 - MINISTERIAL POWERS IN RELATION TO SCHEME AMENDMENTS

In making decisions, the Local Government should be cognisant of the powers conferred on the Minister for Planning.

The Minister for Planning has a range of powers under s.76 of the *Planning and Development Act 2005* to compel and order Local Governments to undertake a number of actions in relation to Scheme Amendments. The Minister can compel a Local Government in three situations:

1. Where a Local Government has failed to take satisfactory steps to prepare or approve a Scheme Amendment in a case where it ought to have been made, or
2. Has failed to adopt (initiate) a Scheme Amendment where it ought to have been adopted, or
3. Refused to consent to modifications or conditions imposed by the Minister.

## LEVEL OF DELEGATION

The Regulations do not provide a Local Government the ability to delegate any decision making function related to the approval or preparation of a Scheme Amendment to the Chief Executive Officer. Therefore, Council must make these decisions. Officers undertake administrative actions that follow a Council decision and as required by the Regulations.

## THE ABILITY TO CHARGE A FEE

Regulation 48(1)(a) of the Planning and Development Regulations 2009 (2009 Regulations) provides a Local Government with authority to charge a fee for service pursuant to a request for an amendment to a Local Planning Scheme. Where a Local Government receives a Scheme Amendment request, it needs to prepare a fee estimate consistent with the form provided in Schedule 3 of the 2009 Regulations. The hourly rate a Local Government can charge for this service is prescribed in r.48(5).

# PART 3: EXPLANATORY GUIDANCE

This part sets out guidance for consideration by Local Government officers when drafting Officer Recommendations related to a Scheme Amendment. These principles informed the template Officer Recommendations provided in Part 4.

The WAPC has prepared [statutory process flowcharts](#) for the three Scheme Amendment streams. Local Governments should refer to these to assist in understanding the linear flow of the process. To assist users of this Guide the statutory process flowcharts have been included in Appendix 2 of this Guide, these have been amended to highlight where decisions from Council are required to be made.

## PREPARE, ADOPT, INITIATE AND APPROVE

Section 75 of *Planning and Development Act 2005* provides the head of power that allows for the amending of a Local Planning Scheme. It states:

*“A local government may amend a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within any adjacent district, by an amendment –*

- (a) prepared by the local government, approved by the Minister and published in the Gazette; or*
- (b) proposed by all or any of the owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the Gazette.”*

It is the terms ‘prepared’ and ‘adopted’ in points (a) and (b), respectively, that create an important distinction in how to write Officer Recommendations when a Scheme Amendment is first presented to Council. Where a Local Government itself has determined that an

amendment to its Local Planning Scheme is required then the Officer Recommendation is to use the term ‘prepare’; however, where an external applicant prepares the proposal then the Officer Recommendation should use the term ‘adopt’.

This Guide recognises the important role the word ‘initiate’ provides in helping Council understand the role of the initial Council resolution on a Scheme Amendment, that is, to begin an administrative process. Thus, this Guide utilises the term ‘ADOPT (initiate)’ in the template Officer Recommendations.

## WHETHER THE SCHEME AMENDMENT IS ‘BASIC’, ‘STANDARD’ OR ‘COMPLEX’

Regulation 35(2)(a) of the Regulations sets out the need for a Local Government when resolving to prepare or adopt a Scheme Amendment to specify whether the amendment is ‘basic’, ‘standard’ or ‘complex’. An explanation of the reason for forming this decision must also be provided.

The accurate selection of the appropriate category of Scheme Amendment is important as it influences the remainder of the Scheme Amendment process. Further, a landowner may request the WAPC (under r.36(1)) to advise the appropriate category for a Scheme Amendment. Where this advice conflicts with the Local Government resolution, the advice of the WAPC will prevail (r.36(2)).

In defining the terms ‘basic’, ‘standard’ and ‘complex’ amendments the Regulations provide a list of defining qualities for each Scheme Amendment category. These lists should be referred to when justifying the categorisation of a Scheme Amendment.

The explanatory reasons outlined in r.34 is as a minimum requirement to be included in the prescribed Manner and Form (Form 2a). It is standard practice for Local Governments to also provide the explanatory reasons outlined in r.34 as part of the Officer Recommendation. This Guide recommends the continuation of this practice and the preferred wording in the relevant template Officer Recommendations include this.

