

Statutory Guideline 02/09

Making or amending local planning instruments

A procedural and best practice guideline of the process for

- **making or amending a planning scheme**
- **making or amending a planning scheme policy and**
- **making a temporary local planning instrument**

under the *Sustainable Planning Act 2009*.

25 November 2009



Contents

About this guideline	3
The purpose of this guideline	3
List of acronyms	3
Definitions—the dictionary.....	3
Objectives and outcomes of the guideline	3
How to use this guideline.....	4
Part 1—Making or amending a planning scheme	4
What is a planning scheme?	4
Types of amendments to planning schemes	5
Administrative amendments	5
Minor amendments	5
Major amendments	5
Ministerial notice excusing compliance with steps required by this guideline for the making or amending a planning scheme.....	6
The process for making or amending a planning scheme	7
Stage 1 Planning and preparation stage	8
Stage 2 First state interest review	12
Stage 3 Public consultation	13
Stage 4 Second state interest review.....	17
Stage 5 Adoption	18
Part 2—Making or amending a planning scheme policy	19
What is a planning scheme policy?	19
Types of planning scheme policy amendments	19
Minor amendments	19
Major amendments	19
Ministerial notice excusing compliance with steps required by this guideline for the making or amending a planning scheme policy	20
Process to make or amend a planning scheme policy	21
Stage 1 Proposal and preparation stage	21
Stage 2 Consultation stage.....	22
Stage 3 Adoption	23
Part 3—Making a temporary local planning instrument	23
What is a temporary local planning instrument?	23
Process to make a temporary local planning instrument.....	24
Stage 1 Proposal	24
Stage 2 Adoption	25
State powers regarding local planning instruments	25
What are the state’s powers regarding local planning instruments?	25
Ministers process for making or amending a local planning instrument.....	26
Process if Minister takes directed action.....	26
References in the statutory guideline to local government etc.	26
Schedule 1	27
Dictionary	27
Schedule 2	28
Detailed flow diagram of the process for making or making a major amendment to a planning scheme.....	28
Schedule 3	31
Detailed flow diagram of the process for making a minor or administrative amendment to a planning scheme.....	31



About this guideline

The purpose of this guideline

This guideline has been prepared by the Minister under Section 117 of the *Sustainable Planning Act 2009* (SPA). This guideline sets out the minimum requirements which must be followed by a local government for making or amending a local planning instrument. However, it does not apply to the amendment of a planning scheme to include a structure plan.

This guideline also describes the process which the Minister must follow if acting under Chapter 3, Part 6 of the SPA.

In accordance with Section 119 of the SPA, substantial compliance with the guideline is required.

List of acronyms

IDAS	Integrated Development Assessment System
PIP	Priority infrastructure plan
PIA	Priority Infrastructure Area
RPC	Regional Planning Committee
SPA	<i>Sustainable Planning Act 2009</i>
SPSP	Standard Planning Scheme Provisions
TLPI	Temporary local planning instrument

Definitions—the dictionary

The dictionary in Schedule 1 defines particular words used in this guideline. Other terms used in this guideline have the meaning given in the SPA.

Objectives and outcomes of the guideline

This guideline has been prepared mainly for practitioners directly involved in preparing or amending local planning instruments under the SPA. It may also increase non-experts understanding of the policy preparation and decision-making processes when making a local planning instrument.

This guideline aims for local planning instruments to be prepared using accountable and efficient processes. More specifically, this guideline identifies the process that is required to develop or amend a local planning instrument and the roles and responsibilities of those involved in the process.

The objectives of this guideline are for planning instruments to be developed:

- in a timely manner, therefore retaining currency and relevance when adopted;
- using resources efficiently and effectively; and
- in consultation with state agencies and the public, if required, for making a particular local planning instrument.



How to use this guideline

This guideline prescribes the processes for:

- making or amending planning schemes (other than an amendment to a planning scheme to include a structure plan);
- making or amending planning scheme policies;
- making a temporary local planning instrument.

The guideline contains mandatory requirements which must be followed when making or amending a local planning instrument. Notes are provided to give guidance about how the mandatory requirements may be achieved. While the notes are not mandatory, complying with the notes will assist in achieving the objectives of this guideline. It should be noted that the Minister has the ability to permit local governments not to undertake certain of these minimum actions, in particular circumstances.

Local governments may use additional processes to the mandatory requirements of the guidelines in developing their local planning instruments, provided those additional processes do not conflict with this guideline.

Performance indicator timeframes are identified for a number of steps. These timeframes are not mandatory—they are a best practice performance guide only.

Part 1—Making or amending a planning scheme

What is a planning scheme?

A planning scheme under the SPA is a local planning instrument that provides for development to be planned and undertaken in a strategic way encompassing the entire local government area. They are an effective tool at the local level to achieve the purpose of the SPA. They take a strategic view of an area and incorporate site provisions, such as zones and codes, to manage growth and change in the local government area.

A planning scheme can be created where no planning scheme currently exists or to replace an existing planning scheme where changes needed to the existing scheme are so significant that a new scheme is required. For example, the amalgamation of two or more local government areas may result in the preparation of a new planning scheme for the amalgamated local government area.

The planning scheme must be reviewed periodically under the SPA to ensure that it responds appropriately to changes at a local, regional and state level. A planning scheme can be amended from time to time to improve the way it works, bring it into line with changed circumstances in the local government area or to make it consistent with new state policy.



Types of amendments to planning schemes

For the purposes of this guideline, amendments to planning schemes have been categorised into three categories:

- administrative amendment;
- minor amendment;
- major amendment.

Administrative amendments

An **administrative amendment** to a planning scheme is an amendment that corrects or changes:

- (a) an explanatory matter about the planning scheme; or
- (b) the format or presentation of the planning scheme; or
- (c) a spelling, grammatical or mapping error in the planning scheme; or
- (d) a factual matter incorrectly stated in the planning scheme; or
- (e) a redundant or outdated term; or
- (f) inconsistent numbering of provisions in the planning scheme; or
- (g) cross-references in the planning scheme.

An **administrative amendment** to a planning scheme includes:

- (a) amending the planning scheme to reflect an amendment to the mandatory components of the standard planning scheme provisions (SPSP) or an amendment to a non-mandatory or optional component of the SPSP used in the planning scheme; and

Example for paragraph (a)—a use definition of the SPSP that is already included in a local government planning scheme.

- (b) amending the planning scheme to include a statement that a state planning instrument, or part of one, is appropriately reflected in the planning scheme, if the Minister has advised the local government that the Minister is satisfied that the planning scheme reflects the state planning instrument.

Minor amendments

A **minor amendment** to a planning scheme is an amendment that:

- (a) the Minister is satisfied reflects a current development approval, a master plan for a declared master planned area or an approval under other legislation; or
- (b) the Minister is satisfied:
 - (i) reflects a change that is directly responding to a regional plan for a designated region that applies in the local government area; or
 - (ii) reflects a state planning policy, or part of a state planning policy; or
 - (iii) reflects changes to the planning scheme in response to a Ministerial direction if in the Minister's opinion, the subject matter of those changes involved adequate public consultation; or
 - (iv) has involved adequate consultation with the public and the state.

If the amendment is to a priority infrastructure plan (PIP), the amendment to the planning scheme will be a **minor amendment** if it results in less than a five per cent increase in a charge rate (present value) since the PIP was made or a previous major amendment to the PIP was made.

Major amendments

A **major amendment** is an amendment that is not a minor amendment or an administrative amendment.



Ministerial notice excusing compliance with steps required by this guideline for the making or amending a planning scheme

The Minister may by written notice advise a local government that it need not undertake a step otherwise required by this guideline for making or amending a planning scheme. However, the Minister may not excuse the following steps:

- (a) Step 1; or
- (b) Step 2; or
- (c) Step 3.1; or
- (d) Step 7 (in the case of making a planning scheme only); or
- (e) Step 8 (in the case of making a planning scheme only); or
- (f) Steps 9.1 and 9.3 (in the case of making a planning scheme only); or
- (g) Step 10.3 (in the case of making a planning scheme only); or
- (h) Step 11.

The Minister may only give a written notice to the local government if the Minister is satisfied that:

- (a) significant planning work has been undertaken by the local government (or an entity working on behalf of the local government); and
- (b) requiring the local government to comply with all of the steps in this guideline would result in a repetition of process.

When issuing a written notice varying the steps of this guideline, the Minister may give any direction or impose any condition on the local government that the Minister considers necessary in the circumstances to progress the making or amendment of the planning scheme.

The written notice to the local government must state the following:

- (a) the name of the relevant local government; and
- (b) details about the proposed planning scheme or proposed planning scheme amendment; and
- (c) the steps of this guideline that the local government is not required to undertake; and
- (d) the reasons for the Minister's decision.

