

Supporting information for the Economic Support Instrument Provision in the Planning Regulation 2017

1.0 Purpose

This document provides supporting information for local governments in considering making an economic support instrument for its local government area in accordance with Part 8B of the Planning Regulation 2017 (the Regulation).

2.0 Background

The COVID-19 pandemic has threatened the health and lives of Queenslanders and has resulted in what is unfolding to be one of the worst economic crises ever seen.

The Queensland Government acted quickly in response to the COVID-19 pandemic, leading the nation with amendments to the Queensland planning framework allowing supermarkets and other essential services to restock their shelves 24/7, and providing an avenue for business to temporarily change development approvals so they can adapt and remain viable during this difficult period.

These amendments have benefited all Queenslanders. Now the extent and speed of economic recovery depends on getting immediate economic responses right.

The planning framework will play an essential role in assisting in Queensland's economic recovery. New uses and modified existing uses can both provide new employment opportunities and support the viability of existing employment generators. Local governments across the state are currently looking to respond rapidly to their communities' needs and this includes reviewing current planning regulations. A streamlined planning framework can help these uses along the way. This is one way in which the planning framework can support the State's Economic Recovery Plan (Unite and Recover).

Many modern planning schemes in Queensland already allow for a range of low risk uses and changes to use to occur without a planning application. However, some planning schemes may contain regulations that may overly complicate the process for commencing a new use or modifying a use, or that are no longer necessary.

3.0 Amendments to the Planning Regulation 2017

Amendments to the Planning Regulation 2017 were made on 11 September that seek to support the state-wide economic recovery initiative by streamlining some statutory planning processes for local government, business and the development industry, whilst still maintaining the integrity of the planning framework.

The amendments prescribe a process to enable a local government to make an economic support instrument for its local government area and determine the timeframe for which that instrument will apply. This approach is optional.

An economic support instrument adopted by a local government applies, on a temporary basis, the provisions of the Planning Regulation that:

- reduces the level of assessment for certain uses to code assessment (Part 8B, Division 3)
- makes certain building work accepted development (Schedule 6, Part 1, Section 1A)
- makes certain material changes of use involving existing buildings, as well as home-based businesses, accepted development (Schedule 6, Part 2, Section 7A and 7B).

Once adopted the provisions in the economic support instrument would apply in place of some of the provisions in a local government planning scheme.

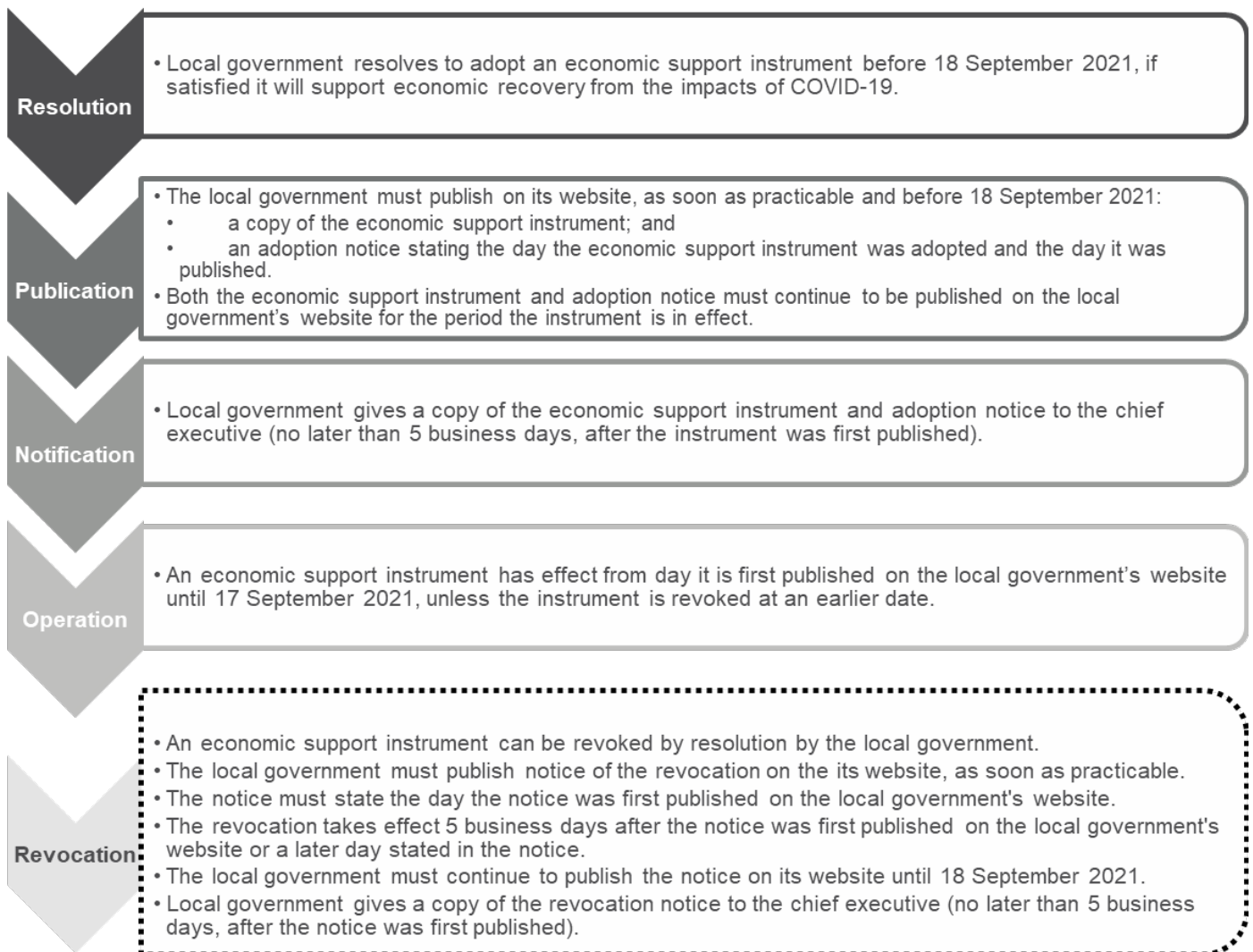
A local government may only make an instrument between 11 September 2020 and 17 September 2021. The Regulation provides for a local government to revoke an instrument in effect by resolution.

