

# Operational policy

## Visitor Management

### Commercial filming and photography in QPWS managed areas

*Operational policies provide a framework for consistent application and interpretation of legislation and for the management of non-legislative matters by the Department of National Parks, Sport and Racing. Operational policies are not intended to be applied inflexibly in all circumstances. Individual circumstances may require a modified application of policy.*

#### Policy issue

This operational policy details the key issues and policy statements in relation to commercial filming and photography activities including major filming and photography activities conducted on Queensland Parks and Wildlife Service (QPWS) managed areas. The policy should also be read in conjunction with *Operational Policy – Commercial tourism and recreation activities in QPWS managed areas*.

#### Background

The Queensland Parks and Wildlife Service (QPWS) managed estate includes spectacular natural scenery and wildlife, rich natural diversity and cultural landscapes that attract many amateur and professional filmmakers and photographers.

Filming and photography activities vary widely in scale and nature, ranging from the single photographer to large film and documentary crews. Accordingly, QPWS acknowledges the significance of these activities and the role they play in attracting visitors to areas managed by QPWS and the benefits of large scale filming activities to the Queensland economy. At the same time, there is also a need to ensure that the activities of film and photography crews do not unacceptably impact on the conservation of cultural and natural resources, cause disruption to other visitors, or present the area in an inappropriate fashion.

Legislation administered by QPWS including the *Nature Conservation Act 1992*, the *Forestry Act 1959* and the *Recreation Areas Management Act 2006* provides the basis for managing commercial filming and photography activities in QPWS managed areas.

Note: Filming and photography in Marine Parks does not require permission, however, infrastructure and activities associated with filming may require permission.

#### Definitions

**'commercial activity'** - as defined in schedule 7 of the Nature Conservation (Administration) Regulation 2006, s73B of the *Forestry Act 1959*, and the schedule 'Dictionary' of the *Recreation Areas Management Act 2006* –

A "commercial activity" is an activity conducted for gain.

Examples of activities conducted for gain —

- the hire or sale of goods or services
- commercial photography
- a guided tour, safari, scenic flight, cruise or excursion

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- advertising or promoting the use of a protected area / State forest / recreation area as part of a tour, safari, scenic flight, cruise or excursion
- advertising or promoting the use of a protected area / State forest / recreation area as a feature associated with a resort or tourist facility on land adjoining the area / State forest / recreation area

A commercial activity does not include —

- a) an exempt activity; or
- b) an exempt media activity; or
- c) filming or photography that –
  - i. involves no more than 10 persons; and
  - ii. does not involve the erection, construction or use of a prescribed structure

**‘exempt media activity’** means an activity that is—

- a) the filming or photographing of, or in relation to, an event; and
- b) conducted when, or as soon as practicable after, the event happens; and
- c) conducted for publishing a report of the event—
  - i. on television or in a newspaper, magazine or similar publication; and
  - ii. to inform the public about the event; and
- d) of a type the chief executive has declared as an exempt media activity by publishing the declaration on the department’s website.

**‘major productions’** include commercial filming and photography activities which, in the opinion of the chief executive, require more intensive management in order to keep impacts on a QPWS managed area’s natural and cultural resources, other uses, management interests, safety and risk management and equity within acceptable limits.

Such activities will generally involve:

- a crew of 10 or more people; and/or
- the use of significant infrastructure or equipment; and/or
- some level of exclusive occupation of a site or sites on a QPWS managed area for three days or more.

**‘prescribed structure’** means equipment or a construction used to facilitate filming or photography, and—

- a) includes a tower, platform, generator, vehicle, shelter and building; but
- b) does not include—
  - i. a camera or camera accessories; or
  - ii. a tripod; or
  - iii. a portable hide large enough to shelter only 1 person; or
  - iv. a power source consisting of only dry cells or a single wet cell battery; or
  - v. a vehicle used only for transport, or camping under a permit or agreement under the Act (*Nature Conservation Act 1992*) or the *Recreation Areas Management Act 2006*.