Where the Minister advises a local government that steps identified within this guideline need not be undertaken, the Minister must, as soon as practicable, publish a notice at least once in a newspaper circulating in the local government's area and on the Department of Infrastructure and Planning's website. The notice must state the following:

- (a) that the Minister has given a notice under this guideline advising the local government that certain steps of this guideline do not apply to the local government; and
- (b) details about the proposed planning scheme or proposed planning scheme amendment to which the advice relates; and
- (c) the steps of this guideline that the local government is not required to undertake; and
- (d) the reasons for the Minister's decision.



The process for making or amending a planning scheme

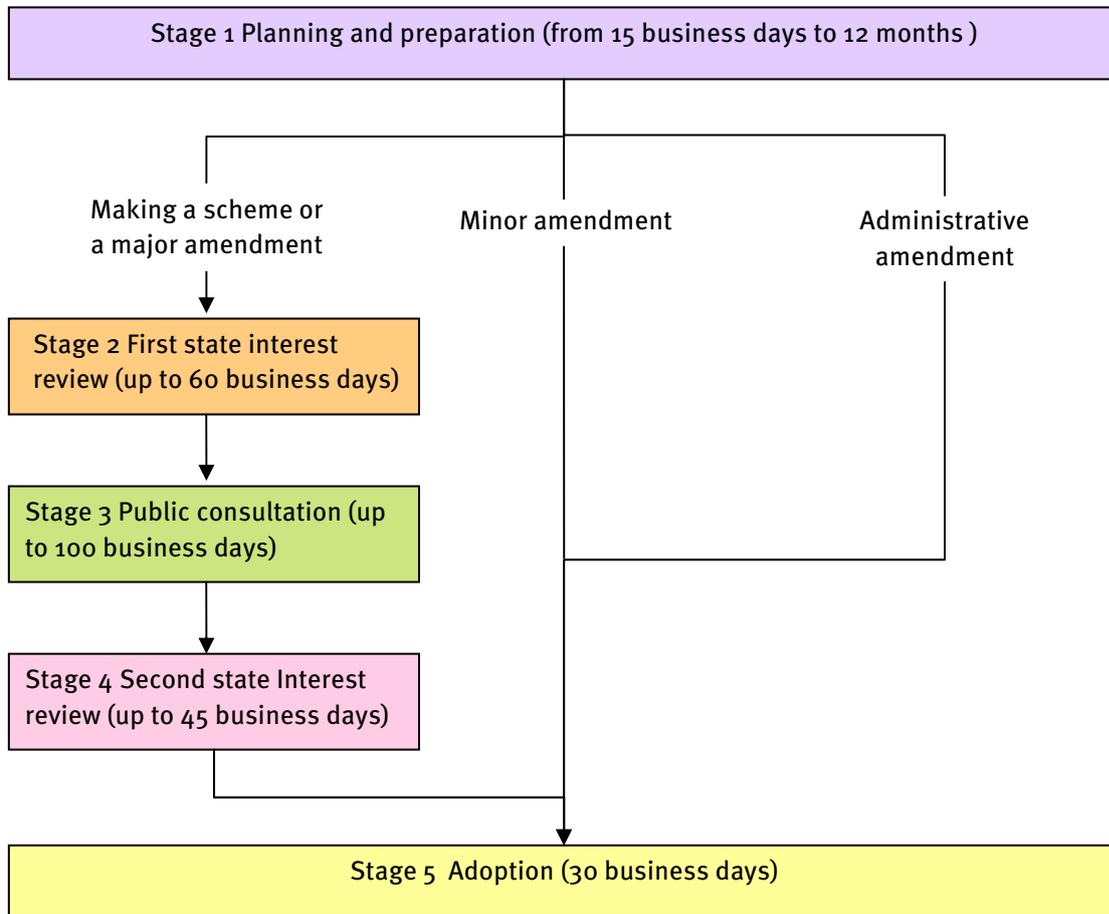


Figure 1: Summary of the process for making or amending (major, minor or administrative) a planning scheme

This part describes the process (Figure 1) for making or amending a planning scheme. It applies to:

- (a) making a planning scheme, including making an infrastructure priority plan or an infrastructure charges schedules; and
- (b) making a major amendment to a planning scheme; and
- (c) making a minor amendment to a planning scheme; and
- (d) making an administrative amendment to a planning scheme.

In this guideline, a reference to making a planning scheme includes making and amending a planning scheme, unless otherwise stated.



Stage 1 Planning and preparation stage

Step 1. Local government proposes to prepare a planning scheme or planning scheme amendment

Responsible entity	Processes to which this step applies	Performance indicator timeframe
Local government	<ul style="list-style-type: none">• Making a planning scheme• Major amendment• Minor amendment• Administrative amendment	Start of process

1.1. The local government must decide to prepare a planning scheme or planning scheme amendment.

Step 2. Obtaining agreement on priority infrastructure plan assumptions and priority infrastructure area

Responsible entity	Processes to which this step applies	Performance indicator timeframe
Local government	<ul style="list-style-type: none">• Making a planning scheme• Major amendment	<ul style="list-style-type: none">• Variable

2.1. This step only applies to:

- (a) making a planning scheme which includes a priority infrastructure plan (PIP); or
- (b) amending a planning scheme to include a PIP; or
- (c) amending a planning scheme to change the PIP assumptions or the location and size of the priority infrastructure area.

2.2. Before proceeding to the first state interest review, the local government must agree with the suppliers of state infrastructure for the PIP about:

- (a) the assumptions for the PIP; and
- (b) the location and size of the priority infrastructure area.

2.3. Where agreement cannot be reached by the interested parties, the Minister must:

- (a) establish a committee of suitably qualified experts to prepare a report on the matters, consider the report and decide the matters; or
- (b) consider the written views of the parties and decide the matters.

Step 3. Local government prepares the draft planning scheme

Responsible entity	Processes to which this step applies	Performance indicator timeframe
Local government	<ul style="list-style-type: none">• Making a planning scheme• Major amendment• Minor amendment• Administrative amendment	<ul style="list-style-type: none">• 12 months• 6 months• 35 business days• 35 business days

3.1. The local government must prepare the draft planning scheme or planning scheme amendment.



Note on state consultation

When preparing a proposed planning scheme, consultation and liaison between local government and state agencies should be undertaken early in the plan-making process. This should be supported by ongoing communication and collaboration between local and state government officers.

The SPA identifies matters which the local government must address or consider when making or amending a planning scheme. This includes matters which are of a state interest.

State entities have a role in assisting local governments in preparing their planning scheme. That role includes assisting in the development of the planning scheme strategic framework to ensure state and regional interests are appropriately integrated. It also involves formal state interest reviews, where the state government reviews local government integration of state interests in a planning scheme.

When providing advice to local governments, state agencies are responsible for providing concise and consistent advice on how planning issues regarding a state interest can be satisfactorily addressed in a proposed local planning scheme.

To assist local governments, state agencies may develop internal guides, model planning scheme codes or other information/operational material and make these available to local governments to help them achieve state interest outcomes in local planning instruments.

A proposed planning scheme needs to be well advanced in its development by the time it is submitted to the state for a state interest review. Early and ongoing consultation with state agencies prior to the first state interest review is a key tool to ensure that state interests are identified and integrated early, leading to better planning and procedural outcomes.

The intended outcomes of consultation between local and state governments are:

- State interests are integrated into the proposed planning scheme early at the conceptual and drafting stages (particularly the development of the strategic framework of a new planning scheme);
- local and state governments identify issues early and have sufficient time and scope to determine an appropriate response to the issue;
- to inform studies which will be undertaken as part of the plan making process;
- to obtain information from state agencies which can be included into the proposed planning scheme, for example, mapping; and
- local and state government officers are familiar with the structure and content of the proposed planning scheme and of how matters are addressed by the proposed scheme prior to the formal review of the planning scheme by the state.

As a result, early and ongoing consultation should lead to:

- a more streamlined process for making or amending a planning scheme, particularly at state interest review stages;
- greater use of available resources and avoiding duplication;
- build collaborative relationships between local and state government officers to achieve planning outcomes; and
- build support between local and state government for the final planning document.

Techniques that local governments may employ to foster communication with state agencies include:

- holding state agency workshops;
- identifying individual contacts within agencies and forming an ongoing working group with regular meetings and updates;



- using staff exchange programs, embedding state agency staff in local government offices to assist drafting at relevant stages of the plan development process; and
- gaining awareness of the state planning instruments program and following the development of new state planning instruments with the lead state agencies.

Note on public and stakeholder consultation

The local government may choose to undertake public and stakeholder consultation when developing a new planning scheme or making an amendment, particularly a major amendment to a planning scheme.

There are many benefits to having early consultation with the public and stakeholders when preparing planning schemes, such as early identification of issues and community values, and greater community ownership of the final plan.

Although minimum timeframes are required by the SPA, local governments have flexibility to choose suitable consultative processes and the length of time consultation occurs.

