



# **SECTION 149 CERTIFICATE - NATURAL AND OTHER HAZARDS ENCODING**



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### **GOVERNANCE AND PLANNING – SUSTAINABLE CORPORATE & CITY PLANNING**

#### **POLICY OBJECTIVES**

To advise accurately on Section 149 Planning Certificates (Environmental Planning and Assessment Act 1979, as amended), whether or not Council has become aware of the existence of a natural or other hazard so as to restrict the development of land by reason of the likelihood of land slip, bushfire, flooding, tidal inundation, subsidence, coastal erosion or other hazard.

#### **POLICY STATEMENT**

Council will encode a Section 149 Certificate as required under the Environmental Planning & Assessment Act when Council is able to identify a hazard which is likely to restrict development of the property.

The encoding will be carried out once the identification has been made by any of the following:

- An expert report.
- Specialist advice.
- Clear identification by presentation of evidence that the hazard exists.
- Checking that documented occurrences are not the result of an unusual, extraordinary or perpetrated events.

The encoding will be made if the land is affected by the hazard to a level which either restricts development or exceeds Council standards applying to the hazard and thus would restrict development of the lot.

The encoding will be considered for amendment or removal if it is shown by professional experts that the hazard cannot affect the property in question at the applicable standard.

The encoding will be removed if the hazard is mitigated to an extent that the property is no longer subject to the hazard at the applicable standard.

The encoding applies to the land and will not be removed because conditions of consent such as minimum floor levels, pile foundations, seawalls, geotechnical work or fire protection have been complied with.

The property owner will be advised of the encoding in writing.

## **REVIEW**

Review of a hazard determination will be made by the Council if formally requested in writing. The review will be made following a report on the case by either the Unit Manager, Director or Chief Executive Officer. The report will include appropriate professional advice and will address the level of hazard and how the property is affected in accordance with the hazard and the applicable Council standard.

When a property owner has requested a reconsideration of an encoding, and if upon determination by the delegated officer the property owner is dissatisfied with the finding, the property owner may apply in writing for review by the elected Council.

The review is not to be delegated.

Council's determination of the review must rely upon sound technical advice to advance an argument for rescission of the encoding.

The Council's decision regarding the review will be communicated to the property owner in writing.

(Min No 867/1995 - 22 August 1995)

(Min No 651/1996 - 27 August 1996 - Review of Policies)No Change

(Min No 239/2000 – 24 October 2000 – Review of Policies – no changes)

(Min No 214/2005 - 8 March 2005 - Review of Policies)

(Min No 311/2009 - 5 May 2009 - Review of Policies)

(Min No 2013/388 - 16 July 2013 - Review of Policies)