

Alignment amendment rules

Minister's rules under section 293 of the *Planning Act 2016*

MINISTER'S
RULES

Version 01

Made 25 November 2016

This document is a statutory instrument made under the *Planning Act 2016* (the Act)¹, and given effect by the Minister publishing a gazette notice.

It sets out **rules**² that must be followed for making amendments of a type stated in schedule 1 (***alignment amendment***) to local planning instruments³.

¹ Section 17 of the *Acts Interpretation Act 1954* provides the power to make and use a statutory instrument between enactment and commencement of the Act.

² Section 293(1) of the Act provides for the Minister to make rules about making amendments to a local planning instrument that are of a type the Minister is satisfied:

- (a) are consistent with the Act; and
- (b) do not substantially change the effect of the instrument.

³ Section 8(3) of the Act defines a local planning instrument as a planning instrument made by a local government and as either a planning scheme, planning scheme policy or temporary local planning instrument.



Minister's rules for an alignment amendment to a local planning instrument

1. What these rules apply to

- 1.1. These rules apply to an alignment amendment of a local planning instrument.

2. Propose to make an alignment amendment

- 2.1. The local government must **decide**⁴ to propose to make an alignment amendment under these rules to a local planning instrument.

3. Make⁵ the amendment

- 3.1. After preparing the proposed alignment amendment, the local government must decide to:
 - (a) make the alignment amendment; and
 - (b) commence the alignment amendment upon or after commencement of the Act.
- 3.2. After making the alignment amendment, the local government must publish, as soon as practical, a public notice about the alignment amendment.
- 3.3. The public notice must state the following:
 - (a) the name of the local government;
 - (b) the title of the alignment amendment;
 - (c) the purpose and general effect of the alignment amendment;
 - (d) the date the alignment amendment was made;
 - (e) the commencement date for the alignment amendment⁶; and
 - (f) where a copy of the alignment amendment may be inspected and purchased.
- 3.4. The local government must, as soon as possible after publishing a public notice under section 3.2, give the chief executive:
 - (a) a copy of the public notice;
 - (b) a copy of the alignment amendment; and
 - (c) a copy of the amended instrument, if requested by the chief executive.

⁴ The local government's decision at step 2.1 may also cover and include the local government's decision to make the alignment amendment at step 3.1.

⁵ 'Make' within these rules refers to the local government finalising the amendment and it having effect.

⁶ While an alignment amendment may be made prior to the Act commencing, an alignment amendment cannot commence until the Act commences.

Schedule 1 – Scope of amendments made under these rules

1. Amendments to which these rules apply are limited to amendments where the effect of the local planning instrument is not substantially changed as a result, including the circumstances below:
 - (a) improving and clarifying assessment benchmarks, notably codes, to ensure they are sufficiently robust to permit assessment as required by the decision rules for code assessment under the Act, and taking into account matters referred to in section 43(2) of the Act;
 - (b) reformatting or revising the structure of the local planning instrument to improve its clarity or operation, including but not limited to removing or altering certain sections of a QPP-compliant planning scheme which may be redundant;
 - (c) replacing terminology or language from repealed or soon-to-be-repealed legislation⁷ with terminology consistent with the Act, including but not limited to names of categories of development or categories of assessment and content for the regulated requirements in the *Planning Regulation 2017*; or
 - (d) changes of form not involving substantial changes of substance.

2. An amendment to which these rules apply does not include⁸:
 - (a) a change to a matter of State interest;
 - (b) a substantial change to a policy position as currently expressed in the instrument;
 - (c) a substantial change to a category of development or category of assessment for a particular use or activity;
 - (d) a change, other than a change that is in the opinion of the local government minor or inconsequential, to a person's or entity's development rights under the instrument; or
 - (e) a change which, in the opinion of the local government, would be likely to result in widespread public interest in the local government area and / or in multiple public submissions.

⁷ Specifically, *Integrated Planning Act 1997* (IPA) and *Sustainable Planning Act 2009* (SPA).

⁸ An amendment that is not an alignment amendment follows the processes, rules or guidelines as set out in the *Statutory guideline for making and amending local planning instruments* made under SPA or the *Minister's Guidelines and Rules* (currently interim) made under the Act, whichever is relevant at the time.

Schedule 2 – Definitions and abbreviations

DEFINITIONS	
<i>Decide</i>	<p>means a local government making a decision in relation to certain matters before proceeding to the next action under this instrument</p> <p>Editor's note – a local government may delegate its power to amend its planning scheme under the <i>Sustainable Planning Act 2009</i> or <i>Planning Act 2016</i> in accordance with section 257 of the <i>Local Government Act 2009</i> and section 238 of the <i>City of Brisbane Act 2010</i>, other than where a decision is required to be made by resolution in accordance with an Act.</p>
<i>Public notice</i>	<p>means a notice published—</p> <ul style="list-style-type: none"> (i) in the gazette; and (ii) in a newspaper circulating in the local government's area; and (iii) on the local government's website
<i>QPP planning scheme</i>	<p>being a planning scheme that complies with the Queensland Planning Provisions</p>

ABBREVIATIONS	
IPA	<i>Integrated Planning Act 1997</i>
SPA	<i>Sustainable Planning Act 2009</i>
The Act	<i>Planning Act 2016</i>