

New Legislation Passed

The *Building and Other Legislation Amendment Act 2009* ("the Act") was recently passed and will commence on 1 January 2010.

See <http://www.legislation.qld.gov.au/LEGISLTN/ACTS/2009/09AC051.pdf> for a full copy. The Act aims to promote sustainable building practices in Queensland by making amendments to a number of existing Acts.

The following Acts will be amended:

- *Acquisition of Land Act 1967;*
- *Animal Management (Cats and Dogs) Act 2008;*
- *Body Corporate and Community Management Act 1997;*
- *Building Act 1975;*
- *Fire and Rescue Service Act 1990;*
- *Land Title Act 1994;*
- *Mixed Use Development Act 1993;*
- *Plumbing and Drainage Act 2002;*
- *Property Agents and Motor Dealers Act 2000;*
- *Sustainable Planning Act 2009; and*
- *Transport Infrastructure Act 1994.*

The amendments will affect property developers, real estate agents, bodies corporate and generally sellers of property in Queensland.

Main features of the amendments:

1. Introduction of the requirement for sellers to provide a 56-point sustainability declaration (56-point) at the point of sale and before advertising or otherwise offering for sale. This applies to all houses, townhouses (class 1a) and units (class 2). The requirement for the declaration will apply to all sales of these property types, not just new stock.

- Note particularly clause 29a, amending Ch 8A of the Building Act - specific provisions relating to making the declaration available in advertising and inspections.
- Note also that buyers will be given a right to compensation (but no right to terminate) should they suffer loss as a result of the declaration being false or misleading in a material particular, or if it is otherwise prepared without the exercise of reasonable skill and care.

2. Limiting the effect of prohibitions [etc] for particular sustainable housing measures. Building covenants and by-laws will become invalid to the extent that they seek to restrict the use of sustainable design measures – e.g. light-coloured roofs, single garages, small houses and solar hot water systems.

Agents and developers should review the Act to determine the extent of changes required to its marketing and sale processes. **msl** would be pleased to assist with this review if required.