## **PROVIDING REASON FOR REFUSAL**

The Regulations do not compel a Local Government to provide reasons for refusing to adopt or approve a Scheme Amendment. Regardless, the Officer Recommendation should provide a summary of reasons to justify such a decision. In addition, sufficient rationale to justify the decision should be included in the body of the Council report. Providing adequate rationale and planning reasons for a decision is a key pillar of transparency in administrative decision-making.

The framing of the rationale will assist the WAPC in determining if the decision of Council was appropriate when providing its advice to the Minister and will likely reduce the need for use of Ministerial powers. Template wording for relevant Officer Recommendations is included in Part 4.

Lastly, when a Local Government determines to 'not support' a Scheme Amendment following the conclusion of public advertising, it must forward this decision to the WAPC. This decision should include the reasons for refusal.

## **COMMUNICATING WITH THE APPLICANT**

The Regulations are silent on the need to communicate Scheme Amendment decisions of Council to applicants. However, it is good practice to formally communicate such decisions in writing to the applicant as a part of proactive stakeholder engagement and to adhere to the principles of natural justice.

This Guide recommends that Local Governments implement procedures to ensure that an applicant remains informed of all Council decisions in relation to a Scheme Amendment they have lodged.

## **AVOID INCLUDING ADMINISTRATIVE STEPS IN OFFICER RECOMMENDATIONS**

There are a range of administrative actions that need to be undertaken, as per the Regulations, following a decision of Council. These include advertising a Scheme Amendment and referring the matter to the Environmental Protection Authority (EPA). The inclusion of these administrative actions in an Officer Recommendation is not recommended as it may create an impression that Councils have a decision-making role over these actions. Instead, an explanation of the required administrative actions should be detailed in the body of the Officer report to ensure that Council understands the statutory process following a Scheme Amendment decision.



## SIGNING AND SEALING

The requirement to sign and seal Scheme Amendment documentation is a requirement of the manner and form (Form 2A). The signing and sealing of the Form 2A is to occur immediately or shortly after Council's consideration of the Scheme Amendment. The subsequent execution of the amendment documentation should be undertaken in accordance with r.62(2) of the Regulations. Section 9.49A of the *Local Government Act 1995* prescribes the administrative requirements for the execution of documents under the Local Government's common seal.

It is common practice to include in Officer Recommendations an authorisation under s.9.49A of the *Local Government Act 1995* for the Mayor and CEO to sign and seal the finalised amendment documentation. Preferred wording for the relevant Officer Recommendation is provided in Part 4. However, where a Local Government has adopted a Council policy on the execution of documents and application of the common seal then including such an Officer Recommendation may be unnecessary.

## COMBINING RESOLUTIONS WITH OTHER PLANNING MATTERS

A Local Government may choose to consider a Scheme Amendment concurrently with related or supporting planning instruments, such as a local planning policy or local development plan. The preparation of these instruments is outlined in the Deemed Provisions of the Regulations while the process for the consideration of amendments is outlined in the administrative component of the Regulations. The role of the WAPC as it relates to the consideration of related instruments also varies. Local Governments will need to consider the manner in which Officer Recommendations are structured in these situations to ensure accordance with the respective statutory processes under the Regulations.

# PART 4: TEMPLATE RESOLUTIONS

This part provides template officer recommendations relevant to common Council decisions required for Scheme Amendments. The examples below do not cover all possible occurrences, and therefore Local Governments should undertake due diligence to ensure Officer Recommendations are structured in-line with their own operating procedures.

The example recommendations are divided by the three categories of Scheme Amendment.

Microsoft Word versions of all template resolutions can be accessed through WALGA's [Planning Improvement Portal](#) (login required).

# BASIC SCHEME AMENDMENT

Part 5 Division 4 of the Regulations set out the rules to be followed for undertaking a basic amendment to a Local Planning Scheme. Unlike standard or complex Scheme Amendments, a basic Scheme Amendment is only presented to Council once, for a decision to adopt.

Basic Scheme Amendments are not subject to public advertising; therefore on receipt of the EPA's advice that an assessment is not required, the Scheme Amendment is forwarded to the Commission and the Minister for a determination.

Regulation 58 does not make provision for a basic Scheme Amendment to be modified by Council.

## PREPARE AND AMEND (INITIATION) TEMPLATE OFFICER RECOMMENDATION

The Officer Recommendation Part 1 below is appropriate to be used where the Local Government has determined to prepare an amendment.