Some examples of alternative consultation methods include:

- newspaper advertisements;
- radio advertising or radio interviews;
- public consultation events;
- displays in shopping centres;
- public meetings;
- information days; and
- targeted stakeholder workshops.

- 3.2. After preparing the draft planning scheme, the local government must:
- (a) if making a new planning scheme or a major amendment to a planning scheme—write to the Minister requesting a first state interest review of the planning scheme or planning scheme amendment and the Minister’s agreement to publicly notify the planning scheme or planning scheme amendment; or
 - (b) if making a minor amendment—write to the Minister seeking the Ministers’ agreement for the proposed amendment to be adopted; or
 - (c) if making an administrative amendment—proceed to Step 11.

Step 4. Information required by the Minister

Responsible entity	Processes to which this step applies	Performance indicator timeframe
Local government	<ul style="list-style-type: none"> • Making a planning scheme • Major amendment • Minor amendment 	

- 4.1. If making a planning scheme or making a major or minor amendment to a planning scheme, the local government must submit an electronic copy and a hard copy of the proposed planning scheme or amendment to the Minister in the format identified by the Department of Infrastructure and Planning.



- 4.2. If making a planning scheme or a major amendment to a planning scheme, the local government must also give the Minister:
- (a) a written statement about the extent and outcomes of any consultation undertaken with state agencies and the public in preparing the draft planning scheme or amendment; and
 - (b) a written statement about how the proposed planning scheme or amendment coordinates and integrates the state and regional dimensions of matters dealt with by the planning scheme or amendment; and
 - (c) a written statement about how the proposed planning scheme or amendment reflects relevant state planning instruments; and
 - (d) any background studies or reports that the local government considers may assist the Minister in carrying out the state interest review.
- 4.3. If the local government considers that the proposed amendment is a minor amendment, the local government must provide written information to the Minister about why the local government considers the amendment is a minor amendment.

Note on information requirements from local government

The purpose of this step is to ensure that matters which the Minister will consider when making decisions regarding the proposed planning scheme or amendment are clearly articulated by the local government, facilitating a timely and efficient assessment process by the Minister.

In particular, the information provided should:

- clearly identify the differences between the existing planning scheme and the proposed planning scheme and amendment; and
- clearly identify why changes have occurred and what issue the changes respond to.

If a first state interest review is required, the local government may be required to supply multiple copies of information to the Minister for distribution to state agencies involved in the first state interest review. Prior to sending their submission, local government should contact their regional contact from the Department of Infrastructure and Planning to confirm any information requirements for the first state interest review.

If there is insufficient or inadequate information or insufficient copies of information for the Minister to assess the proposed planning scheme or amendment for first state interest review, the Minister may need to delay commencement of the review until satisfied that all information is provided.

Step 5. Minister considers a minor amendment

Responsible entity	Processes to which this step applies	Performance indicator timeframe
Minister	<ul style="list-style-type: none">• Minor amendment	

- 5.1. If the Minister receives written information under Step 4.3, the Minister must consider the proposed amendment and advise the local government in writing that:
- (a) if the Minister is satisfied the amendment is a minor amendment:
 - (i) the local government may adopt the proposed minor amendment, with or without conditions, and proceed to Step 11; or
 - (ii) the local government may not proceed further with the minor amendment; or
 - (b) if the Minister is satisfied that the amendment is a major amendment—the process for making a major amendment must be followed.
- 5.2. If the Minister advises the local government under Step 5.1(b), the local government must provide the written information mentioned in Step 4.2 before the Minister will undertake Step 6.



Stage 2 First state interest review

Step 6. Minister considers proposed planning scheme for adverse effects on state interests

Responsible entity	Processes to which this step applies	Performance indicator timeframe
Minister	<ul style="list-style-type: none">• Making a planning scheme• Major amendment	<ul style="list-style-type: none">• 40 business days for state agencies to consider the proposed planning scheme or amendment

- 6.1. This step only applies for making a planning scheme or a major amendment of a planning scheme.
- 6.2. After receiving the information specified in Step 4, the Minister must consider whether or not state interests would be adversely affected by the proposed planning scheme or amendment.

Note on first state interest review

The state interest review enables the Minister to review a proposed planning scheme or major amendment to consider whether state interests would be adversely affected by the proposal.

The performance indicator timeframe for state agencies to review the planning scheme or major amendment and provide a response to the Minister is 40 business days.

The purpose of this timeframe is to ensure that state interest reviews are carried out in a timely and efficient manner.

Liaison between local and state government is expected to have commenced prior to this stage of the proposed planning scheme. As such, state agencies and local government should have a high level of understanding of how state interests have been reflected in the proposed planning scheme and of any potential or outstanding issues, prior to commencement of the state interest review.

State agencies and local governments are encouraged to liaise directly to discuss matters regarding state interests in the review period. State agencies should also liaise directly with other state agencies to coordinate their department's interests.

- 6.3. After carrying out the state interest review, the Minister must advise the local government in writing that it may:
- (a) notify the proposed planning scheme or amendment; or
 - (b) notify the proposed planning scheme or amendment subject to complying with conditions imposed by the Minister; or
 - (c) not proceed further with the proposed planning scheme or amendment.



Stage 3 Public consultation

Step 7. Local government notifies the proposed planning scheme or amendment and commences public consultation

Responsible entity	Processes to which this step applies	Performance indicator timeframe
Local government	<ul style="list-style-type: none">• Making a planning scheme• Major amendment	<ul style="list-style-type: none">• 45 business days (incorporating 30 business days public consultation)

- 7.1. This step applies for making a planning scheme or making a major amendment to a planning scheme if the Minister has advised the local government under Step 6.3(a) or (b).
- 7.2. Before publicly notifying the proposed planning scheme or amendment, the local government must comply with any condition imposed by the Minister under Step 6.3.
- 7.3. The local government must carry out public consultation about the proposed planning scheme or amendment for a period (the **consultation period**) of at least 30 business days.
- 7.4. The local government must place a notice in a locally circulating newspaper and on the local government's website stating:
 - (a) the name of the local government; and
 - (b) for a major amendment to a planning scheme:
 - (i) the purpose and general effect of the proposed amendment; and
 - (ii) the location details of the area where the proposed amendment applies, if it only relates to part of the planning scheme area; and
 - (c) a contact telephone number for information about the proposed planning scheme or amendment; and
 - (d) where the proposed planning scheme or amendment is available for inspection and purchase; and
 - (e) that written submissions about any aspect of the proposed planning scheme or amendment may be made to the local government by any person; and
 - (f) the period during which the submissions may be made; and
 - (g) the requirements for making a properly made submission.

Note on consultation

The consultation period seeks to engage the community in the development of the new or amended planning scheme and provide them opportunity to input to its development. Public consultation ensures that a range of views and perspectives are taken into account, widening the perspective of drafters and bringing new ideas for how an area could be planned.

Notification informs people of the making of a proposed planning scheme or amendment in their local government area. It also announces that the local government is seeking views and information from the community on the proposed planning scheme or amendment. A public notice in the newspaper and on the local government's website is the minimum requirement for public consultation. Local governments are encouraged to develop and extend their public consultation efforts to maximise opportunity for proactively engaging with the community.

- 7.5. During the consultation period, the local government must display a copy of the notice in an obvious place in the local government's public office and have a copy of the proposed planning scheme or amendment available for viewing and purchase.



7.6. The notice and proposed planning scheme or amendment must also be available for download on the local government's website.

Step 8. Local government reviews submissions and decides how to proceed

Responsible entity	Processes to which this step applies	Performance indicator timeframe
Local government	<ul style="list-style-type: none">• Making a planning scheme• Major amendment	<ul style="list-style-type: none">• 55 business days• 45 business days

8.1. This step applies for making a planning scheme or making a major amendment to a planning scheme.

8.2. The local government must consider every properly made submission about the proposed planning scheme or amendment.

8.3. After considering the submissions, the local government must:

- (a) advise persons in writing who made a properly made submission about how the local government has dealt with the submissions; and
- (b) give the Minister a written notice containing a summary of matters raised in the properly made submissions and stating how the local government dealt with the matters.

8.4. After considering the submissions, the local government may make changes to the proposed planning scheme or amendment to:

- (a) address issues raised in a properly made submission; or
- (b) amend a drafting error; or
- (c) address new or changed planning circumstances or information.

8.5. If the local government changes the proposed planning scheme or amendment and the local government is satisfied that the change results in the proposed planning scheme or amendment being significantly different to the version released for public consultation, the local government must repeat Step 7.

8.6. Despite Step 8.5, the consultation may be limited to seeking comments on only those aspects of the planning scheme or amendment which have changed.

Note on changes to a proposed planning scheme

It is reasonably expected that some changes can be made to the draft planning scheme through the local government's assessment of public submissions and additional matters outlined under Step 8.3, and that those changes may affect some individuals and stakeholders.

However, the planning scheme preparation process also requires the public to have opportunity to provide comment on proposals which may affect their land use rights.

