

# Policy: Use of Photomontages and Visualisation Tools

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## Commencement

1. This policy commences on 17 May 2024 and replaces the policy published 21 August 2013.

## Purpose of the policy

2. This policy is to guide the preparation of photomontages, still images, video images, and other visualisation tools to depict the development in an appeal under the *Environmental Planning and Assessment Act 1979*, to ensure that the data they present is represented and interpreted accurately, and that their use would assist the Court in determining the appeal.

## Application

3. The policy applies to appeals under the EPA Act, where photomontages or other visual tools are to be submitted as part of expert evidence.

## Definitions

4. In this Policy:

**Appeal** means an appeal to the Court under the EPA Act.

**CGI** means Computer Generated Image.

**Commissioner** means a Commissioner or Acting Commissioner of the Court.

**Court** means the Land and Environment Court of New South Wales.

**Development** means the development for which consent is sought in the development application that is the subject of the appeal.

**EPA Act** means the *Environmental Planning and Assessment Act 1979*.

**Existing Image** means an unchanged or unaltered image of the location, viewing angle and approximate conditions on which the proposed development will be overlaid, to convey the issues in dispute.

**Judge** means a Judge of the Court.

**Photomontages** means, for the purpose of this policy, any visual tool or aid, whether still image, video, computer generated image, two dimensional (2D) or three dimensional (3D) or other visual means to depict development plans.

**Registrar** means a Registrar of the Court.

**RL** Reduced Level or Relative Level as defined in Australian Standard® AS1100 Technical Drawings.

## General principles

5. A photomontage submitted in an appeal should provide to the Judge, Commissioner or Registrar the most accurate visual images of the development in its real-world location, so as to specifically convey the issues in dispute.
6. A photomontage must include:
  - 6.1 the existing image;
  - 6.2 a 2D plan and/or elevation showing the location of the camera, target point/viewing angle, and lighting source that corresponds to the location from where the existing image was taken; and
  - 6.3 the proposed built envelope and key features of the development overlaid on the existing image in the form of a wire frame and/or 'block massing' model to demonstrate the development.
7. Where a photorealistic CGI of the development is used:
  - 7.1 the metadata from the existing image to create an identical 3D computer generated camera should be provided;
  - 7.2 the environmental conditions of the CGI should be set to the same parameters as the existing image;
  - 7.3 colour matching in the CGI is to correspond with the existing image; and

- 7.4 the details of the software used in creating the CGI should be stated as part of the submission of the photomontage.
8. A detailed summary of the methodology used to create the photomontage should be provided, including:
- 8.1 survey data that is used to create the photomontages, including the name and qualifications of the surveyor who prepared the survey information from which the underlying data for the wire frame was obtained;
  - 8.2 site specific topographical data used to create the photomontages, including the source and references utilised for the topographical data (for example paper, or survey inputs from file types such as from 'DWG' or 'DXF');
  - 8.3 the camera type, lens, focal length or field of view, and sensor used for the purpose of the photograph from which the existing image has been derived;
  - 8.4 accurate location, alignment and direction of the camera (whether fixed on tripod or drone) and RL of the camera for the existing image;
  - 8.5 data that was used to prepare the photomontages, such as:
    - 8.5.1 use of relevant plans and data for the depiction of existing buildings or existing elements as shown in the wire frame, block massing model or photorealistic CGI;
    - 8.5.2 the means by which terrain has been generated (such as surveyed spot levels and/or contours or by some form of point cloud, or Ground Control Point survey method);
    - 8.5.3 any variables applied to the images such as, time of day, lighting and weather conditions;
    - 8.5.4 consistency in application of scale and interpretation of the relevant data;
    - 8.5.5 rationale for selecting a particular view, use of camera lens or conditions in creating the image. For example, in circumstances where a development is best depicted with an expanded field of view or panoramic view, the type of panorama head and equipment must be stated, in addition to the data above.



- 8.6 where a photomontage has used more than one baseline image to represent the existing context (that is where multiple images are 'stitched together'), this must be stated, and the requirements above should be adapted to convey the key data required to verify its accuracy; and
- 8.7 whether any editing software or other visual manipulation has been used in the preparation of the final image, for example an adjustment in contrast, saturation, tilt shift or the like.

### **Visualisation Tools**

9. As technology emerges, the principles outlined above are to be applied. What is important is that the Court has an unaltered and real life baseline, summary of metadata so the veracity of imagery presented can be verified, and application of relevant overlays of the proposed development that assists in the Court's consideration of the real issues in dispute.
10. All effort is to be made and the 'best practices' are to be applied when utilising technology for the purposes of visualisation of the development to ensure accuracy and avoid bias of information interpretation.

### **Paperless Hearings**

11. Parties should be prepared to display the photomontage electronically if it is to be relied upon, or be the subject of an examination of an expert witness.
12. It will be the responsibility of the party whose expert is being examined, to provide a device compatible with courtroom technology which can display the photomontage electronically. This will allow the presiding officer, the experts, lawyers and all other people to be able to see in real time and on a common image, the subject of the examination.

**Issued by:**

***The Honourable Justice Brian J Preston  
Chief Judge – Land and Environment Court of NSW  
Date: 17 May 2024***



**Land and Environment  
Court**  
of New South Wales

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