That Council:

- (1) in accordance with Section 75 of the *Planning and Development Act 2005*, resolves to PREPARE Amendment No. [##] of the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] as shown in Attachment #;

The alternative Officer Recommendation Part 1 below is appropriate to be used where the Local Government has determined to adopt an amendment prepared by a landowner or their representative.

- (2) in accordance with Section 75 of the *Planning and Development Act 2005*, resolves to ADOPT (initiate) Amendment No. [##] of the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] as shown in Attachment #;

The Officer Recommendation Part 2, shown below, is appropriate for inclusion in both Local Government initiated and applicant initiated scheme amendments. If the Local Government has a Council policy relating to the use of the common seal then Part 3 of the Officer Recommendation below may not be necessary and can be deleted.

- (2) in accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, determines that Amendment No. [##] of the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] is a basic amendment for the following reasons:

- a. <<insert>>
- b. <<insert>>
- c. <<insert>>

- (3) authorises the [Shire President/Mayor] and the Chief Executive Officer, in accordance with Section 9.49a of the *Local Government Act 1995*, to execute under Common Seal Amendment No. [##] to [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#].

# STANDARD SCHEME AMENDMENT

Part 5 Division 3 of the Regulations set out the procedures that must be followed when undertaking a standard Scheme Amendment to a Local Planning Scheme and require Standard Scheme Amendments to be presented to Council on two separate occasions for a decision. The first occasion is for a decision to adopt or prepare the Scheme Amendment under s. 75 of the *Planning and Development Act 2005*.

Standard Scheme Amendments are subject to public advertising; and following the finalisation of the advertising period the matter will be presented back to Council for a decision prior to being to the Commission and the Minister for a determination.

## PREPARE AND AMEND (INITIATION) OFFICER RECOMMENDATION – FIRST COUNCIL DECISION

Where no modifications are required to the Scheme Amendment text, delete Part 1 of the Officer Recommendation below and renumber the remaining recommendation parts accordingly. A requirement for modification would not be used where the Local Government is the applicant, except where modifications are moved by Council as an amendment to the Officer Recommendation as part of their decision making during the Council meeting.

That Council:

- (1) require the following modifications to Amendment No. # of the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#]:
  - a. <<insert>>
  - b. <<insert>>
  - c. <<insert>>
- (2) **subject to the modifications detailed in Council Resolution Part (1) above**, in accordance with Section 75 of the *Planning and Development Act 2005*, resolves to PREPARE Amendment No. [##] of the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] as shown in Attachment #;

Alternative Officer Recommendation Part 2 below, is appropriate to be used where the Local Government has determined to adopt an amendment prepared by a landowner or their representative. While 'adopt' is the formal term for this Council decision, the term initiate is also commonly used. Where no modifications are required to the scheme amendment text delete the text in red in this recommendation.

- (2) **subject to the modifications detailed in Council Resolution Part (1) above**, in accordance with Section 75 of the *Planning and Development Act 2005*, ADOPT (initiate) Amendment No. [##] of the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] as shown in Attachment #;
- (3) in accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, determines that Amendment No. [##] of the [Shire/City/Town] of [insert council name] Local Planning Scheme No. [#] is a standard amendment for the following reasons:
  - a. <<insert>>
  - b. <<insert>>
  - c. <<insert>>

Where no modifications are required to the scheme amendment text delete the text in red (highlighted) in the officer recommendation Part 4 below. However, if the Local Government has a Council policy relating to the use of the common seal then Part 4 of the Officer Recommendation below may not be necessary and may be deleted entirely.

- (4) authorises, **subject to modifications as detailed in Council's Resolution Part (1) above**, the [Shire President/Mayor] and the Chief Executive Officer, in accordance with Section 9.49a of the *Local Government Act 1995*, to execute under Common Seal Amendment No. [##] to [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#].

## **SUPPORT & SUPPORT WITH MODIFICATION (RECOMMENDATION TO THE MINISTER) – SECOND COUNCIL DECISION**

That Council:

- (1) in accordance with Regulation 50(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, notes the submissions received in respect to Amendment No. [##] to the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] and endorses the response to the submissions as contained in this report;

Where no modifications are required to the Scheme Amendment text, delete Part 1 of the Officer Recommendation below and renumber the remaining recommendation parts accordingly. A requirement for modification would not be used where the Local Government is the applicant, except where modifications are moved by Council as an amendment to the Officer Recommendation as part of their decision making during the Council meeting.

