



Environment,
Climate Change
& Water



Filming and Photography Policy and Procedures

Visitor services

May 2010

Document Control

Author:	Park Management Policy Unit Conservation Operations Section Park Management Division
Date of original endorsement:	6 May 2010
Date of effect:	May 2010
Date last modified:	
Date for review:	2015

Published by:

Department of Environment, Climate Change and Water NSW

59–61 Goulburn Street

PO Box A290

Sydney South 1232

Ph: (02) 9995 5000 (switchboard)

Ph: 131 555 (environment information and publications requests)

DECCW 2010/481

ISBN 978 1 74232 792 1

Introduction	2
Objectives	2
Scope of policy.....	3
Policy.....	3
<i>The need for filming approval.....</i>	<i>3</i>
Approval of filming	3
News and current affairs.....	4
Lifestyle and travel programs.....	5
Commercial small scale filming	5
Amateur filming	6
Ancillary activities.....	6
Filming on leased land.....	6
Filming from airspace, waters or roads within parks	7
Copyright over features.....	7
<i>Assessment of filming applications.....</i>	<i>8</i>
Permissibility	8
Heads of consideration	8
All applications	8
Reserved lands (Part 4) other than wilderness	9
Unreserved land (Part 11), marine parks and wilderness	9
Marine Parks.....	10
Review of Environmental Factors	10
Aboriginal consultation.....	11
If approval not granted.....	11
Dispute resolution	11
Public register	12
Procedural Guidelines	12
Application process.....	12
Application timeframes.....	13
Notifications	13
Fees	14
Environmental Management Bond	15
Insurance	15
Location	15
Access Restrictions.....	16
Supervision by staff.....	16
Use of the logo, equipment or staff.....	16
Rescheduling by the proponent	17
Breach of an Approval	17
Defences.....	17
Definitions.....	18
Accountability Table	19
Relevant Legislation	20
Relevant Policies/Documents	20
Contacts	20

Introduction

The parks managed by the National Parks and Wildlife Service (NPWS), part of the NSW Department of Environment, Climate Change and Water (DECCW), offer a diversity of landscapes and other features which are attractive or convenient as subjects or locations for filming and photographic activities. DECCW recognises the important role played by film and photography in attracting visitors to parks, as well as the important economic contribution that the screen industry makes to the state of NSW.

Consent is required under Part 2 of the *National Parks and Wildlife Regulation 2009* (NPW Regulation) to carry out commercial filming and photography, and associated activities, in parks. Some filming activities may also require approval under various sections of the *National Parks and Wildlife Act* – the NPW Act (e.g. s120). Consent is required under the *Marine Parks (Zoning Plans) Regulation 1999* (MP Regulation) to carry out filming in a marine park if it is commercial, or a large-scale non-commercial activity.

While such approvals can be granted under the NPW Regulation or MP Regulation (and where necessary the NPW Act), they may also be granted under the *Filming Approval Act 2004* (the FA Act). The FA Act provides for a single approval to be given for all activities carried out in parks or marine parks related to the filming activity. Note however that the FA Act does not negate the requirement to consider certain environmental factors under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) when giving a filming approval. The FA Act also allows for certain types of commercial filming in wilderness areas and sets penalties for breaches of filming approvals.

The FA Act also makes filming permissible even if it may otherwise be prohibited or not permitted under these other Acts or regulations. Under the FA Act there is a presumption that approval will be granted (other than in marine parks, unreserved land or wilderness areas) unless filming is specifically prohibited in the park's Plan of Management or would have unacceptable impacts that cannot be mitigated through placing conditions on the approval.

Objectives

The purpose of this policy is to facilitate, in parks and marine parks, commercial filming and photography that does not compromise conservation objectives, protection of wilderness areas, amenity of visitors and respect for cultural protocols. The policy aims to:

- provide clear and consistent guidelines for film makers and photographers based on relevant legislation and sound principles;
- encourage cooperative working relationships between film makers/photographers and DECCW;

- provide DECCW staff with a framework within which to support film makers/photographers that is balanced with the need to manage land in an environmentally sustainable manner; and
- allow filming that is in the public interest or of benefit to parks or conservation in general (principally news and current affairs, and lifestyle and travel programs) to proceed with a minimum of red tape.

Scope of policy

This policy applies to filming and photography, and related activities, carried out on land reserved or acquired under Parts 4 or 11 of the *National Parks and Wildlife Act* – the NPW Act ('parks') and/or areas declared under the *Marine Parks Act 1997* – MP Act ('marine parks'). Some clauses where specified apply only to one or the other. It does not apply to areas reserved under Part 4A of the NPW Act.

Filming requiring DECCW approval outside parks or marine parks, such as all proposals requiring a consent to approach native mammals within prescribed distances, are not subject to the FA Act and will be assessed under other relevant legislation.

For the purposes of this policy, all references to 'filming' include photography unless otherwise stated (see definitions).

