



Byron Shire Development Control Plan 2014

Chapter C3 Visually Prominent Sites, Visually Prominent Development and View Sharing



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Chapter C3 – Visually prominent sites, visually prominent development & view sharing

Contents

- C3.1 Introduction..... 5**
- C3.1.1 Aims of this Chapter 5
- C3.1.2 Application of this Chapter 5

- C3.2 General Provisions..... 6**
- C3.2.1 Visual Impact Assessment..... 6
- C3.2.2 Assessment of Impacts on Views and View Sharing..... 7



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C3.1 Introduction

The outstanding landscape character of Byron Shire is an important element of the Shire's visual quality and appeal for both residents and visitors. Council is committed to ensuring that the Shire's landscape character and visual quality are maintained and where possible enhanced in the development process.

Visual quality can be a subjective judgement depending on a person's aesthetic taste, preference for natural or built landscapes and whether the person is a visitor or a resident of the Shire. The visual quality of an area can be strongly influenced and affected by the treatment of visually prominent sites and locations. These include land in the coastal zone, ridgetops and nearby lands, escarpments, environmentally sensitive sites on sloping land and any site where development has the potential to degrade visual amenity.

C3.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. to promote Byron Shire's natural features, vegetation and topography as key components of its visual character and appeal;
2. to control development including land use, earthworks, vegetation clearing, built form and civil works in order to preserve and enhance the visual, cultural, ecological and landscape values of visually prominent sites and locations;
3. to ensure that development blends into the natural surroundings and does not intrude on the skyline when viewed from public land;
4. to minimise the visual impact of development when viewed from adjacent land, public reserves, public areas and waterways;
5. to ensure that development is designed to respect and, where reasonable, to preserve and/ or share existing views and vistas;
6. to ensure that development does not occur on or near any ridgeline unless no other alternative location for the development is available on the land, and then only when design will ensure protection of visual amenity and scenic values.

C3.1.2 Application of this Chapter

This Chapter applies to **visually prominent development** on a **visually prominent site** on land subject to Byron LEP 2014.



C3.2 General Provisions

C3.2.1 Visual Impact Assessment

Objectives

1. *To retain and enhance the unique character of Byron Shire and its towns, villages, rural, coastal and natural areas.*
2. *To ensure that development does not adversely impact on the Shire's scenic character and visual quality.*
3. *To ensure that where possible new development contributes to enhancement of the Shire's scenic character and visual quality.*
4. *To ensure adequate information is available to properly assess visual impact.*

Performance Criteria

There are no Performance Criteria for this item

Prescriptive Measures

Unless Council determines in a particular case that the proposed development is not likely to create adverse visual impacts, Development Applications seeking consent for **visually prominent development** must be accompanied by a Visual Impact Statement that includes, but is not necessarily limited to:

1. detailed description and photographs of the site and surrounds, including existing vegetation, topography, slope, surrounding development and other features that may affect visual impact;
2. description of the proposed development, including proposed earthworks, vegetation removal, built form, design, height, bulk, scale, roofline, materials, colour schemes, external surface finishes, fencing and landscape treatment;
3. a description of the measures proposed to ameliorate visual impacts;
4. provision of graphic evidence to illustrate the proposal, including models and/or photomontages where relevant;
5. description of the visual prominence of the site and visual impact of the development, including responses to the following questions:
 - a) can the site be viewed from public locations, including public reserves, waterways, beaches and roads?
 - b) is the site located on a high topographical location such as a hillside, ridgeline, knoll or crest?
 - c) can the site be viewed from the beach front?
 - d) is the site located on land that slopes at a grade of more than 20%?
 - e) would proposed development on the site visually disrupt the skyline when viewed from a public location by protruding above any ridgeline, or above adjacent buildings?
 - f) would proposed development on the site have the potential to obstruct views to and/ or from another visually prominent location?
 - g) would the development on the site have the potential to result in a loss of significant views from another property?



- h) would development on the site become visually prominent due to the removal of vegetation that would otherwise screen the development?
- i) how will the development be visually integrated with the surrounding natural landscape and built environment?
- j) how will the development incorporate measures to avoid reflection of sunlight from glazed surfaces?

C3.2.2 Assessment of Impacts on Views and View Sharing

Objectives

1. *To ensure that (where possible) new development does not impact unreasonably on the views of another property.*
2. *To encourage view sharing where possible.*

Performance Criteria

There are no Performance Criteria for this item.

Prescriptive Measures

Where any proposed development has potential to impact upon views from another property to a significant vista, landscape or to one or more **visually prominent sites** and locations, the supporting information must include the following:

1. An assessment of the **value of the view that may be affected**.

Regard should be given to past NSW Land and Environment Court Planning Principles including:

Water views are valued more highly than land views

Iconic views (e.g. of the Cape Byron Lighthouse) are valued more highly than views without icons

Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured

2. Consider from **what part of the property the views are obtained**.

For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic

3. Assessment of the **extent of the impact**.

This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating



4. Assessment of the **reasonableness of the proposal that is causing the impact.**

A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

For more information regarding the background context of the above principles please refer to *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*.