- (2) in accordance with Regulation **50(3)(a) / 50(3)(b)** of the Planning and Development (Local Planning Schemes) Regulations 2015 determines to **SUPPORT WITH MODIFICATION** Amendment No. [##] to the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] as shown in Attachment [#];

Regulation 50(3)(a) relates to a decision to support without modification. Regulation 50(3)(b) relates to a decision to support with modification. Delete where appropriate. Where no modifications are required, delete the text in red in this recommendation.

- (2) in accordance with Regulation **50(3)(a) / 50(3)(b)** of the Planning and Development (Local Planning Schemes) Regulations 2015 determines to **SUPPORT WITH MODIFICATION** Amendment No. [##] to the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] as shown in Attachment [#];

(3) in accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 ('Regulations'), determines that the amendment referred to in resolution [#] above is a standard amendment for the following reasons:

- a. <<insert>>
- b. <<insert>>
- c. <<insert>>

If the Local Government has a Council policy relating to the use of the common seal then Part 4 of the Officer Recommendation below may not be necessary and may be deleted entirely.

(4) authorises the [Shire President/Mayor] and the Chief Executive Officer, in accordance with Section 9.49a of the *Local Government Act 1995*, to execute under Common Seal Amendment No. [##] to [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#].

## **DOES NOT SUPPORT (RECOMMEND MINISTER DOES NOT APPROVE) – SECOND COUNCIL DECISION**

That Council:

(1) in accordance with Regulation 50(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, notes the submissions received in respect to Amendment No. [##] to the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] and endorses the response to the submissions as contained in this report;

(2) in accordance with Regulation 50(3)(c) of the Planning and Development (Local Planning Schemes) Regulations 2015 determines to NOT SUPPORT Amendment No. [##] to the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] as shown in Attachment [#] for the following reasons:

- a. <<insert>>
- b. <<insert>>
- c. <<insert>>

Regulation 53(f) requires that a decision made to not support an amendment must be forwarded to the Commission with a summary of reasons. While there is no legal requirement to provide these reasons in the Council resolution, it is recommended that the summary of reasons be provided in the Council resolution for consistency and transparency in decision making. Where no justification is provided, delete the text in red in this recommendation.

(3) in accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 ('Regulations'), determines that the amendment referred to in resolution [#] above is a complex amendment for the following reasons:

- a. <<insert>>
- b. <<insert>>
- c. <<insert>>

(4) in accordance with Regulation 53 of the Planning and Development (Local Planning Schemes) Regulations 2015 forward the amendment to the Western Australian Planning Commission along with a request for the Hon. Minister for Planning to NOT SUPPORT the amendment.

# COMPLEX SCHEME AMENDMENT

Part 5 Division 2 of the Regulations set out the rules to be followed for undertaking a complex Scheme Amendment to a Local Planning Scheme. Complex Scheme Amendments are presented to Council twice for a decision.

Complex Scheme Amendments are subject to public advertising, however unlike basic and standard Scheme Amendments a Local Government must await the consent of the Commission before beginning the advertising period. Following the finalisation of the advertising period, the matter will be presented back to Council for a decision prior to being forwarded to the Commission and the Minister for a determination.

Regulation 37 of the Regulations requires a Local Government to make a clear resolution to:

- a) to proceed to advertise the amendment to the local planning scheme without modification; or
- b) to proceed to advertise the amendment to the local planning scheme with modifications; or
- c) not to proceed to advertise the amendment to the local planning scheme.

Following a decision to prepare or amend a Local Planning Scheme. This additional requirement has been incorporated into the template Council resolutions below.

## PREPARE AND AMEND (INITIATION) OFFICER RECOMMENDATION – FIRST COUNCIL DECISION

Where no modifications are required to the Scheme Amendment text, delete Part 1 of the Officer Recommendation below and renumber the remaining recommendation parts accordingly. A requirement for modification would not be used where the Local Government is the applicant, except where modifications are moved by Council as an amendment to the Officer Recommendation as part of their decision making during the Council meeting.

That Council:

- (1) require the following modifications to Amendment No. # of the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#]:
  - a. <<insert>>
  - b. <<insert>>
  - c. <<insert>>
  
- (2) in accordance with Section 75 of the *Planning and Development Act 2005*, resolves to PREPARE Amendment No. [##] of the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] as shown in Attachment #;

Alternative Officer Recommendation Part 2 below, is appropriate to be used where the Local Government has determined to adopt an amendment prepared by a landowner or their representative. While 'adopt' is the formal term for this Council decision, the term initiate is also commonly used. Where no modifications are required to the scheme amendment text delete the text in red in this recommendation.