**‘QPWS managed area’** - for the purposes of this operational policy, includes the following areas:

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- State forests and forest reserves managed under the *Forestry Act 1959* with the exception of state plantation forests.
- Protected areas managed under the *Nature Conservation Act 1992* – including national parks, conservation parks, resources reserves and coordinated conservation areas;
- Recreation areas (RAM areas) managed under the *Recreation Areas Management Act 2006* where the underlying land tenure is state forest or protected area (State land).

For the purpose of this policy, 'QPWS managed area' does not include marine parks under the *Marine Parks Act 2004*.

### Policy

An authority authorising commercial filming or photography on QPWS managed areas will be issued only if potential disturbance or damage that might be caused to the area's natural and/or cultural resources is within acceptable limits.

As a general rule, filming or photography involving large scale or high impacts or modifications to the environment, major disruption to other visitors, pyrotechnics, introduction of animals or plants, or disturbance to native animals will not be allowed.

QPWS may limit the locations and subjects that can be filmed or photographed where such activities would be inconsistent with the cultural values of such places and subjects to Aboriginal or Torres Strait Islander traditional custodians.

On-site supervision by QPWS staff may be required depending on the scale of the production or activity, the size of the film or photography crew and the location where the activity is to occur.

An authority for filming or photography is not required where it is:

- an 'exempt media activity';
- filming or photography that –
  - involves no more than 10 persons; and
  - does not involve the erection, construction or use of a prescribed structure
- undertaken by persons employed or contracted by QPWS
- conducted from a vessel, aircraft, or other craft located on land, in waters or within airspace that is outside the boundary of the area.

Example: A professional or commercial photographer engaged to record a wedding or other ceremony on a QPWS managed area does not require a separate commercial filming or photography authority if the photographer is working alone or with one assistant and is using normal photographic equipment, portable lighting and a portable stepladder.

### Public liability insurance

In circumstances where a filming / photography activity:

- involves 10 or more persons, and / or
- the erection of structures

the proponent will be required to take out and maintain the following insurances for the duration of the activity:

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- insurance under the *Workers' Compensation and Rehabilitation Act 2003* or its equivalent with the consent of the chief executive to cover workers, eligible persons, self-employed contractors, directors, trustees and partners; and
- a public liability insurance policy for not less than \$20 million arising from any one event in respect of the death of, or injury to persons, or loss or damage to property; and
- any other insurance as reasonably required by the Chief Executive.

(Refer *Operational policy: Insurance and indemnity requirements for QPWS authorities*)

### Permit application process and approval timeframes

Early consultation with QPWS can assist in meeting the proponent's requirements with appropriate sites and in streamlining application processing times. Applicants are required to submit applications at least 40 business days prior to the proposed activity to allow sufficient time for assessment of the application and for the proposed activity to proceed.

Proponents can minimise processing times by entering into pre-lodgement discussions with QPWS well in advance of the proposed activity. Such discussions may include site inspections and ensure that sufficient information is provided in the application to enable formal assessment to be completed satisfactorily. Accordingly, proponents are advised to complete and submit the on-line request for a pre-lodgement meeting at: [www.business.qld.gov.au](http://www.business.qld.gov.au) Search for... '*Pre-lodgement enquiry form*' prior to submitting their application.'

An applicant for a commercial activity permit for filming or photography must complete the relevant online application form at: [www.business.qld.gov.au](http://www.business.qld.gov.au) Search for... '*Applying for a commercial activity permit*', and pay applicable fees i.e. application fee and permit fee, to QPWS. A single application form for activities combining a State forest, protected area and recreation area is acceptable. Permits will be forwarded to applicants within 40 business days of receipt of application and relevant fees.

Where QPWS considers that a commercial activity agreement is a more suitable instrument for administering a proposed commercial filming and photography activity, QPWS will forward the relevant application form to the proponent together with a list of applicable fees.

### Fees

Applications for commercial activity permits must be accompanied by the relevant fee. The relevant fee includes both the application fee and the permit fees payable i.e. permit fee for each day for which activities are to be carried out under the permit, to QPWS. Applications submitted without both application and permits fees will be considered invalid and will not be processed until such time as all relevant fees have been paid.