If changes have been made to the proposed planning scheme or amendment that has been released for public consultation, the local government must determine whether those changes result in the proposed planning scheme being significantly different to the proposed planning scheme that was released publicly for public comments. If changes have resulted in the proposed planning scheme or amendment being significantly different, additional public consultation is warranted as the public has not had the opportunity to comment on proposals which may impact on them directly or on the community.



In determining whether the proposed planning scheme is significantly different to the version which was released for public consultation, the local government should consider the change in terms of its intent, extent and affect on both the land use outcomes as well as assessment requirements on individuals. In making the determination, the local government should consider the following:

- has the change affected a material planning issues, such as a policy position?
- has the change affected a significant proportion of the area covered by the proposed planning scheme?
- has the change affected a significant proportion of land owners in the area covered by the proposed planning scheme?
- has the change affected a matter which is of widespread public interest throughout the local government area?
- has the change altered the level of assessment from that released for public consultation?
- could it be said that the proposed planning scheme is quite a different plan to that which was released for public consultation?

A change which affects any one person or a group of individuals' rights over land does not necessarily mean that the change is significant.

If the local government considers that the proposed planning scheme or amendment is significantly different to the version released for public consultation, it must undertake additional consultation. This step provides that local government may undertake a targeted consultation process involving only those matters which have significantly changed.

The local government must consider the affect of the changes on the proposed planning scheme or amendment on state interests to ensure they will not be adversely affected.

- 8.7. After complying with Steps 8.1 to 8.6, the local government must decide to:
- (a) proceed with the proposed planning scheme with no change or with changes which the local government is satisfied do not result in the proposed planning scheme or amendment being significantly different to the version released for public consultation; or
 - (b) proceed with the proposed planning scheme with changes which the local government is satisfied result in the proposed planning scheme or amendment being significantly different to the version released for public consultation; or
 - (c) not proceed with the proposed planning scheme.
- 8.8. If proceeding under Step 8.7(a), the local government must give written notice to the Minister seeking approval to adopt the scheme.
- 8.9. If proceeding with the proposed planning scheme with changes under Step 8.7(b), the local government must give written notice to the Minister seeking:
- (a) direction about whether a second state interest check is required; and
 - (b) approval of the proposed planning scheme or amendment.
- 8.10. The written notice provided to the Minister under Step 8.9 must include:
- (a) information about whether the local government considers the changes to the planning scheme or amendment will adversely affect state interests; and
 - (b) a copy of the proposed planning scheme or amendment in hard and electronic form, that clearly identifies the changes; and
 - (c) information about why the changes have been made.



Note on information requirements from local government

Local government should provide well drafted and clearly articulated documents addressing the above points. Providing information in the form described above will facilitate faster assessment by the Minister. The local government may provide any additional information that it believes will assist the Minister when considering the proposed planning scheme.

Insufficient or unclear documentation is likely to delay the process, and the Minister may need to request further information from the local government to undertake this assessment.

Step 9. Minister advises on the next stage of the process

Responsible entity	Processes to which this step applies	Performance indicator timeframe
Minister	<ul style="list-style-type: none">• Making a planning scheme• Major amendment	<ul style="list-style-type: none">• 20 business days

- 9.1. If the Minister receives a written notice under Step 8.8, the Minister must advise the local government in writing:
 - (a) that it may adopt the proposed planning scheme or amendment; and
 - (b) which state planning instruments or parts of state planning instruments the Minister is satisfied are appropriately reflected in the proposed planning scheme; and
 - (c) that the local government may proceed to Step 11.
- 9.2. If the Minister receives written notice under Step 8.9, the Minister must consider whether a second state interest review is required.
- 9.3. If the Minister decides that a second state interest review is not required, the Minister must advise the local government in writing:
 - (a) that a second state interest review is not required; and
 - (b) that the local government may adopt the proposed planning scheme or amendment, with or without conditions; and
 - (c) which state planning instruments or parts of state planning instruments the Minister is satisfied are appropriately reflected in the proposed planning scheme; and
 - (d) that the local government may proceed to Step 11.
- 9.4. If the Minister decides that a second state interest review is required, the Minister must advise the local government in writing that a second state interest review is required.

Note on Ministers assessment of proposed planning scheme after consultation

Step 9 relates to determining the next stages of the process in finalising the proposed planning scheme after public consultation. Generally it is intended that:

- proposed planning schemes or amendments which have not changed significantly from the public consultation draft may proceed to the adoption stages without further Minister review;
- second state interest reviews are to be undertaken by exception only; and
- if a second state interest review is required, the local government may be required to undertake administrative processes to support the Ministers review process, such as supplying additional information or additional copies of information to the Minister for distribution to state agencies involved in the second state interest review.



The process for making or amending a planning scheme requires early and ongoing liaison between local and state governments. As such, it is intended that state interests will have been raised early in the plan making process and resolved at the end of the first state interest review, limiting the need for a second state interest review.

Note on new state planning instruments

State planning instruments are being developed by the state and will have the potential to be developed during the planning scheme drafting phase. Effective and ongoing liaison between local and state governments may provide scope for draft state planning instrument matters to be dealt with in a draft planning scheme.

However, given the potential for changes during the finalisation of state planning instruments, local government may not be in a position to adequately consider how their proposed planning scheme reflects the a draft state planning instrument.

When considering if a second state interest review is required, the Minister may consider whether any state planning instruments have come into effect after the first state interest review. These considerations may include:

- the extent of changes required to a proposed planning scheme due to the state planning instrument;
- conflicts between the proposed planning scheme and the state planning instrument requiring the proposed planning scheme to be changed;
- the effort required by local government to amend its proposed planning scheme, such as requirements for additional studies, consultation or the potential for significant time delays in adopting the proposed planning scheme.

Stage 4 Second state interest review

Step 10. Minister considers whether state interests may be adversely affected

Responsible entity	Processes to which this step applies	Performance indicator timeframe
Minister	<ul style="list-style-type: none">• Making a planning scheme• Major amendment	<ul style="list-style-type: none">• 25 business days

- 10.1. If the Minister decides that a second state interest view is required, the Minister must consider whether state interests may be adversely affected by the proposed planning scheme or amendment.
- 10.2. In carrying out the second state interest review, the matters which may be considered by the Minister are limited to:
 - (a) matters which have already been identified by the Minister as a state interest in the first state interest review; and
 - (b) potential adverse impacts on state interests as a result of changes made to the proposed planning scheme since the first state interest review; and
 - (c) any new state planning instruments which have come into effect since the first state interest review.



Note on second state interest review

Prior to the second state interest review, the proposed planning scheme will have undergone significant state government and public review. It is not intended that a range of new issues which the local government has not previously been made aware of will be raised as part of the second state interest review.

The second state interest review is intended to address matters which have previously been raised and not satisfactorily resolved, or to address new matters due to changes made to the proposed planning scheme after the first state interest review.

- 10.3. After carrying out the second state interest review, the Minister must advise the local government in writing:
- (a) for a proposed planning scheme amendment - that the local government may not proceed with the amendment; or
 - (b) that it may adopt the proposed planning scheme or amendment; or
 - (c) that it may adopt the proposed planning scheme or amendment subject to complying with conditions set by the Minister.
- 10.4. If the Minister advises the local government that it may adopt the proposed planning scheme or amendment, with or without conditions, the Minister must also advise the local government in writing which state planning instruments or parts of the instruments the Minister is satisfied are appropriately reflected in the proposed planning scheme or amendment.

Stage 5 Adoption

Step 11. Local government decides whether to proceed or not

Responsible entity	Processes to which this step applies	Performance indicator timeframe
Local government	<ul style="list-style-type: none">• Making a planning scheme• Major amendment• Minor amendment• Administrative amendment	<ul style="list-style-type: none">• 30 business days

- 11.1. After receiving advice from the Minister under Step 10.3(b) or (c), the local government must decide to:
- (a) adopt the proposed planning scheme or amendment; or
 - (b) not proceed with the proposed planning scheme or amendment.
- 11.2. If the local government decides not to proceed, it must place a notice in a local newspaper, on the local government's website and in the gazette stating the following:
- (a) the local government name; and
 - (b) the decision; and
 - (c) the reason for not proceeding.
- 11.3. The local government must also give the chief executive a copy of the notice mentioned in Step 11.2.
- 11.4. If the local government decides to adopt the planning scheme, it must:
- (a) comply with any conditions which must be undertaken prior to adoption imposed by the Minister; and



- (b) note in the planning scheme the state planning instruments which the Minister has advised are, in the Minister's opinion, appropriately reflected in the planning scheme or amendment; and
- (c) place a notice in a local newspaper, on the local government's website and in the gazette stating:
 - (i) the local government name; and
 - (ii) the date the planning scheme was adopted; and
 - (iii) for a planning scheme amendment:
 - (A) if the amendment only applies to part of an existing planning scheme area—a description and the location of that area; and
 - (B) the purpose and general effect of the amendment; and
 - (iv) where to inspect or obtain a copy of the planning scheme or amendment.