- (2) subject to the modifications detailed in Council Resolution Part (1) above, in accordance with Section 75 of the *Planning and Development Act 2005* , ADOPT (initiate) Amendment No. [##] of the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] as shown in Attachment #;
- (3) in accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, determines that Amendment No. [##] of the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] is a complex amendment for the following reasons:
- a. <<insert>>
  - b. <<insert>>
  - c. <<insert>>

Regulation 37 makes clear that a resolution to proceed to advertise a complex amendment is required. Where the Local Government has a relevant Local Planning Policy include this in the resolution, otherwise delete. Where no modifications are required, delete the text in red in this recommendation

- (4) subject to the Western Australian Planning Commission's advice that it considers the amendment suitable for advertising and the EPA determining that an environmental review is not required, resolves in accordance with Regulation 37 of the Planning and Development (Local Planning Schemes) Regulations 2015 to proceed to advertise the amendment **with modification** in accordance with Regulation 38 of the Regulations and Local Planning Policy #.##.

## **SUPPORT & SUPPORT WITH MODIFICATION (RECOMMENDATION TO THE MINISTER) – SECOND COUNCIL DECISION**

That Council:

- (1) in accordance with Regulation 50(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, notes the submissions received in respect to Amendment No. [##] to the [Shire/ City/Town] of [insert Local Government name] Local Planning Scheme No. [#] and endorses the response to the submissions as contained in this report;

Where no modifications are required to the Scheme Amendment text, delete Part 1 of the Officer Recommendation below and renumber the remaining recommendation parts accordingly. A requirement for modification would not be used where the Local Government is the applicant, except where modifications are moved by Council as an amendment to the Officer Recommendation as part of their decision making during the Council meeting.

- (2) in accordance with Regulation 41(3)(a) / 41(3)(b) of the Planning and Development (Local Planning Schemes) Regulations 2015 determines to SUPPORT **WITH MODIFICATION** Amendment No. [##] to the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] as shown in Attachment [#];



Regulation 41(3)(a) relates to a decision to support without modification. Regulation 41(3)(b) relates to a decision to support with modification. Delete where appropriate. Where no modifications are required, delete the text in red in this recommendation.

(3) in accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 ('Regulations'), determines that the amendment referred to in resolution [#] above is a complex amendment for the following reasons:

- a. <<insert>>
- b. <<insert>>
- c. <<insert>>

If the Local Government has a Council policy relating to the use of the common seal then Part 4 of the Officer Recommendation below may not be necessary and may be deleted entirely.

(4) Authorises the [Shire President/Mayor] and the Chief Executive Officer, in accordance with Section 9.49a of the *Local Government Act 1995*, to execute under Common Seal Amendment No. [##] to [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#].

## **REFUSAL TO PREPARE OR AMEND (INITIATION) FOR ADVERTISING – FIRST COUNCIL DECISION**

That Council:

(1) in accordance with Regulation 37(1)(c) of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves NOT TO PROCEED with Amendment No. [##] of the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] for the following reasons:

- a. <<insert>>
- b. <<insert>>
- c. <<insert>>

(2) in accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 ('Regulations'), determines that the amendment referred to in resolution [#] above is a complex amendment for the following reasons:

- a. <<insert>>
- b. <<insert>>
- c. <<insert>>

(3) in accordance with Regulation 37(5) of the Planning and Development (Local Planning Schemes) Regulations 2015, provide a copy of this resolution to the Western Australian Planning Commission.

## **DOES NOT SUPPORT (RECOMMEND MINISTER DOES NOT APPROVE) – SECOND COUNCIL DECISION**

That Council:

(1) in accordance with Regulation 37(1)(c) of the Planning and Development (Local Planning Schemes) Regulations 2015, notes the submissions received in respect to Amendment No. [##] to the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] and endorses the response to the submissions as contained in this report;

(2) in accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 determines to NOT SUPPORT Amendment No. [##] to the [Shire/City/Town] of [insert Local Government name] Local Planning Scheme No. [#] as shown in Attachment [#] for the following reasons:

- a. <<insert>>
- b. <<insert>>
- c. <<insert>>

Regulation 44(f) requires that a decision made to not support an amendment must be forwarded to the Commission with a summary of reasons. While there is no legal requirement to provide these reasons in the Council resolution, it is recommended that the summary of reasons be provided in the Council resolution for consistency and transparency in decision making. Where no justification is provided, delete the text in red this recommendation.