Applicants must also be aware that the application fee component of fees paid to QPWS is non-refundable. Accordingly, applicants are strongly advised to enter into pre-lodgement discussions with QPWS prior to submitting formal applications for commercial activity permits for filming or photography, particularly for those applications involving significant application fees

### Permit term

An authority for commercial filming or photography in a QPWS managed area can be issued for a period ranging from one day to three years.

Applicants must provide a detailed proposal and schedule for all activities with their application. The term of an authority for commercial filming or photography will often reflect the time required to obtain the desired shots or footage. The term may be limited to avoid unacceptable impacts on natural or cultural values or disruption to other users.

It is recognised that the timing and number of visits may vary depending on the subject matter of the filming or photography. To facilitate this, the term of an authority will generally cover all visits, although conditions might be imposed to control the scale, location and timing of the activities on each visit. Authorities will generally be issued for the period of time and number of visits considered to be reasonably necessary to conduct the approved filming or photography program.

### **Acknowledgment and request for film footage and photography**

Authorities permitting commercial filming or photography in a QPWS managed area will generally require acknowledgment of the Department of National Parks, Sport and Racing (NPSR) and/or QPWS. Where possible, such acknowledgment should include the name of the department, the department's website address and the Queensland Government logo.

## **Major filming and photography**

### **What is a major filming and photography activity?**

Major filming and photography activities include those activities which, in the opinion of the chief executive, require more intensive management in order to keep impacts on a QPWS managed area's natural and cultural resources, other uses, management interests, safety and risk management and equity within acceptable limits.

These activities will generally involve:

- a crew of 10 or more people; and/or
- the use of significant infrastructure or equipment; and/or
- some level of exclusive occupation of a site or sites on a QPWS managed area for three days or more.

### **Location managers**

QPWS encourages clients proposing major productions to use location managers who have local knowledge and demonstrated experience in complying with QPWS legislation, policy and requirements. Agreements authorising a major production will generally include provisions requiring the location manager to liaise with local QPWS staff in relation to planned activities before filming starts.

### **Use of commercial activity agreements**

Owing to the scale and complexity of major productions, QPWS will often seek to enter into a commercial activity agreement with the filming or photography client rather than authorise the activities under a permit. A commercial activity agreement provides greater flexibility for clients in terms of meeting administrative requirements, whilst allowing QPWS the flexibility to negotiate appropriate benefits for the community from the use of public lands for private gain, without compromising conservation outcomes.

Detailed information is required concerning all activities proposed as part of a major production before an authority or agreement for the production can be prepared. Such information must include:

- the frequency or duration of filming activities;
- the locations where filming or photography is to occur;
- an environmental management plan or other system for managing potential impacts on natural and cultural resources and other visitors or management activities that may occur as a result of the activity.

The term of an agreement for a major production will be negotiated between QPWS and the proponent, but will reflect a reasonable timeframe for undertaking the authorised activities, including site restoration.

**Exclusive use**

Exclusive use of QPWS managed areas for a major production is generally not favoured.

Where some level of exclusive use of part of a QPWS managed area is permitted, it will generally be on a short-term basis and involve a small area within the QPWS managed area. Any QPWS management costs associated with maintaining the required level of exclusive use of an area for commercial filming and photography will be recovered from the client.

**Assessment of proposals**

Activities authorised under an authority for a major production must be consistent with the management principles for the particular class of protected area (where relevant) and any approved management plan or strategy for the particular QPWS managed area.

An application for a commercial activity permit or agreement to conduct commercial filming or photography activities in a QPWS managed area will only be granted following a formal assessment of the likely issues and impacts associated with the activity, and only when the assessment indicates that the impacts will be within acceptable limits.