11.5. The local government must give the chief executive a copy of the notice, three certified copies of the planning scheme and one electronic copy of the planning scheme, including maps, as soon as possible after undertaking Step 11.4 in the format identified by the Department of Infrastructure and Planning.

Part 2—Making or amending a planning scheme policy

What is a planning scheme policy?

A planning scheme policy is a statutory instrument that may provide guidance and support the local dimension of a planning scheme under the SPA.

Types of planning scheme policy amendments

Different types of amendment can be made to planning scheme policies. These amendments are divided into two categories:

- minor amendments;
- major amendments.

Minor amendments

A **minor amendment** to a planning scheme policy means a correction or change which is administrative in nature or which does not introduce new information or significantly change an existing policy position or technical matter contained in the existing planning scheme policy.

Major amendments

A **major amendment** to a planning scheme policy is an amendment that is not a minor amendment.



Ministerial notice excusing compliance with steps required by this guideline for the making or amending a planning scheme policy

With the exception of Steps 1.1, 1.2, 2 (for making a planning scheme policy only), 3.1 and 4 of this guideline, the Minister may by written notice advise a local government that it need not undertake steps otherwise required by this guideline.

The Minister may only give a written notice to the local government if the Minister is satisfied that:

- (a) significant planning work has been undertaken by the local government (or an entity working on behalf of the local government) that is relevant to making or amending the planning scheme policy; and
- (b) requiring the local government to complete all of the steps in this guideline would result in a repetition of process.

When issuing a written notice varying the steps of this guideline, the Minister may give any direction or impose any condition on the local government that the Minister considers necessary in the circumstances to progress the making or amendment of the planning scheme policy.

The written notice to local government must identify the following:

- (a) the name of the relevant local government; and
- (b) the area to which the planning scheme policy or amendment applies; and
- (c) contact details including a telephone number; and
- (d) the steps of this guideline that the local government is not required to undertake; and
- (e) the reasons for the Minister's decision.

Where the Minister advises a local government that steps identified within this guideline need not be undertaken, the Minister must, as soon as practicable, publish a notice at least once in a newspaper circulating in the local government's area and on the Department of Infrastructure and Planning's website. The notice must state the following:

- (a) that the Minister has given a notice under this guideline advising the local government that certain steps of this guideline do not apply to the local government; and
- (b) a description of the planning scheme policy or amendment to which the advice relates; and
- (c) the steps of this guideline that the local government is not required to undertake; and
- (d) the reasons for the Minister's decision.



Process to make or amend a planning scheme policy

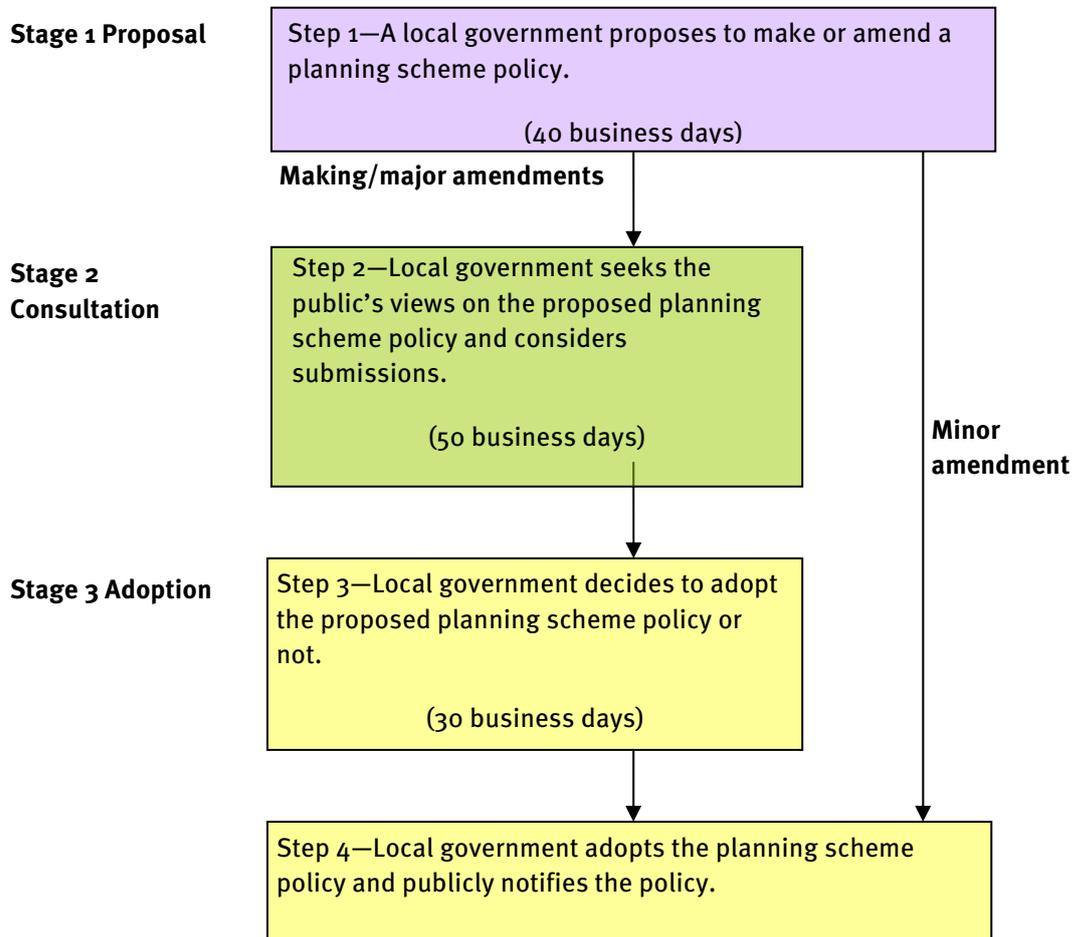


Figure 2. Process for making or amending a planning scheme policy

In this part, reference to making a planning scheme policy includes making an amendment to a planning scheme policy unless otherwise stated.

Stage 1 Proposal and preparation stage

Step 1. Local government proposes to make a planning scheme policy.

- 1.1. The local government proposes to make a planning scheme policy and develops a draft planning scheme policy.
- 1.2. If making a minor amendment to a planning scheme policy, the local government must decide to:
 - (a) adopt the proposed amendment and proceed to Step 4; or
 - (b) not adopt the proposed amendment.
- 1.3. If making a planning scheme policy or a major amendment to a planning scheme policy, the local government must prepare an explanatory statement about the proposal.



Stage 2 Consultation stage

Step 2. Local government seeks the public's views on the proposed planning scheme policy

- 2.1. The local government must carry out public consultation about a proposed planning scheme policy or a major amendment to a planning scheme policy for a period (*consultation period*) of at least 20 business days.
- 2.2. The local government must place a notice in a newspaper distributed in the local government area and on the local governments' website stating:
 - (a) the name of the local government; and
 - (b) the name of the proposed planning scheme policy or amendment; and
 - (c) the purpose and general effect of the proposed planning scheme policy or amendment; and
 - (d) if the proposed planning scheme policy replaces an existing planning scheme policy, the name of the existing policy; and
 - (e) a contact telephone number for information about the proposed planning scheme policy or amendment; and
 - (f) that the proposed planning scheme policy or amendment and any explanatory statement are available for inspection and purchase; and
 - (g) that written submissions about any aspect of the proposed planning scheme policy or amendment may be made to the local government by any person; and
 - (h) the period during which the submissions may be made; and
 - (i) the requirements for making a properly made submission.
- 2.3. Throughout the consultation period, the local government must display a copy of the notice in an obvious place in the local government's public office and have a copy of the proposed planning scheme policy or amendment and any explanatory statement available for viewing and purchase.
- 2.4. The local government must consider every properly made submission about the proposed planning scheme policy or amendment and:
 - (a) advise persons in writing who make a properly made submission about how the local government dealt with the submission; and
 - (b) give the Minister a written notice containing a summary of matters raised in the properly made submissions and stating how the local government dealt with the matters.
- 2.5. After considering any submissions, the local government may make changes to the proposed planning scheme policy or amendment to:
 - (a) address issues raised in a properly made submission; or
 - (b) amend a drafting error; or
 - (c) address new or changed planning circumstances or information.
- 2.6. If the local government changes the proposed planning scheme policy or amendment and the local government is satisfied that the change results in the proposed planning scheme policy or amendment being significantly different to the version released for public consultation, the local government must repeat Steps 2.1 to 2.4.
- 2.7. Despite Step 2.6, the consultation may be limited to seeking comments on only those aspects of the planning scheme policy or amendment which have changed.



Stage 3 Adoption

Step 3. Local government decides whether to adopt the proposed planning scheme policy

- 3.1. After considering any properly made submissions, the local government must decide to:
- (a) adopt the proposed planning scheme policy or amendment; or
 - (b) adopt the proposed planning scheme policy or amendment with changes; or
 - (c) not adopt the proposed planning scheme policy or amendment.

