

Regulating party houses

Amendments to the *Sustainable Planning Act 2009*

FACT SHEET
JULY 2015

Introduction

In recent years, the State has introduced various measures to deal with party houses. Continued community concern has prompted further State action to consider another aspect – the lawfulness of a residential dwelling used as a ‘party house’.

From a land use planning perspective, it was never envisaged that a residential dwelling would be used in such a way that the primary use of the premises is more consistent with an event venue rather than as residential accommodation.

Consequently, amendments to the *Sustainable Planning Act 2009* (SPA) have been made to reflect this policy position and enable party houses to be assessable development.

Regulating party houses

The *State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014* (the Act) was given royal assent on 15 August 2014. The Act commenced on 1 October 2014.

The Act includes a new chapter 9, part 7A in SPA which provides:

- a definition of a ‘party house’
- that a planning scheme or temporary local planning instrument (TLPI) may declare that a ‘party house’ may be assessable development and may also include a development assessment code

- for a ‘party house restriction area’ to be identified, which confirms that any residential dwelling in that area does not, and never had the right to operate as a ‘party house’ as defined. The lawful development or use of a residential dwelling does not include the development right to operate a party house as defined in SPA, unless otherwise approved by local government.

The amendments provide for ‘party house’ to be included in a local government planning scheme or a TLPI as a distinct land use. The provisions will only take effect if a local government applies the provisions through the planning scheme or in a TLPI.

Where a local government gives effect to these provisions then a ‘party house’ is a distinct land use and cannot be considered to be short term accommodation, holiday rental accommodation, a reception room, a function facility or other land use separately defined in the planning scheme.

Is it mandatory that local governments must regulate party houses in its planning scheme?

No. The party house provisions will only have effect if a local government ‘opts in’ by making/amending a planning scheme, or making a TLPI.

Giving effect to the party house provisions

To 'opt in' to the party house provisions, a local government will need to make a major amendment to the planning scheme under the [Statutory guideline 04/14 Making and amending local planning instruments](#) (MALPI).

Alternatively, a local government may make a TLPI under MALPI. If a local government decides to implement these provisions through a TLPI, voluntary public consultation on the draft TLPI may be considered.

The amendments provide that party house provisions can take effect in a planning scheme or TLPI, despite the [Queensland Planning Provisions 3.1 \(QPP\)](#).

How it works

Local government have the flexibility to determine how party houses should be regulated in their local government area. A number of examples are outlined below.

Example 1: Party houses are not regulated in a planning scheme

If a local government chooses not to regulate 'party house' as a separate land use, then there is no need to amend the planning scheme. In this case 'party house' is not defined and the planning scheme continues to operate as it did prior to the commencement of the legislation.

Example 2: A 'party house' is assessable development, but a 'party house restriction area' is not identified in the local government area

If a local government proposes to make a 'party house' assessable development in its planning scheme then the local government should make/amend a planning scheme or make a TLPI to:

- include the SPA definition of 'party house' in the planning scheme as a land use definition

- provide that a 'party house' is code or impact assessable development
- include a development assessment code for a material change of use for a 'party house'.

The effect is that for a 'party house' to lawfully operate, a development permit must be obtained.

Example 3: A 'party house restriction area' applies to all or part of the planning scheme area. For the balance area a 'party house' is not recognised as a separate land use

A 'party house restriction area' has the retrospective effect of clarifying that for an approved or permitted residential dwelling in the area, that approval did not and does not include the right to operate as a 'party house' (unless otherwise approved by a local government).

This does not mean that a 'party house' is prohibited development in a 'party house restriction area'. Rather, if a 'party house restriction area' is identified in all or part of the planning scheme area, it is up to local government to specify the level of assessment and code for material changes of use applications for a party house in the 'party house restriction area'.

In this example, a local government identifies a 'party house restriction area' in all or part of its planning scheme area. Examples may include but are not limited to:

- providing that the entire local government area is a 'party house restriction area'
- providing that certain zones are a 'party house restriction area'
- defining through an overlay the boundary of the 'party house restriction area'.

If a 'party house restriction area' is identified for only part of the planning scheme area and the local government chooses not to regulate 'party house' as a land use in the balance of the planning scheme area then:

- the planning scheme should not be amended to include the 'party house' definition as it is already in SPA. The level of assessment and code for a material change of use application would only apply within the 'party house restriction area'. For the balance area a local government would continue to assess applications using existing definitions.

Example 4: A 'party house' is assessable development and a 'party house restriction area' applies to all or part of the planning scheme area

In this example, a local government is able to:

- identify a 'party house restriction area' in all or part of its planning scheme area
- determine that the level of assessment of a 'party house' is (code or impact assessable) within its planning scheme area
- adopt a development assessment code with appropriate performance outcomes and acceptable solutions for the 'party house' use.

The effect is that for a 'party house' to lawfully operate, a development permit must be obtained.

The State's role

The Minister of the Department of Infrastructure, Local Government and Planning must follow the processes under SPA and MALPI in relation to making or amending a planning scheme or a TLPI.

The local government's role

The amendments do not create a new role for local government.

Local government remain responsible for making/amending the planning scheme, assessing and approving development, the enforcement of development approvals and responding to complaints relating to the lawful use of land in accordance with their planning scheme provisions.

Further information

The Act as passed and corresponding explanatory notes are available at:

https://www.legislation.qld.gov.au/Acts_Passed/Acts_Passed_NUM_2014.htm

<https://www.legislation.qld.gov.au/Bills/54PDF/2014/StateDevInPIRedTapeOLAB14E.pdf>