

Commonwealth of Australia
STATUTORY DECLARATION AS TO STATUS OF EXISTING EER STATEMENT
Statutory Declarations Act 1959

¹ Insert the name and occupation of persons making the declaration

I/we¹,

make the following declaration under the *Statutory Declarations Act 1959*²:

² Set out matter declared to in number paragraphs

1. That I/we am/are currently attempting to sell my/our residential property which is known as and is more properly described as Unit Block Section of (the "Residence").
2. That I/we am/are aware of the requirement, under the Civil Law (Sale of Residential Property) Act 2003, for me/us to provide a current Energy Efficiency Rating Statement for the Residence to form part of the proposed Contract for Sale of the Residence.
3. That I/we previously commissioned and obtained an ACTHERS First Rate Energy Efficiency Rating Statement for the Residence which reflected the energy efficiency performance of the Residence at the time it was prepared (the "Existing EER Statement").
4. That the Existing EER Statement is now more than six months old.
5. That I/we have read the ACT Planning and Land Authority's Energy Efficiency Statement Definition (the "EER Statement Definition") prepared in accordance with the ACT Residential Guidelines of the Territory Plan. A copy of the Definition is annexed hereto and marked "A".
6. That the Existing EER Statement together with this Statutory Declaration meets the criteria of being current, valid and complete, as stipulated in the EER Statement Definition.
7. That since the Existing EER Statement was prepared:
 - (a) no alterations have been made, window sizes changed or extensions added to the Residence,
 - (b) there have been no external fittings such as external blinds or pergolas installed or removed, and
 - (c) the type of soft furnishings, including the type of curtains and type of carpet in the Residence, has not been changed.

³ Signature of person making the declaration

⁴ Place

⁵ Day

⁶ Month and year

⁷ Signature of person before whom the declaration is made (see over)

⁸ Full name, qualification and address of person before whom the declaration is made (in printed letters)

I/we understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I/we believe that the statements in this declaration are true in every particular.

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Declared at ⁴ on ⁵ of ⁶
Before me,

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Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years – see section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* – see section 5A of the *Statutory Declarations Act 1959*.

A statutory declaration under the Statutory Declaration Act 1959 may be made before –

(1) a person who is currently licensed or registered under a law to practice in one of the following occupations:

Chiropractor	Dentist	Legal practitioner
Medical practitioner	Nurse	Optometrist
Patent attorney	Pharmacist	Physiotherapist
Psychologist	Trade marks attorney	Veterinary surgeon

(2) a person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or

(3) a person who is in the following list:

Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public
Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the *Consular Fees Act 1955*)
Bailiff

Bank officer with 5 or more continuous years of service
Building society officer with 5 or more years of continuous service
Chief executive officer of a Commonwealth court
Clerk of a court

Commissioner for Affidavits
Commissioner for Declarations
Credit union officer with 5 or more years of continuous service

Employee of the Australian Trade Commission who is:

- (a) in a country or place outside Australia; and
- (b) authorised under paragraph 3(d) of the *Consular Fees Act 1955*; and
- (c) exercising his or her function in that place

Employee of the Commonwealth who is:

- (a) in a country or place outside Australia; and
- (b) authorised under paragraph 3(d) of the *Consular Fees Act 1955*; and
- (c) exercising his or her function in that place

Fellow of the National Tax Accountants' Association

Finance company officer with 5 or more years of continuous service

Holder of a statutory office not specified in another item in this list

Judge of a court

Justice of the Peace

Magistrate

Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the *Marriage Act 1961*

Master of a court

Member of Chartered Secretaries Australia

Member of Engineers Australia, other than at the grade of student

Member of the Association of Taxation and Management Accountants

Member of the Australian Defence Force who is:

- (a) an officer; or
- (b) a non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982* with 5 or more years of continuous service; or
- (c) a warrant officer within the meaning of that Act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of:

- (a) the Parliament of the Commonwealth; or
- (b) the Parliament of a State; or
- (c) a Territory legislature; or
- (d) a local government authority of a State or Territory

Minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*

Notary public

Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public

Permanent employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority; or
- (c) a local government authority;

with 5 or more years of continuous service who is not specified in another item in this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police officer

Registrar, or Deputy Registrar, of a court

Senior Executive Service employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority

Sheriff

Sheriff's officer

Teacher employed on a full-time basis at a school or tertiary education institution

A – EER STATEMENT DEFINITION

The EER Statement definition covers the requirements of sale for both:

- existing dwellings which have been occupied; and
- new designs and extensions, which may include an 'onsale' of an identified property "off the plan".

