

What are "149" Certificates?

Section 149 Planning Certificates are issued in accordance with the Environmental Planning & Assessment Act 1979. They contain information on how a property may be used and the restrictions on development. A person may request a 149 certificate to obtain information about his or her own property but generally a 149 certificate will be requested when a property is to be redeveloped or sold. When land is bought or sold the Conveyancing Act 1919, requires that a Section 149 Planning Certificate be attached to the Contract for Sale.

You will generally need a fresh 149 Certificate if you are selling your house if the purchase of that house was completed more than 6 months prior to the sale.

Types of Certificates

Most councils' Planning Certificates are issued under Section 149 (2) and 149 (5) of the Environmental Planning and Assessment Act 1979. A separate request can be made for a Section 149 (2) Certificate which confirms whether complying development may be carried out under the State Environmental Planning Policy 2008 (Exempt and Complying Development).

Information to be disclosed on a Section 149 (2) Planning Certificate is specified under the Environmental Planning and Assessment Regulation 2000 (Schedule 4) and includes the following where relevant:

- Names of relevant planning controls ie SEPP's, LEP's, REP's, DCP's
- Declared State Significant Developments
- Zoning and land uses under the planning control
- Critical habitat
- Heritage Information
- Land reserved for acquisition
- Coastal Protection
- Mine subsidence
- Road widening and road realignment
- Council and other public authority policies on hazard risk restrictions
- Section 94 Contributions Plans
- Matters arising under the Contaminated Land Management Act, 1997

The Section 149 (2) Planning Certificate contains the above information. The Section 149 (5) Planning Certificate provides information on the last approved use.

On and from 27 February 2009 the section 149 certificate attached to contracts for the sale of land or options to purchase in NSW must include information about complying developments.

Roderick Storie Solicitors 149 Certificate Fact Sheet for NSW

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