Policy

The need for filming approval

Approval of filming

1. Commercial filming taking place in parks or marine parks requires approval. Whilst this approval can legally be granted under either the FA Act or the NPW Regulation or MP Regulation (and, where required for some activities, under the NPW Act), under normal circumstances DECCW will issue the approval under the FA Act. This includes filming undertaken for a specific project or show (e.g. by a television station or production company) as well as filming which is taken for the purpose of selling or hiring to another party.
2. In addition to the provisions of clause 1, filming in marine parks requires approval if it is not small scale (see definitions) regardless of whether or not it is commercial. Therefore commercial filming in marine parks will be approved through the same process as filming in national parks, as per clause 1, but non-commercial filming will be approved via a permit under the *Marine Parks (Zoning Plans) Regulation 1999*.

3. The process of considering filming applications is based on assessment of potential impacts the filming may have whilst recognising the diverse benefits the filming may have to parks, the public and the state of NSW in general.
4. The single approval granted under the FA Act means that the approval holder is not required to obtain any other consents or approvals under the NPW or MP Acts or their Regulations (e.g. approval to impact Aboriginal objects or places, approval to approach wildlife, consent to operate a generator, approval for exclusive use of an area under s.151B(4) NPW Act), or the *Wilderness Act 1987*, for activities undertaken in parks or marine parks as part of filming, provided those other approvals are specified in the filming approval. Licensing under section 91 of the *Threatened Species Conservation Act 1995* is not required as section 6(3) FA Act provides the defence that filming approval equates to approval under Part 5 of the *Environmental Planning and Assessment Act 1979*. DECCW will act to protect conservation values through the environmental assessment process and by placing appropriate conditions upon any approval to film.
5. Consents may still be required however under other legislation such as the *Heritage Act 1977* or the *Protection of the Environment Operations Act 1997*. Consent under Commonwealth legislation may also be required, for example the *Environment Protection and Biodiversity Conservation Act 1999*.

News and current affairs

6. As with most other commercial filming carried out in a park, news and current affairs filming requires approval. However, these activities are generally very low impact, may be in the public interest and require quick turnaround times. A streamlined process therefore exists for granting these approvals.
7. The Public Affairs Branch of DECCW is responsible for the coordination and approval of news and current affairs filming on park and is the main point of contact for these activities. All requests for news and current affairs filming to be carried out, including matters that relate to a particular incident such as a bush fire, must be referred to the Director, Public Affairs Branch. The Public Affairs Branch may assist in the processing of any application and assessment requirements. If approved, the approval is granted by the Director Public Affairs in consultation with the relevant Regional Manager/s.

Lifestyle and travel programs

8. As with most other commercial filming carried out in a park, filming for lifestyle and travel programs requires approval. However, these activities generally have low environmental impact and provide significant benefit to DECCW through promotion of parks and marine parks. A streamlined process therefore exists for granting these approvals.
9. The Tourism and Partnerships Branch (TPB) of DECCW is responsible for the coordination and approval of filming for travel and lifestyle programs (e.g. Getaway) on park, and is the main point of contact for these activities. All requests for filming for lifestyle and travel programs must be referred to the Director, TPB. The TPB may assist such proponents for filming that furthers the objects of the NPW Act (e.g. fosters appreciation and enjoyment of natural or cultural values) and has significant potential to positively promote parks. If approved, the approval is granted by the Director TPB in consultation with the relevant Regional Manager/s.

Commercial small scale filming

10. A separate approval process is available for filming in parks which is commercial (as defined) but is small scale (as defined) where it is:
 - limited to the taking of stills photographs; or
 - limited to filming (which includes photographing) of weddings.
11. Where DECCW is the park authority, consent for commercial small scale still photography and commercial small scale filming of weddings can be granted through completion of on-line registration on the [DECCW website](#). This consent can last for a pre-determined time as shown on the website. Refer to the definition of 'park authority' in the NPW Regulation for advice on when DECCW is not the park authority.
12. Operators completing the on-line registration are required to:
 - hold public liability insurance as required under clauses 56-57;
 - contact the park authority in advance of visiting a park to film to advise of the size of the group, confirm whether a site needs to be pre-booked and whether it is already booked, whether the filming requires site supervision, and whether time limits apply at a site. This is required as some sites are very popular and may have multiple bookings of large groups at any one time (for example around Sydney Harbour).
 - pay park entry fees, site booking fees or supervision fees where they are charged; and
 - notify the local area manager when visiting parks for this purpose.

Amateur filming

13. Approval under the FA Act or Part 2 of the NPW Regulation is not required for the taking of amateur photographs, film and videos in a park, other than a marine park, where the principal intent of the activity is the pursuit of personal or hobby interests and not commercial gain. However, other approvals or consents may be required under the NPW Act or NPW Regulation for these activities (e.g. consent may be required for large groups or to park a vehicle in certain locations).
14. Non-commercial filming in marine parks can only be carried out without consent if it is small scale filming (see definitions). If it is not small scale consent is required from the park authority under the *Marine Parks (Zoning Plans) Regulation 1999*.