AN ACCEPTABLE ENERGY EFFICIENCY RATING STATEMENT means an EER Statement which is (1) CURRENT and (2) VALID and (3) COMPLETE. If an EER Statement cannot meet the three mandatory requirements of currency, validity and completeness, then a new energy efficiency rating, which produces a new EER Statement, must be undertaken.

1. An EER Statement is deemed CURRENT if it:

- (a) reflects the dwelling as it EITHER appears on the approved plans in the case of a new design, OR as it actually exists 'on the ground' if it is an existing dwelling about to be on-sold, and
- (b) in cases of selling existing dwellings which have been occupied, was commissioned by the same owner/vendor who is currently involved in this transaction, and
- (c) is undertaken in an accepted version of the software model used under the ACTHERS Scheme (FirstRate, Version 3.1 or Version 4), and
- (c) in cases of selling existing dwellings which have been occupied, where the EER Statement is older than six months, is also accompanied by an appropriately witnessed ACTHERS Statutory Declaration attesting to the currency of the status of the existing EER Statement, duly signed and completed by the owner/vendor who originally commissioned the EER Statement. The Statutory Declaration must be appropriately witnessed to be legal. Copies of this declaration form are also available at the Authority's Customer Service Centre.

The Statutory Declaration requires the owner/vendor to state that no alterations and additions, and no changes to items listed therein have been made to the existing dwelling since the EER Statement in question was undertaken. Copies have been sent to all Assessors, and this is the official form to be used to address this issue.

2. An EER Statement is deemed VALID if it:

- (a) was undertaken and completed by a person who was a currently qualified and registered FirstRate Assessor at the time of undertaking the rating to produce the EER Statement; and
- (b) bears on the first page the imprint of the Assessor's ACTHERS FirstRate stamp stating the number of points and stars achieved by the dwelling, the date the assessment was completed, and the printed name, registration number and signature of the Assessor.

3. An EER Statement is deemed COMPLETE if it conforms as follows:

- (a) **for a development application** (DA) submission of a new development design/plan or new extension design/plan, the EER Statement will comprise:
 - (i) the front page containing the logo and the stamp imprint as per Clause (2) above;
 - (ii) the Rating Summary sheet; and
 - (iii) the Detailed House Data tables, which may be one or more pages depending on the complexity of the dwelling.

Note: The age of the EER Statement may be in excess of six months, but is acceptable for the first settlement between the developer and the purchaser after the property's completion.

(b) **for an 'onsale' of a property "off the plan"**, the following may occur (this is a variation of (a) above). A developer may sell a property to a purchaser "off the plan". When this is done, the relevant EER Statement produced at the DA submission stage by the developer is used in the conveyancing. However, settlement does not take place, as the property has not as yet been built. This action may be followed by several occurrences of onsale, until the property finally obtains its Certificate of Use, at which time, settlement occurs. The purchaser and all interim vendors are involved in the settlement transaction.

One special case in this cycle is where the property settles, but the purchaser continues to offer the 'investment' property for sale, and does not at any time occupy the dwelling until the sale occurs.

Within this cycle of onsales, the original DA EER Statement is used. The time taken in covering a series of onsales may be well in excess of a six month period. However, under this specific case, the original DA EER Statement is acceptable, without any additional documentation, and will comprise the same as for (a) DA above – namely,

- (j) the front page containing the logo and the stamp imprint as per Clause (2) above;
- (ii) the Rating Summary sheet; and
- (iii) the Detailed House Data tables, which may be one or more pages depending on the complexity of the dwelling.

(c) **for the on-selling of an existing dwelling which has been occupied**, the EER Statement will include:

- (i) the front page containing the logo and the stamp imprint as per Clause (2) above;
- (ii) the Rating Summary sheet;
- (iii) the Detailed House Data tables, which may be one or more pages depending on the complexity of the dwelling;
- (iv) the Improving Your Rating sheet, which offers options for improving the energy performance of the dwelling; and
- (v) in cases where a Statutory Declaration is to be provided, inclusion of the Declaration, duly signed, dated and witnessed.

This is the Annexure marked "A" referred to in the Statutory Declaration of Mr/Mrs/Ms/Dr and Mr/Mrs/Ms/Dr declared before me this day of 20....

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