EXPLANATORY MEMORANDUM TO

THE PLANNING AND INFRASTRUCTURE ACT 2025 (CONSEQUENTIAL AMENDMENTS) REGULATIONS 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Matthew Pennycook MP, Minister of State for Housing and Planning at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Arthur Young, Deputy Director for Development Plans at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Peter Skalski at the Ministry of Housing, Communities and Local Government can be contacted by email at the following address with any queries regarding the instrument: peter.skalski@communities.gov.uk. Alternatively, the department can be contacted by telephone: 0303 444 0000.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Planning and Infrastructure Act 2025 inserted Part 1A (strategic plan-making) into the Planning and Compulsory Purchase Act 2024. This places a requirement on strategic planning authorities to prepare a spatial development strategy. This instrument amends primary legislation to support the effective implementation of Part 1A, in addition to those amendment made by Schedule 2 to the Planning and Infrastructure Act 2025.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 Town planning across an area of multiple local authorities is commonly referred to as "strategic planning." The government is committed to establishing a universal system of strategic planning across England, to replace the ad-hoc and largely voluntary

system of strategic planning that has been in place the since abolition of regional spatial strategies in 2010.

5.2 The Planning and Infrastructure Act 2025 inserted Part 1A (strategic plan-making) into the Planning and Compulsory Purchase Act 2004. This places a requirement on strategic planning authorities to prepare a document called a spatial development strategy. A spatial development strategy will form part of the development plan which local planning authorities must determine planning applications in accordance with, unless material considerations indicate otherwise. Local plans produced by local planning authorities (most of which are lower-tier and unitary authorities) will be required to be in "general conformity" with a spatial development strategy.

5.3 Combined authorities, combined county authorities, upper-tier county councils and unitary authorities, also referred to as "principal authorities", will all be strategic planning authorities.

5.4 Two or more principal authorities may form a strategic planning board to prepare a spatial development strategy jointly. In these instances, the strategic planning board is the strategic planning authority, and the principal authorities that are members of the strategic planning board will jointly produce a spatial development strategy to cover their combined area.

5.5 A strategic planning board must be established in regulations by the Secretary of State. The Secretary of State may only make these regulations where they consider that it is desirable for a spatial development strategy to relate to an area consisting of the areas of the principal authorities.

5.6 Section 12I of the Planning and Compulsory Purchase Act 2004 makes provision for the public examination of a spatial development strategy. An examination enables public participation and for the draft spatial development strategy to be independently tested before it is made operative.

5.7 The amendment to section 114 of the Planning and Compulsory Purchase Act 2004 will enable the Lord Chancellor to make rules under section 9 of the Tribunals and Inquiries Act 1992 in relation to the procedure to be followed for the examination of spatial development strategies. Any such regulations will help ensure the effective examination of a strategy.

5.8 The amendment to Schedule 6 of the Marine and Coastal Access Act 2009 will enable strategic planning authorities to consider how they might want to be involved in the marine planning process and make arrangements for their involvement.

What was the previous policy, how is this different?

5.9 This instrument amends primary legislation to support the effective implementation of Part 1A of the Planning and Compulsory Purchase Act 2004.

5.10 Prior to the introduction of Part 1A, arrangements for strategic planning in England were largely ad-hoc and voluntary. The Mayor of London has an existing duty to produce a spatial development strategy, placed on them by the Greater London Authority Act 1999 (GLA Act). Four combined authorities have also had a duty to produce a spatial development strategy placed on them through secondary legislation, derived from the GLA Act, although none have successfully produced one. These are Greater Manchester Combined Authority, Liverpool City Region Combined Authority North East Combined Authority and West of England Combined Authority.

5.11 Other than that, authorities could either produce non-statutory strategic plans, which carried very little weight in decision making, or attempt to produce a strategic plan

through the local plans system. These plans often failed as they had to be examined against requirements for local plans.

5.12 The previous government legislated for a voluntary system of spatial development strategies in the Levelling-up and Regeneration Act 2023. The present government has opted to repeal those provisions in favour of the mandatory, England-wide system now provided for by Part 1A of the Planning and Compulsory Purchase Act 2004.

5.13 The primary legislation amended by this instrument predates Part 1A of the Planning and Compulsory Purchase Act 2004. This instrument is therefore necessary to update the primary legislation to reflect the introduction of Part 1A.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument is the first of a series of statutory instruments that will be made to implement Part 1A of the Planning and Compulsory Purchase Act 2004.

6.2 Regulation 2 of this instrument amends section 114 of the Planning and Compulsory Purchase Act 2004 to add in a reference to strategies under Part 1A of that Act. This enables the Lord Chancellor to make rules under Section 9 of the Tribunal and Inquiries Act 1992 in relation to the procedure to be followed for the examination of spatial development strategies.

6.3 Regulation 3 amends paragraph 1 of Schedule 6 to the Marine and Coastal Access Act 2009 so that strategic planning authorities whose area adjoins or is adjacent to the area of a marine plan are included in the list of authorities that a marine plan authority must give notice of its intention to prepare a marine plan to. This requirement already extends to local planning authorities.

6.4 Further statutory instruments will be made following the making of this instrument. This includes statutory instruments that:

- Commence section 58 of, and Schedule 2 to, the Planning and Infrastructure Act 2025 for additional purposes (they have currently only been brought into force insofar as they confer a power to make regulations);
- Make further consequential amendments to secondary legislation;
- Set out the procedure to be followed in connection with the preparation of a spatial development strategy and the procedure to be followed in connection with the preparation of a spatial development strategy timetable;
- Set out the procedure to be followed in connection with the examination of a draft spatial development strategy. Amendments made by this statutory instrument will provide for the Lord Chancellor to make these examination rules; and
- Establish strategic planning boards with responsibility for preparing a spatial development strategy.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 There has not been a public consultation on this instrument because the changes it makes are consequential and/or minor and technical in nature.

8. Applicable Guidance

8.1 No guidance has been prepared alongside this statutory instrument as it contains only minor and consequential amendments.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no impacts on business, charities or voluntary bodies are expected.

9.2 An impact assessment was prepared for the Planning and Infrastructure Act 2025 and can be found at: https://www.gov.uk/government/publications/planning-and-infrastructure-bill-impact-assessment and can be inspected at the Ministry of Housing, Communities and Local Government, 2 Marsham Street, London, SW1P 4DF.

Impact on businesses, charities and voluntary bodies

9.3 There is no, or no significant, impact on business, charities or voluntary bodies because the changes made by this instrument are consequential and/or minor and technical in nature.

9.4 The legislation does not impact small or micro businesses.

9.5 There is no, or no significant, impact on the public sector. The amendment to paragraph 1 of Schedule 6 to the Marine and Coastal Access Act 2009 will require marine plan authorities to notify strategic planning authorities whose areas adjoins or is adjacent to the area of their marine plan of their intention to prepare a marine plan. This is not considered a significant burden.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause because there is no expected significant impact on business.

10.2 The Ministry of Housing, Communities, and Local Government will monitor the overall effect of the implementation of spatial development strategy system including the production of spatial development strategies by individual strategic planning authorities.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None

12. European Convention on Human Rights

12.1 Matthew Pennycook MP, Minister of State for Housing and Planning has made the following statement regard Human Rights:

12.2 "In my view the provisions of the Planning and Infrastructure Act 2025 (Consequential Amendments) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").