In considering applications for commercial activity permits and agreements, the chief executive must have regard to the following criteria as provided for in relevant legislation:

**Protected areas**

- s25 Nature Conservation (Administration) Regulation 2006
- s's 49 & 50 Nature Conservation (Protected Areas Management) Regulation 2006

**Recreation areas**

- s53 *Recreation Areas Management Act 2006*

**State Forests & Forest Reserves**

- ss 33 & 56 *Forestry Act 1959*

**Monitoring and on-site supervision**

The provisions of an agreement for a major production will generally require the entity undertaking the commercial filming and photography to closely supervise activities to avoid or limit potential environmental impacts. Formal monitoring and reporting on environmental impacts and compliance with relevant environmental management standards may also be required. QPWS is obliged to take reasonable steps to oversee the conduct of activities under authorities and may also conduct on-site inspections of commercial filming and photography activities.

Where the chief executive determines that comprehensive QPWS coordination or on-site supervision of activities is required, QPWS will recover on-site supervision costs from the proponent on a set fee per hour basis. General on-site supervision costs will be calculated using a base rate per officer per hour, however, higher rates will be negotiated where QPWS is responsible for ongoing coordination of assessment, authorisation and supervision activities. Monies payable for QPWS coordination of assessment, authorisation and supervision activities will be negotiated and agreed to prior to execution of any agreement for a major production. These will generally reflect per hour costs (including on-costs) for officer/s with the required levels of expertise and reasonable operating costs.

### **Additional permissions for activities in QPWS managed areas**

Depending on the scale, location and equipment used in a major production, a range of additional authorities may be required under legislation administered by QPWS or other government departments. Where appropriate, these will be integrated into an agreement for the production. To ensure all relevant authorities are in place prior to the commencement of filming activities, clients must clearly identify all proposed activities associated with a production in their application. QPWS will not waive applicable assessment processes where last-minute requests for further commercial filming or photography access are received.

Activities that may require other permits or licences include:

- a permit for commercial filming and photography activities that occur in part of a recreation area (under the *Recreation Areas Management Act 2006*) where the underlying tenure is not State forest or protected area; or
- a permit for commercial filming and photography that involves the taking of marine products or that disturb or impair the value or usefulness of a marine park zone in a Queensland marine park under the *Marine Parks Act 2004*; or
- a permit to construct works in tidal waters or in coastal management districts under the *Coastal Protection and Management Act 1995*;
- a permit to remove marine plants such as mangroves under the *Fisheries Act 1994*;
- a permit to undertake works or remove native vegetation on State controlled land under the *Land Act 1994*.
- use of vehicles, boats and recreational craft;
- landing of aircraft;
- interference with plants or animals within the QPWS managed area;
- taking a plant or animal into a QPWS managed area (for example sets, props, pot plants);
- building or erecting a structure, or carrying out works;
- camping;
- lighting, keeping or using fires;

### **Timeframes for applications**

Applications involving a major production must be submitted within sufficient time to allow for appropriate consideration of the proposal and where appropriate, negotiation of a suitable agreement. QPWS recommends that applications be submitted at least 3 months prior to the planned start date for filming.

### **Major productions incorporating QPWS managed areas and marine parks**

Where an application for a major production incorporates both a terrestrial QPWS managed area and a marine park, a single agreement will be issued for the proposed activity. In these circumstances, assessment and where appropriate authorisation of the activity will be integrated through a project management approach. Commercial filming and photography rights granted under an agreement for a terrestrial QPWS managed area will, where appropriate, be compatible with rights granted under the relevant marine park authority.

### **Security bonds**

QPWS may, by a condition of an agreement, require a proponent to give QPWS a security bond or other financial assurance as security for costs or expenses that it might reasonably expect to incur in carrying out

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remediation or restoration work on infrastructure or natural or cultural values in a QPWS managed area impacted by the use under the agreement.

QPWS will consider applying financial assurance provisions to each proposed use on a case-by-case basis, having regard to:

- the degree of risk that might reasonably be expected to be associated with the use under the agreement;
- the severity and scale of impacts that might reasonably be expected to be associated with the use under the agreement; and
- the likelihood that QPWS will be required to take action to repair or rehabilitate impacts caused by the use under the agreement.