Step 4. Local government adopts the planning scheme policy

- 4.1. After adopting the planning scheme policy or amendment, the local government must place a notice in a local newspaper, in the gazette and on its website stating:
- (a) the local government name; and
 - (b) the name of the policy adopted or amended; and
 - (c) the day the policy commences; and
 - (d) the purpose and general effect of the planning scheme policy or amendment; and
 - (e) the name of any existing policy replaced by the planning scheme policy; and
 - (f) where a copy of the planning scheme policy or amendment can be inspected or purchased.
- 4.2. The local government must give the chief executive a copy of the notice and three certified copies and one electronic copy of the planning scheme policy or amendment, including associated maps, as soon as possible after undertaking Step 4.1.

Part 3—Making a temporary local planning instrument

What is a temporary local planning instrument?

Temporary local planning instruments (TLPI) are statutory instruments which assist advancing the purpose of the SPA by protecting a planning scheme area from adverse impacts.



Process to make a temporary local planning instrument

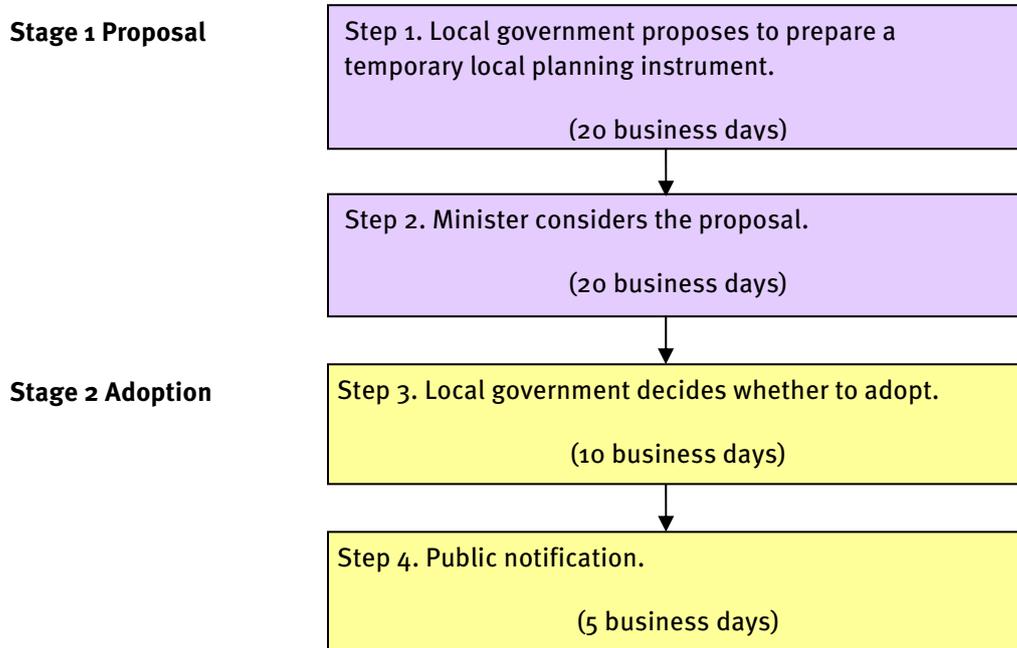


Figure 3. Process for making a temporary local planning instrument

Stage 1 Proposal

Step 1. Local government proposes to prepare a temporary local planning instrument and seeks Ministers approval

- 1.1. The local government must propose to prepare a temporary local planning instrument (TLPI) and draft the instrument.
- 1.2. After drafting the proposed TLPI, the local government must give a copy of the proposed TLPI to the Minister with written advice about why the local government proposes to make the TLPI.

Note on making a temporary local planning instrument

Section 105 of the SPA identifies the matters which the Minister must consider when deciding if a local government can make a TLPI. To assist the Minister, the local government should provide sufficient and relevant information to demonstrate how the TLPI complies with Section 105 of the SPA.

Step 2. Minister considers the proposal

- 2.1. After considering the proposed TLPI, the Minister must advise the local government in writing that it may:
 - (a) adopt the proposed instrument, with or without conditions; or
 - (b) not adopt the proposed instrument.
- 2.2. The local government must comply with any conditions imposed by the Minister.



Stage 2 Adoption

Step 3. Local government decides whether to adopt

- 3.1. The local government must decide to:
 - (a) adopt the proposed TLPI; or
 - (b) not adopt the proposed TLPI.
- 3.2. If the local government decides not to adopt the proposed TLPI, the local government must give the Minister written notice about its decision, including reasons for its decision.

Step 4. Public notification of adoption

- 4.1. After the TLPI is adopted, the local government must place a notice in a local newspaper, the gazette and on the local government's website stating:
 - (a) the name of the local government; and
 - (b) the date the TLPI was adopted; and
 - (c) the date the TLPI commences and the date it will cease to have effect; and
 - (d) the purpose and general effect of the TLPI; and
 - (e) if the TLPI only applies to part of the planning scheme area, a description and the location of that area; and
 - (f) where people can inspect and purchase a copy of the TLPI.
- 4.2. The local government must give the chief executive a copy of the notice and three certified copies and one electronic copy of the TLPI, including any associated maps, as soon as possible after placing the notice in the format identified by the Department of Infrastructure and Planning.

State powers regarding local planning instruments

What are the state's powers regarding local planning instruments?

The Minister has the power under the SPA to direct local government to make, amend or repeal a local planning instrument. The Minister can also make, amend or repeal a local planning instrument in certain circumstances.



Ministers process for making or amending a local planning instrument

Process if Minister takes directed action

The process for the Minister to take the action the Minister directed the local government to take is the same as the process for the local government to take the action except that:

- (a) for Part 1 of this guideline, the following steps of the process for making or amending a planning scheme do not apply:
 - (i) Steps 3.2(a) and (b); and
 - (ii) Step 4; and
 - (iii) Step 5; and
 - (iv) Step 6.3; and
 - (v) Step 8.3(b); and
 - (vi) Steps 8.8 and 8.9; and
 - (vii) Steps 9.1, 9.3 and 9.4; and
 - (viii) Steps 10.3 and 10.4; and
- (b) for Part 2 of this guideline, Step 2.4(b) of the process for making or amending a planning scheme policy does not apply; and
- (c) for Part 3 of this guideline, Steps 1.2, 2.1 and 3.2 of the process for making a temporary local planning instrument do not apply.

If the Minister is taking an action in respect of a local planning instrument, the Minister cannot exercise the Minister's powers to excuse compliance with certain steps of this guideline.

References in the statutory guideline to local government etc.

If the Minister takes the action the Minister directed the local government to take, a reference in this guideline to:

- (a) the local government's public office is a reference to the Department of Infrastructure and Planning's state office; and
- (b) a decision taken by resolution of the local government is a reference to a decision of the Minister; and
- (c) a local government's chief executive officer is a reference to the chief executive of the Department of Infrastructure and Planning; and
- (d) a local government's website is a reference to the Department of Infrastructure and Planning's website.



Schedule 1

Dictionary

First state interest review means a review carried out by the Minister under Part 1, Stage 2 of this guideline.

Second state interest review means a review carried out by the Minister under Part 1, Stage 4 of this guideline.

Suppliers of state infrastructure mean suppliers of the following:

- state schools infrastructure;
- public transport infrastructure;
- state-controlled roads infrastructure;
- emergency services infrastructure;
- water infrastructure (if applicable in the local government area).