(3) in accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 ('Regulations'), determines that the amendment referred to in resolution [#] above is a complex amendment for the following reasons:

- a. <<insert>>
- b. <<insert>>
- c. <<insert>>

(4) in accordance with Regulation 44 of the Planning and Development (Local Planning Schemes) Regulations 2015 forward the amendment to the Western Australian Planning Commission along with a request for the Hon. Minister for Planning to NOT SUPPORT the amendment.

# APPENDIX 1: TEMPLATE MANNER AND FORM (FORM 2A)

## ***Planning and Development Act 2005***

### **RESOLUTION TO PREPARE OR ADOPT\* AMENDMENT TO LOCAL PLANNING SCHEME**

City/Town/Shire\* of [insert Local Government name] Local Planning Scheme No. [##]  
Scheme Amendment No. [##]

Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

1. Proposed amendment here;
2. Proposed amendment here; and
3. Proposed amendment here.

The Amendment is [basic/standard/complex] under the provisions of the Planning and Development (Local Planning Scheme) Regulations 2015 for the following reason(s): Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

1. <<insert>>
2. <<insert>>
3. <<insert>>

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

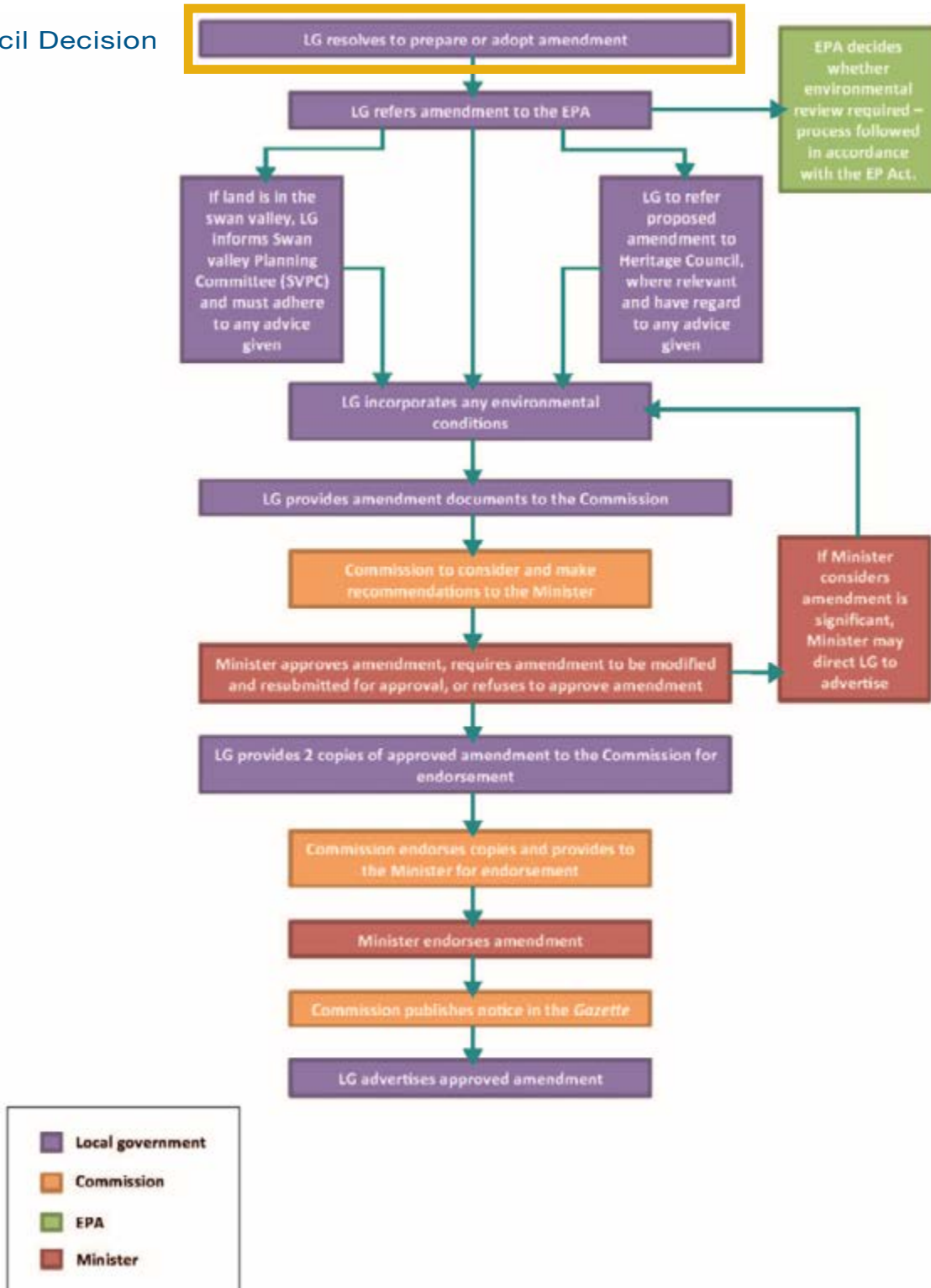
\_\_\_\_\_  
(Chief Executive Officer)

