

Q&S CONVEYANCING UPDATE

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NEW OBLIGATIONS FOR REAL ESTATE AGENTS

The Queensland government recently introduced the *Building & Other Legislation Amendment Bill 2009* ("the Bill") proposing to amend various statutes. Of interest to real estate agents are the amendments proposed to the:

- Property Agents & Motor Dealers Act 2000 (PAMDA);
- Body Corporate & Community Management Act 1997 (BCCM);
- Building Act 1975.

Chapter 11 of PAMDA deals with residential property transactions. The Bill proposes a new Part 5 which will oblige a Seller's agent to ensure in their marketing/advertising material in respect of the sale of a property, that they include information (or the capacity to obtain that information by say an internet weblink) about where an intending Buyer can obtain a copy of a "**current sustainability declaration**" in respect of the property.

This obligation extends to ensuring the declaration is conspicuously displayed at any open homes in respect of the property for sale so it readily readable by intending Buyers.

The meaning of "current sustainability declaration" is defined in a new Chapter 8A Part 1 of the Building Act 1975. The declaration will apply to class 1a and class 2 buildings, being essentially residential houses, townhouses and units.

The declaration needs to be in the approved form (a 57 point questionnaire) and contain information relevant to the building's sustainable energy and water use and the safety of persons using the building.

The Bill does not propose that an intending Buyer can terminate a contract where the declaration is not supplied or is materially deficient, however, there are penalties (maximum of \$10,000 per breach) which can be levied against the agent and there is the potential for a Buyer to sue for losses they may suffer.

The Bill is expected to come into effect from 01 January 2010.

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