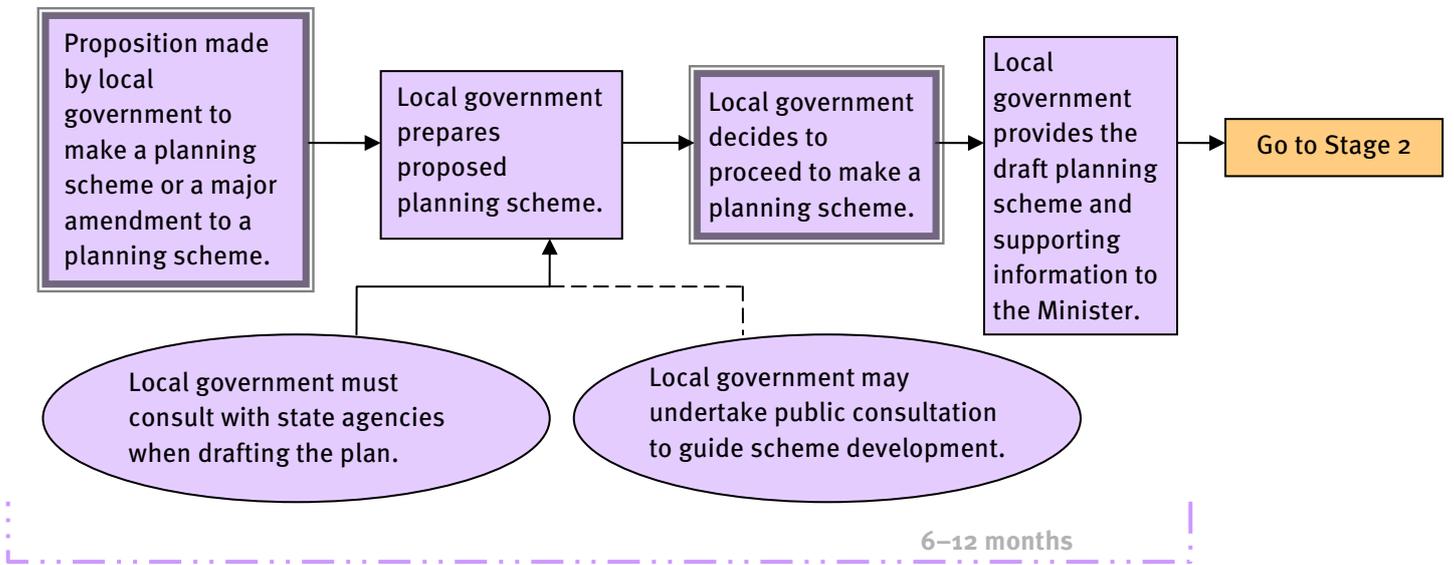


Schedule 2

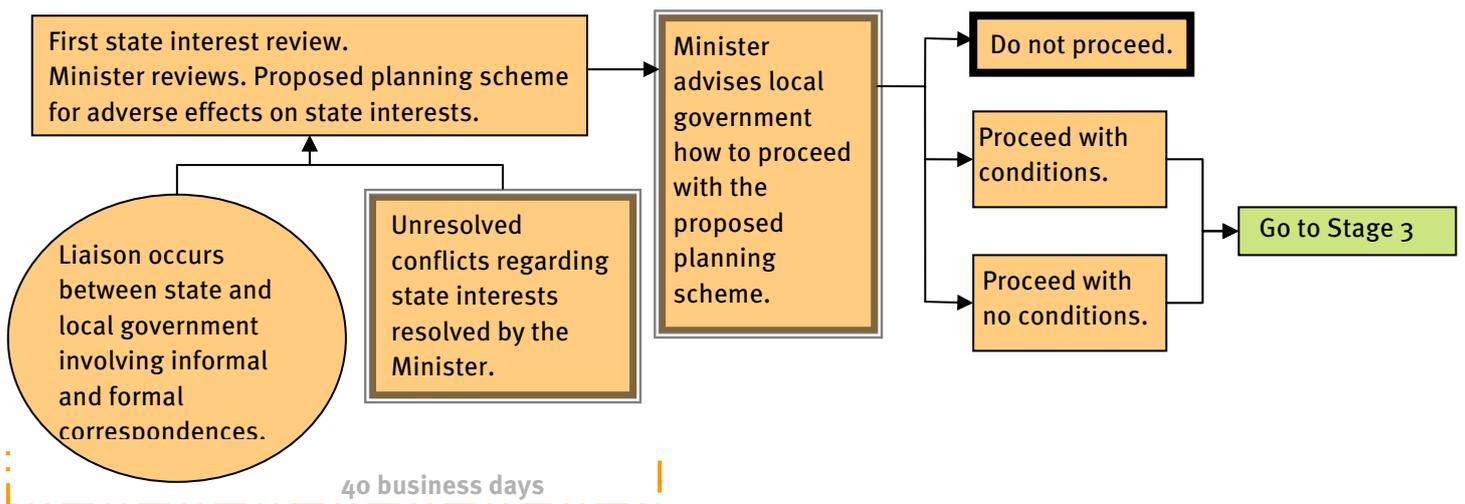
Detailed flow diagram of the process for making or making a major amendment to a planning scheme

Note: reference to making a planning scheme includes making and making a major amendment to a planning scheme.

Stage 1



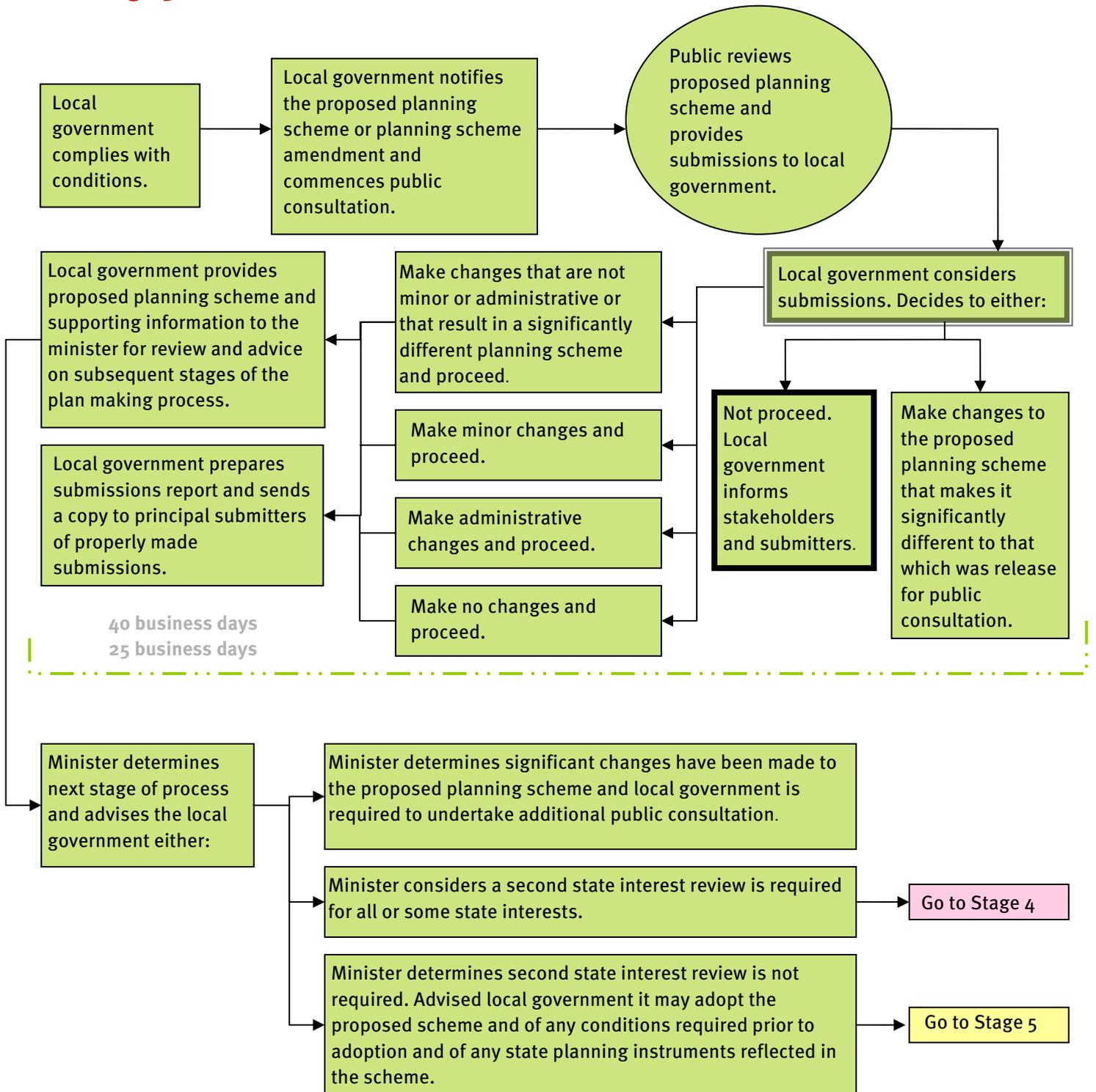
Stage 2



State agency/community  Decision step  End of process 
 Go to next stage of process  Recommended procedure 
 Stages 1. Preparation 2. First SIR 3. Consultation 4. Second SIR 5. Adoption