\* delete whichever does not apply

# APPENDIX 2: ANNOTATED SCHEME AMENDMENT FLOWCHARTS

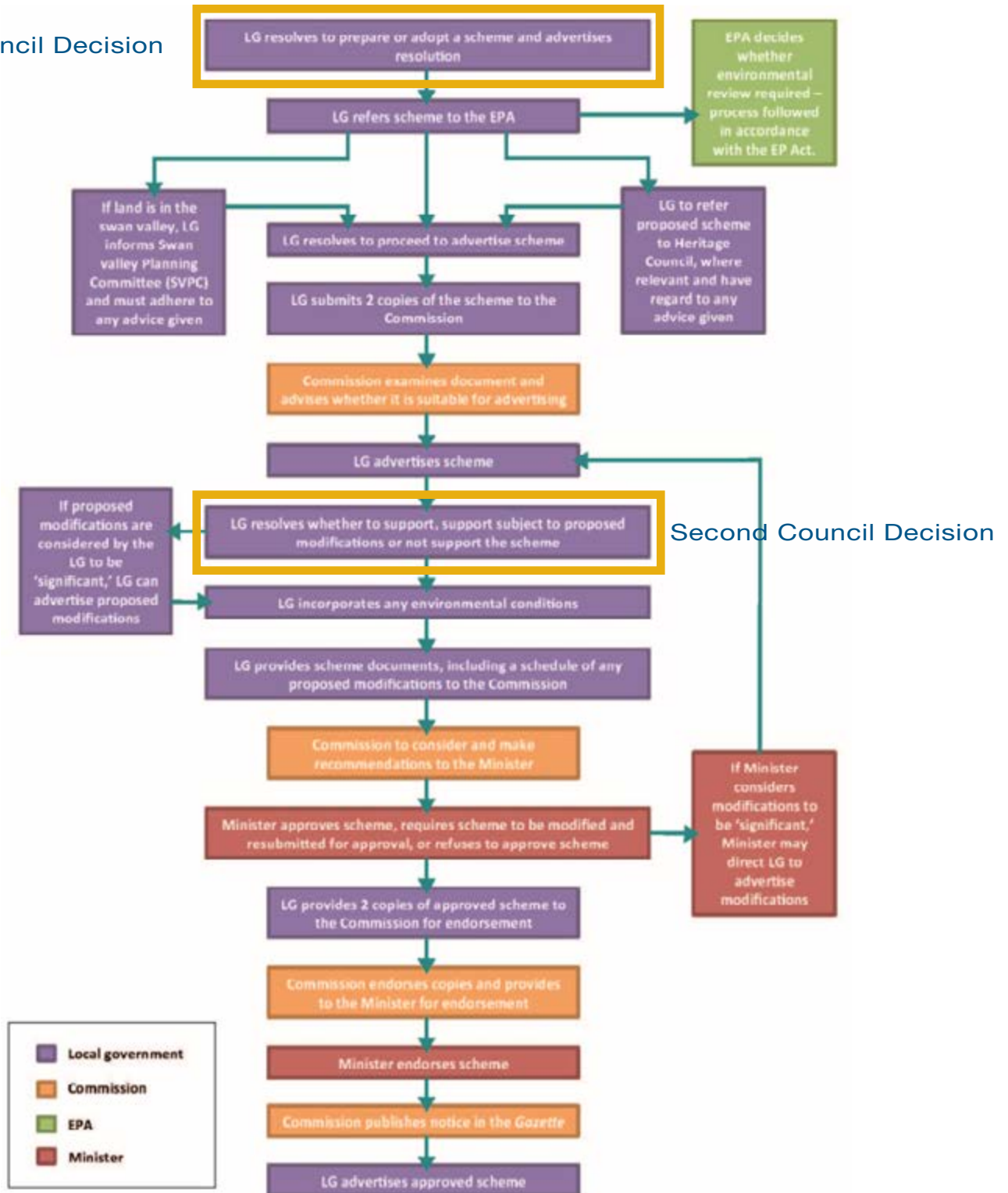
# BASIC SCHEME AMENDMENT

First Council Decision



