

Sustainability declaration

Sustainable housing laws.



The facts

For the greener good.

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 informs buyers about the sustainability features of a property and increases community awareness of the value of such features.

The declaration promotes a 'triple bottom line' approach to sustainability (environmental, social and economic) by identifying a dwelling's sustainability features in three key areas—energy, water as well as access and safety.

Why has the sustainability declaration been 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 also promotes possible ongoing financial and environmental benefits that could be achieved with specific features. The declaration will help promote the sustainability of a home and be a key marketing tool for real estate agents and private sellers.

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.

There is no requirement to engage and pay a professional to complete the form.

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 (which advertise a specific property) and all other forms of advertising.

However, 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). Material used to advertise a number of properties that is distributed as a letterbox drop would also be exempt. If requested, the sustainability declaration must be made available to a prospective buyer.

Is the declaration 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.

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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 is required for houses, townhouses and units if the property was not sold and continued to be marketed after 1 January 2010, regardless of when the property was initially listed for sale.

Do all boxes 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.

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).

Should I keep the original copy of the sustainability declaration?

To help maintain accurate records and to provide evidence in the case where there is a dispute in relation to the form, it is recommended that either the seller or the seller's agent retain a copy of the original signed copy of the sustainability declaration. If amendments are made to the form, a copy of the original form should be retained for reference purposes.

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 is enforced by local governments.

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'.

Can 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 a home is being sold 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 the seller's 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 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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