Stage 3



State agency/community



Decision step



End of process



Go to next stage of process



Recommended procedure



Stages

1. Preparation

2. First SIR

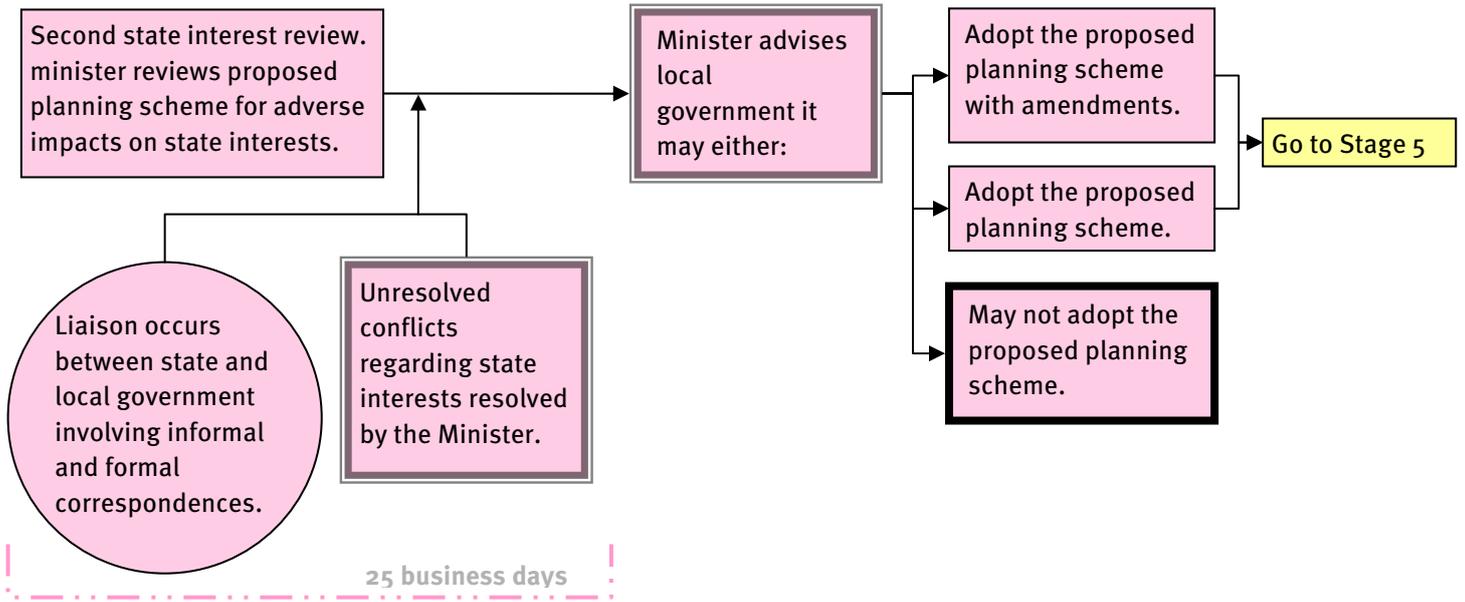
3. Consultation

4. Second SIR

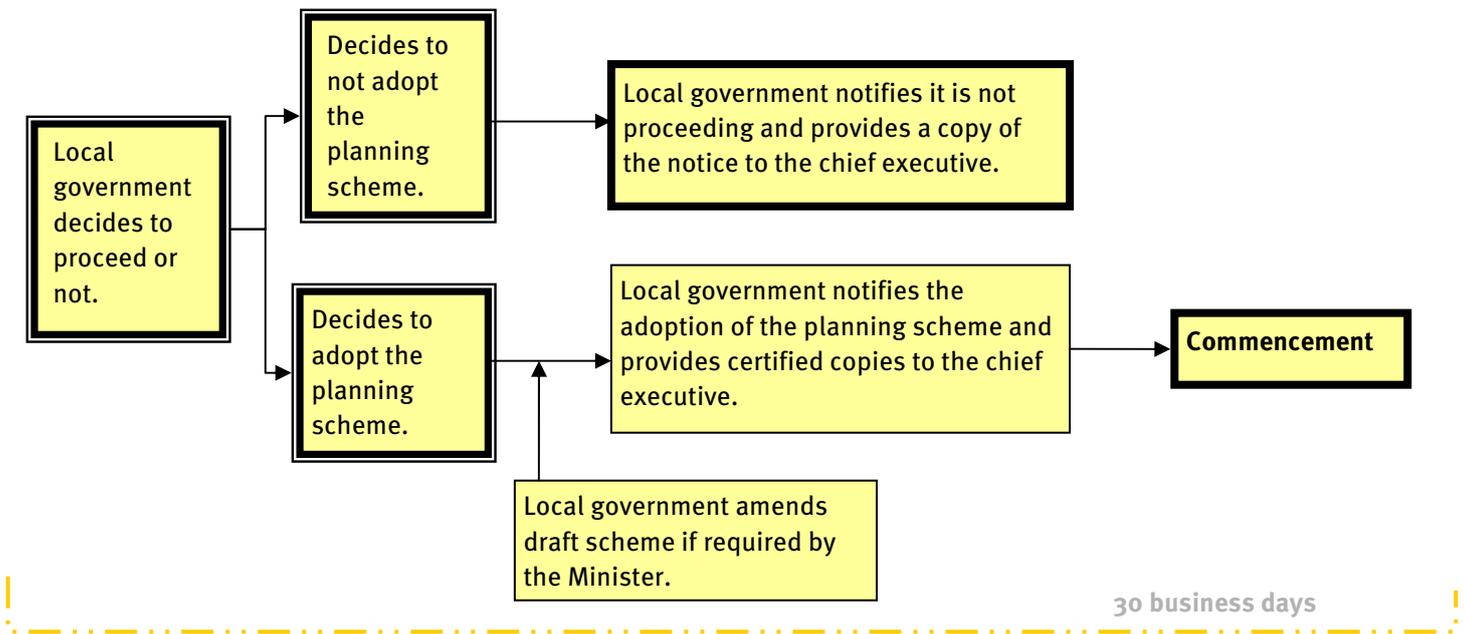
5. Adoption



Stage 4



Stage 5



State agency/community



Decision step



End of process



Go to next stage of process



Recommended procedure



Stages

1. Preparation

2. First SIR

3. Consultation

4. Second SIR

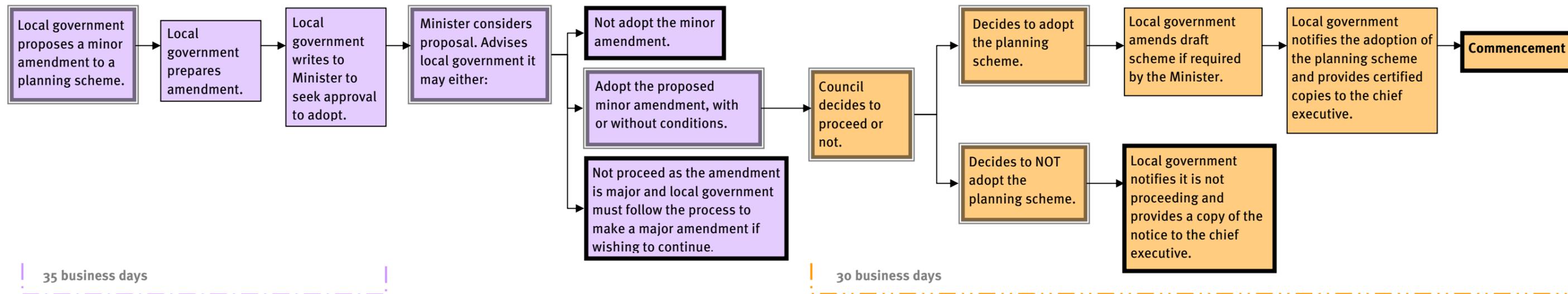
5. Adoption



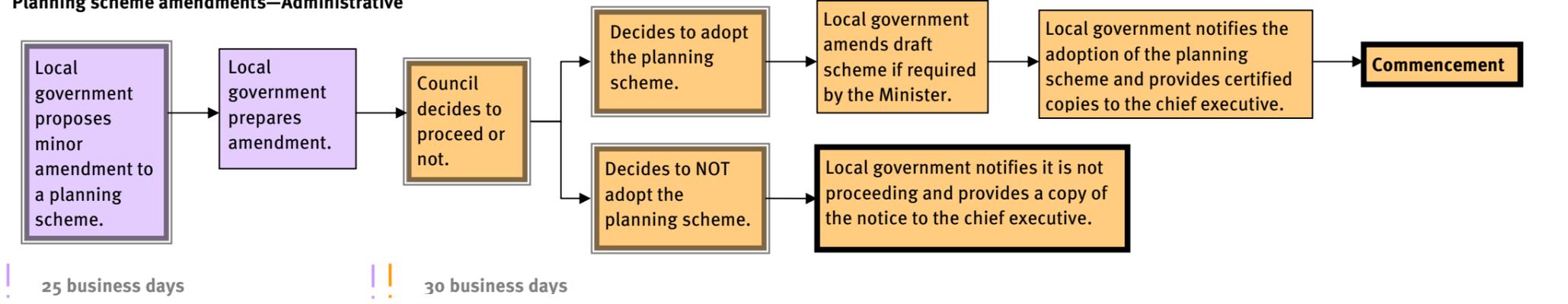
Schedule 3

Detailed flow diagram of the process for making a minor or administrative amendment to a planning scheme

Planning scheme amendments—Minor



Planning scheme amendments—Administrative



Decision step

End of process

Go to next stage of process

Step

- Stages
- 1. Preparation
 - 2. First SIR
 - 3. Consultation
 - 4. Second SIR
 - 5. Adoption

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