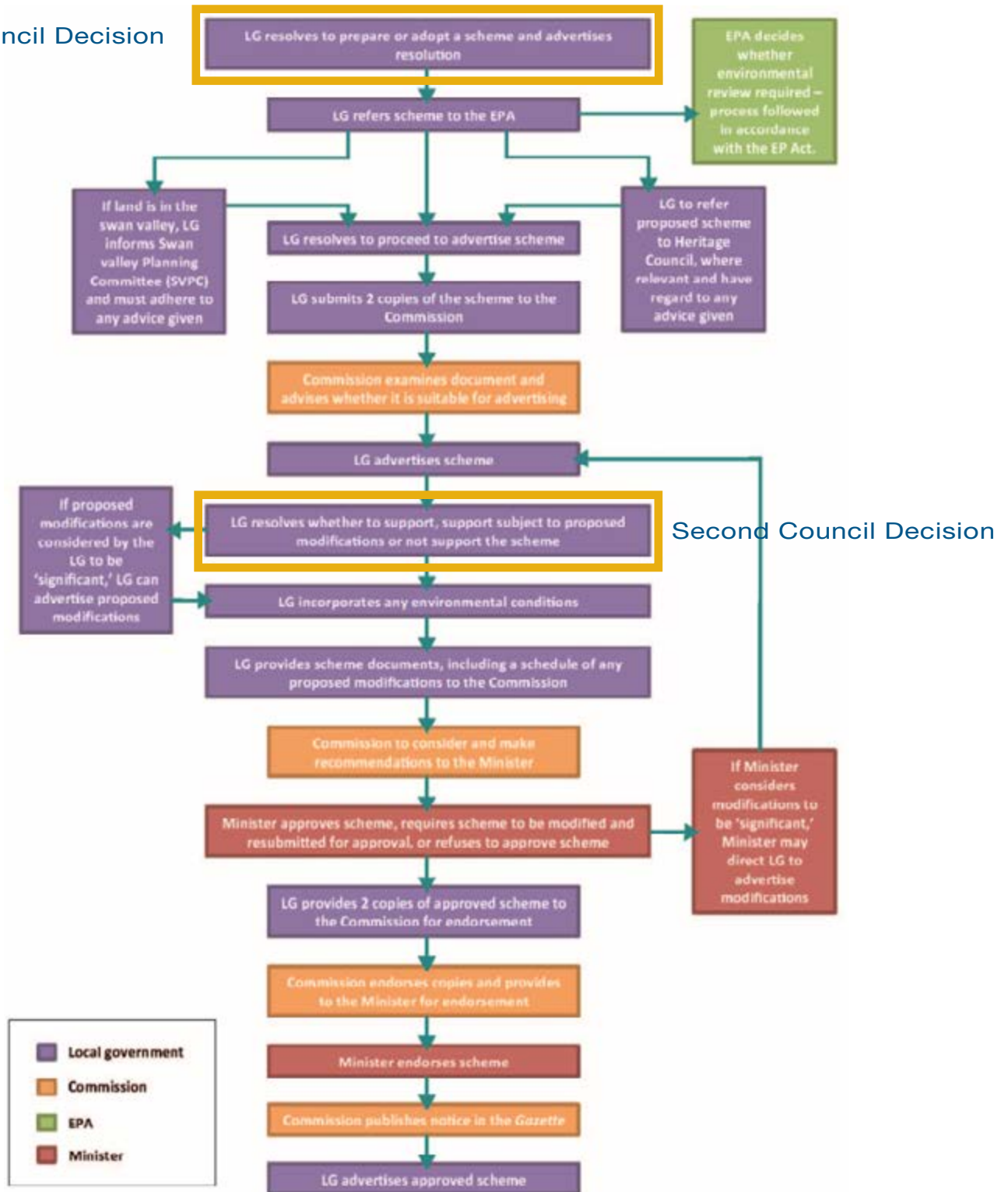
# STANDARD SCHEME AMENDMENT

First Council Decision



# COMPLEX SCHEME AMENDMENT

First Council Decision



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