

Sustainability declaration

New sustainable housing laws



The facts



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What is a sustainability declaration?

A sustainability declaration is a compulsory checklist that must be completed by the seller when selling a house, townhouse (class 1a building) or unit (class 2 building) from 1 January 2010.

The declaration will inform buyers about the sustainability features of a property and increase community awareness of the value of such features.

The declaration identifies the dwelling's sustainability features in four key areas:

- energy
- water
- access
- safety.

Why is the sustainability declaration being introduced?

There is growing concern about the impacts of climate change and the need to improve the sustainability performance of existing housing in Queensland. Encouraging prospective buyers to make informed choices about the sustainability performance of residential buildings is becoming increasingly important.

Properties with a greater number of sustainability features potentially have lower energy costs and use less water. They can also be more comfortable to live in and generate fewer greenhouse gas emissions. Homes with access and safety features may be more liveable for occupants during their various life stages and can reduce potential risks around the home such as trips and falls.

The declaration aims to increase awareness of sustainable housing features when a property is marketed for sale. It also promotes possible ongoing financial and environmental benefits that could be achieved with specific features. It is anticipated that the declaration will help promote the sustainability of a home and become a key marketing tool for real estate agents and private sellers.

Do advertisements need to refer to the sustainability declaration?

Yes. Under the new legislation, from 1 January 2010 real estate agents and private sellers cannot publish an advertisement for the sale of a property unless the advertisement includes information about where a copy of the sustainability declaration can be obtained. This requirement applies to online listings, real estate agency window pane advertisements, letterbox drops of advertising materials and all other forms of advertising.

It excludes advertisements published in newspapers and magazines or signs that are not designed to specifically advertise the sale of a particular property (e.g. a generic 'for sale' sign). If requested, the sustainability declaration must be made available to a prospective buyer.

Will the declaration be required at open inspections?

Yes. Whenever the home that is for sale is open to the public for inspection, the seller must ensure a copy of the sustainability declaration is conspicuously displayed at the site or in the dwelling. The seller's agent however is not obliged to provide a copy of the sustainability declaration to every prospective purchaser.

Where can I get a copy of the sustainability declaration?

The sustainability declaration is available on the Department of Infrastructure and Planning's website www.dip.qld.gov.au

Is a sustainability declaration required for properties placed on the market before 1 January 2010?

A sustainability declaration will be required for houses, townhouses and units if the property has not been sold and continues to be marketed after 1 January 2010, regardless of when the property was initially listed for sale.

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Who can complete the sustainability declaration?

The declaration is a self-assessable checklist designed to be completed by a seller. However, if a seller is unable to complete the form, they can seek help from another person to complete it on their behalf. However, the seller must sign the declaration. Where an owner cannot sign the form, a person authorised under a power of attorney or another statutory power may sign the form.

Do all boxes, including the household report card need to be completed?

No. The intention of the form is that it is completed to the best of the seller's ability and knowledge. Where the seller cannot reasonably find out information or has no technical knowledge about the feature then the box may be left blank.

The household report card section may be completed where the seller has access to the dwelling's water and electricity bills. Where this information is not available, such as a rental property, the seller may leave this section of the sustainability declaration blank.

What could happen if the information on the declaration is false or misleading?

If a buyer purchased a home and the sustainability declaration was found to be false or misleading or prepared without reasonable skill and care, and the buyer incurred loss or expense because of that, the seller may be

liable to compensate the buyer for the loss or expense (for example, where a seller claims that ceiling insulation is installed and it is not).

What happens if a seller refuses to complete the form?

Completing the sustainability declaration and making it available is a mandatory requirement for properties which are marketed from 1 January 2010. There are maximum penalties of up to \$2000 where a seller refuses to complete the form. This may be enforced by local government.

Must the seller details section be completed for each copy of the sustainability declaration distributed during the marketing of the property?

It is intended that one copy of the sustainability declaration will be completed, signed and provided to the final purchaser. For the purposes of advertising and privacy, the personal details section may remain blank providing the property address and date is completed. The signature section would instead read 'seller has signed this form'.

Could a buyer terminate a contract if the declaration is incorrect?

No. The buyer would not be able to terminate a contract on the basis of information contained in the sustainability declaration being false or incomplete.

What if I am selling a home from a plan before construction?

When you are selling a home from a plan before it has been constructed and a building approval has been granted, a sustainability declaration will need to be completed by the seller. The building plans will be able to assist in completing the declaration to the best of your ability and knowledge.

How does this affect rental properties?

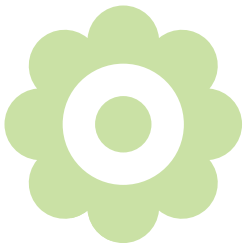
A sustainability declaration is not required when a new lease is signed for rental properties. However, if a rental property is being sold, a sustainability declaration will still need to be completed.

What if I need to amend the declaration?

If the home has been upgraded during the marketing period or the seller recognises that the declaration has been incorrectly completed, the declaration should be amended or replaced. The seller should initial and date the change on the original form, or alternatively prepare and sign a replacement declaration.

For more information

A reference guide to assist with completing the sustainability declaration is available on the Department of Infrastructure and Planning's website.



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