Such a bond or financial assurance will be used by QPWS, in the event of the holder of the agreement defaulting or being declared bankrupt, to carry out remediation or restoration work to correct infrastructure or natural and cultural values in a QPWS managed area that may have been impacted by the use under the agreement. The quantum of financial assurance required by QPWS will be based on the likely costs associated with remediation and restoring potential.

### **Fees payable**

The total fees payable to QPWS under an agreement for a major film production in a QPWS managed area will be set on a case-by-case basis and will be based on the principle of full cost recovery.

When negotiating the monies payable under an agreement for a major production, QPWS will use the fees that would otherwise have been payable under a standard permitting arrangement (e.g. application fees plus daily site fees) as a base figure for negotiation. This does not imply that the monies payable for a major production authorised under an agreement will be less than the fees applicable to the same production conducted under a commercial activity permit.

Monies payable under an agreement authorising a major film production in a QPWS managed area will generally be due at the execution of the agreement.

### **Use of pyrotechnics**

The use of pyrotechnics may only be permitted in a QPWS managed area where:

- all potential issues and impacts have been identified and assessed, especially impacts on natural and cultural resources, other visitors and QPWS management; and
- all reasonable steps to avoid, mitigate or ameliorate all identified potential issues and impacts have been taken to ensure they remain within acceptable limits.

No live ammunition is to be used in a QPWS managed area.

### **Interaction with wildlife**

Interference with plants and animals in QPWS managed areas is prohibited, unless it is specifically provided for under an agreement. If a client intends to film or photograph animals in a QPWS managed area (particularly any interaction between persons and animals), this should be clearly detailed in the commercial filming and photography proposal.

### **Importation of plants and animals**

The importation of plants and animals into a QPWS managed area for a major production may only occur where such activities are specifically authorised under an agreement for the production. Where such activities are



authorised, the client will generally be required to implement adequate hygiene measures and treatments for the plants or animals and their containers to help prevent the importation of weeds or other pests or pathogens into the area.

### **Use of natural resources for sets, props and other structures**

Use of natural resources or forest products on a QPWS managed area to construct sets, props or other structures is prohibited, unless it is specifically provided for under an authority. If a client wishes to use the natural resources of a QPWS managed area for sets, props or other built structures associated with a major production this should be clearly detailed in the commercial filming and photography proposal.

### **Indigenous cultural heritage values**

QPWS recognises that cultural objects, places and landscapes in QPWS managed areas hold particular significance for Aboriginal or Torres Strait Islander peoples. QPWS may prohibit or restrict filming or photography of particular objects, places and landscapes where potential impacts on cultural values are unacceptable.

Clients seeking to undertake major productions on QPWS managed areas should canvass the views of the relevant traditional owners with the assistance of QPWS, on the proposal before submitting an application. Traditional owner concerns about potential impacts on objects, places and landscapes of cultural heritage significance will be taken into account in any assessment and (where appropriate) Authority for the activity.

Where required, native title notification under the *Native Title Act 1993* will be carried out in accordance with the Department of National Park, Sport and Racing's (NPSR) approved Native Title Work Procedures.

### **Use of aircraft**

Use of aircraft for filming or photography associated with a major production may result in significant impacts on natural or cultural values in some instances. Proponents must clearly identify any proposed use of aircraft for filming a major production in their application.

### **Compliance**

Where film or photographic images taken for a major production or other evidentiary material appear to indicate that provisions of the *Nature Conservation Act 1992*, the *Forestry Act 1959* or the *Recreation Areas Management Act 2006* or the terms and conditions of any relevant authority have been breached, QPWS will investigate the incident and (where appropriate) seek to prosecute those responsible. This includes:

- the use of generators or other noise generating appliances;
- possessing or using an appliance such as a firearm.

### **Reference material**

*Operational policy: Commercial activities in QPWS managed areas*

*Operational policy: Insurance and indemnity requirements for QPWS authorities*

*Information Sheet: Fees to conduct activities in QPWS managed areas*

### **Disclaimer**

While this document has been prepared with care, it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of National Parks, Sport and Racing should satisfy

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themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

### Approved By

Ben Klaassen

Signature

22 July 2013

Date

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