4.0 Making an economic support instrument

4.1 Process for opting-in

The provisions are non-mandatory. A local government may choose to opt-in to some or all of the provisions during the effective period of the Regulation. Figure 1 provides a flow chart of the process for opting-in in accordance with Part 8B of the Regulation to assist in understanding on each of the steps involved.

Figure 1 – Flow chart of Economic support instrument process



4.2 Investigation

To opt-in to one or more of the provisions a local government will need to understand what provisions, zones and uses will be most effective in assisting economic recovery from the impacts of the COVID-19 emergency in their local area.

Local governments are encouraged to review their current planning scheme in relation to the zones and uses related to each of the provisions to determine how the planning scheme currently regulates these uses. Looking at existing levels of assessment and assessment benchmarks applying to these uses in these particular zones, will assist in identifying possible circumstances where these low risk development proposals may get 'tripped' up in red tape. This will assist in determining if there are any provisions that may be affective or appropriate to opt-in to. When considering which provisions would be beneficial to the local area, a local government should also consider the effective period for the Regulation changes, and what economic support could be achieved during that period.

These provisions assist local government make timely and temporary changes for their local government area for some uses, while more detailed planning scheme amendments can be considered and drafted to provide long term change.

The departments plan-drafting guidance [Drafting a planning scheme - Guidance for local governments](#) assists local government in reviewing their planning scheme to assess whether the scheme's approach, including application of categories of development and assessment and associated requirements and assessment benchmarks (e.g. in codes) already delivers an efficient and effective assessment process that facilitates the economic outcomes envisaged by the economic support provisions, and assist in understanding where the provisions may assist in the local government area.

The department will continue to provide ongoing support to local governments to make amendments to their planning schemes, it is recognised that the amendment process can take some time. Temporary Local Planning Instruments may also achieve more specific economic support measures tailored to a specific urgent or emergent local government need.

Local governments are encouraged to speak to their local Departmental planning office to discuss any plan making requirements they may need to respond to the COVID-19 pandemic and economic recovery.

4.3 Economic support instrument

After a local government has considered their local context and planning scheme they will need to identify the provisions to opt-in to. To opt-in to some or all of the provisions a local government must make an economic support instrument (the instrument) in accordance with Part 8B of the Regulation.

The instrument is required to provide a range of details that are set out by the Regulation. An instrument will need to state each provision, and the related zones and proposed or existing uses as stated opposite in the relevant tables in the Regulation, the local government has opted-in to.

For the purposes of Part 8B, Division 3, section 681(3); Schedule 6, Part 1, Section 1A(1)(j) and Schedule 6, Part 2, Section 7A(1)(i) the instrument will also need to include assessment benchmarks from the local planning instrument that will apply to the uses within the stated zones.

An [economic support instrument template](#) has been provided to assist local governments prepare and identify each of the components required to facilitate the initiatives.

4.4 Resolution, publication and notification

After a local government has prepared the instrument, it will need to resolve to adopt the economic support instrument. Once a local government has adopted an Economic support instrument it must publish an adoption notice and the instrument as soon as practicable. The adoption notice needs to state the day the local government adopted the instrument, and the day the instrument was first published on its website.

A local government must continue to publish the adoption notice and instrument on the local government's website for the period the instrument is in effect. A copy of the adoption notice and instrument is also required to be given to the chief executive as soon as practicable, but no later than 5 business days after first day of initial publication.

An [adoption notice template](#) is provided for further assistance to local governments considering these provisions.

4.5 Operation

From the day of publishing the instrument on the local government website, the provisions will have effect until the effective period of the Regulation ends on 17 September 2021, unless earlier revoked.

Should a local government opt-in to the provisions, any use started under the provisions is a lawful use and will remain so once the provisions cease to have effect. It is recognised that local governments deal with accepted development and compliance as a matter of ongoing business. Should a local government opt in to any or all of the provisions the compliance processes will be no different to what is currently in place.

The publication of associated adoption notice, economic support instrument and where undertaken a revocation notice provides a clear basis for the period of effect of any provisions a local government chooses opt-in to.

4.6 Revocation

Should a local government believe the provisions, zones and or uses are not having the intended economic benefits to their local area they may revoke the instrument. Following the resolution, the local government must publish a revocation notice on the local government website stating the day the notice was first published on the local government's website. The revocation takes effect on the day that is 5 business days after the day first published, or a later date stated in the notice.

A copy of the revocation notice must be given to the chief executive as soon as practicable, but no later than 5 business days after its publication. A local government must continue to publish the notice on the local government's website until 18 September 2021.

A [revocation notice template](#) is provided for further assistance to local governments considering these provisions.

5.0 Economic support provisions

5.1 Part 8B, Division 3 – Particular development requires code assessment instead of impact assessment

This provision allows for a local government to opt-in to cap the category of assessment at code assessment for certain uses seeking to establish where the use is identified opposite that zone in the Regulation.

To apply this provision a local government will identify the zones and opposite uses they intend to opt-in to. Given this provision would change the category of assessment of certain uses in certain zones from impact to code, the regulation provides for a local government to identify in the instrument the relevant assessment benchmarks (that may collectively be contained in codes) within the planning scheme that are to apply to the assessment of the uses.

This might include the relevant zone and use codes, as well as any other relevant codes that may contain assessment benchmarks applicable for that use in the zone identified. These assessment benchmarks need to be identified in the instrument for them to have effect. The instrument will list the applicable assessment benchmarks from the planning scheme against each of the uses and zones opted-in to.

If a local government identifies specific overlays may still be relevant and wants to ensure the assessment benchmarks within that overlay code apply to the relevant zones and uses, the instrument should state these also.

A local government should consider the ability of the applicable assessment benchmarks within defined codes to provide a robust bounded assessment, before opting-in to this provision.

5.2 Schedule 6, Part 1, Section 1A – Particular building work that increases gross floor area of an existing building

This provision provides for a local government to opt-in to change the category of development for some expansions of gross floor area (GFA) from assessable to accepted. To apply this provision a local government will identify the zones and opposite uses they intend to opt-in to.

This provision does not change or amend the current definition for Minor building work under the Regulation. It is a separate provision providing a greater threshold for building work for minor expansions in GFA when a local government chooses to opt-in.

If given effect, the Regulation outlines the requirements to make certain building work increasing GFA accepted development where:

- it is an existing lawful use of premises
- the expansion in GFA is the lesser of 100m² or 10% of the GFA of the existing building
- the building work is not undertaken on, or adjacent/adjoining a state or local heritage building
- the building work complies with the applicable siting requirements where identified by a local government
- the building work does not reduce the number of car parking spaces or the total area of landscaping on the premises
- the building work is substantially started during the effective period of this instrument
- no other building work to increase GFA, other than building work carried out under a development approval given before the provision took effect, has been carried out during the effective period of this instrument.

5.3 Schedule 6, Part 2, Section 7A – Particular material change of use involving an existing building

This provision provides for a local government to allow a change in tenancy within an existing building as accepted development if the use is expected in that zone and only minor building work will occur. To apply this provision a local government will identify the zones and opposite uses they intend to opt-in to.

If given effect, the Regulation outlines a material change of use can occur as accepted development for the uses and zones a local government has opted in to where:

- the change of use involves the reuse of an existing building
- the change of use does not involve the carrying out of building work
- the change of use may involve minor building work
- where for a proposed use, other than a declared use under section 2750 of the Planning Act 2016:
- If the proposed use is a shop to which the Trading (Allowable Hours) Act 1990 applies – the requirements under that Act about trading hours for the shop; or
 - The use complies with the applicable benchmark identified in Column 3 applying to the premises about operating hours
 - the change of use does not reduce the number of car parking spaces or total area of landscaping
 - where in a neighbourhood or local centre zone complies with the applicable benchmark identified in Column 3 about heavy vehicle traffic connected to the proposed use.

This provision does not provide for additional requirements other than those listed above. The Regulation provides for a local government to identify appropriate requirements related to operating hours where the use is not bound by the Trading (Allowable Hours) Act 1990, and for neighbourhood or local centre zones heavy vehicle use in connection with the proposed use.

When identifying requirements for operating hours or heavy vehicle movements, the requirements and / or assessment benchmarks are required to be contained in the current planning scheme and will need to be identified in the instrument for them to have effect.

5.4 Schedule 6, Part 2, Section 7B – Material change of use for home-based business in particular zones

This provision provides for local governments to allow home-based business as accepted development in the low density residential, low-medium density residential, medium density residential, high density residential, character residential, tourist accommodation and township zones. A local government may choose to opt-in to some or all of the zones for this provision.

If given effect, the Regulation outlines a material change of use for a home-based business use is accepted development where:

- the material change of use does not involve an industry activity as defined under a local planning instrument
- the use complies with the acoustic quality objectives in the Environmental Protection (Noise) Policy during operating hours.

This provision does not provide for additional requirements other than those listed above. A local government opting-in to this provision will be unable to apply any additional requirements that may apply to home-based business uses in their current planning scheme.