Ancillary activities

15. No consent is required for filming activity that occurs as ancillary to another activity (the primary activity) where the primary activity has received approval under the relevant legislation and this approval acknowledges that ancillary filming will take place. For example, approval for weddings may include consent for small scale filming to be carried out by a commercial photographer as an ancillary activity to the wedding.

Filming on leased land

16. Approval under Part 2 of the NPW Regulation is granted by this policy for a lessee to undertake commercial filming in parks directly incidental to the purposes of their lease (e.g. for self promotion) within their leased area, provided that the filming activities would not require a review of environmental factors under clause 31 and this approval is not contradicted by an authorised notice, direction or plan of management. No application is required.
17. For filming on leased land for purposes not directly incidental to the lease, approval must be obtained from DECCW in accordance with this policy. The rights and interests of the lessee will be recognized in assessing any such filming application. If the application is to be approved the lessee may seek to impose conditions or fees additional to those imposed by DECCW. However conditions imposed by the lessee cannot be inconsistent with the DECCW approval, and as DECCW's fees are based on cost recovery these shall not be altered as a result of lessee fees.

Filming from airspace, waters or roads within parks

18. DECCW generally only has the power to control aircraft flying over parks (including marine parks) if they are being flown at an altitude low enough to cause unreasonable disturbance to the park and park visitors. If it is proposed for an aircraft to fly in such a manner as part of a filming activity, the consent should be dealt with under the FA Act as any other component of a filming activity would be and may be subject and any conditions deemed appropriate. It is the proponent's responsibility to obtain any necessary approvals under the Commonwealth *Civil Aviation Regulation 1988*.
19. Applications for filming from park roads (i.e. roads that are reserved as part of the park) will be treated as being applications to film within the park. This also applies to public roads that are managed as part of the park through formal agreement with the Roads and Traffic Authority (eg. many roads within Kosciuszko NP). A filming activity that takes place wholly on public roads within parks (which are not reserved as part of the park) does not need approval under the FA Act, however approval from the Roads and Traffic Authority or local council will likely be required.
20. Applications for filming from waters that are the management responsibility of DECCW will be treated as being applications to film within the park. However, not all waters within park boundaries are the management responsibility of NPWS.

Copyright over features

21. DECCW does not own the copyright over any features within parks, including high profile features such as The Three Sisters or built structures such as Fort Denison. There is therefore no legal obligation on filmmakers or photographers to seek approval or consent to take images of such features from a location outside of parks (e.g. photographing Fort Denison from the Harbour Bridge, which is not part of the Sydney Harbour National Park in which Fort Denison is located).

Assessment of filming applications

Permissibility

22. It is critical to note that the FA Act enables filming activity to be approved even where the carrying out of that activity is prohibited or not permitted under the NPW Act, Marine Parks Act or Wilderness Act or instruments made under this legislation.

Heads of consideration

23. The FA Act, NPW Act, Wilderness Act, Marine Parks Act and Environmental Planning and Assessment Act all provide a range of matters that may need to be considered in assessing an application for filming. Other than as provided in clauses 31-32 for Marine Parks, the FA Act does *not* remove the need to consider environmental impacts under Part 5 EP&A Act *in addition to* the considerations provided in the FA Act.
24. Given the decision in clause 1 to issue approvals under the FA Act and given the context in clause 22, the delegated officer (see 'Definitions' and 'Accountability Table' at end of policy) will consider the matters in clauses 25-36 where relevant when assessing a filming application. Where the information submitted by the applicant with the application is inadequate to enable this assessment the delegated officer is to request further information from the applicant.

All applications

25. When assessing a filming application the delegated officer *must have regard to* each of the following:
 - any heritage values of the area;
 - if the approval will authorise the use of any building or structure in the area - the cultural significance of the building or structure; and
 - any plan of management for the relevant park, or any operational plan or zoning plan for the relevant marine park.
26. When assessing a filming application the delegated officer *must recognise* any existing rights and interests conferred on a third party, whether or not they are commercial (eg. rights under an existing lease, licence, easement or right of way, or rights under an existing filming approval).

Reserved lands (Part 4) other than wilderness

27. In addition to the matters in clause 22, for **lands reserved under Part 4 NPW Act** (ie. not unreserved lands under Part 11 NPW Act, and not marine parks) and other than in wilderness areas, the FA Act creates the presumption that filming applications will be approved unless expressly prohibited by any relevant plan of management. However, there may be instances where this presumption does not lead to approval being granted.
28. For these lands, and in addition to the matters in clauses 25-26, when assessing a filming application the delegated officer is *not required to but may* consider the matters referred to in clause 29 to the extent that they are relevant. However the approval cannot be refused on the grounds that they are not satisfied as to these matters unless the matter cannot be adequately addressed by imposing conditions on the approval.

Unreserved land (Part 11), marine parks and wilderness

29. In addition to clauses 25-26, when assessing a filming application for a **marine park, unreserved lands or wilderness area** the delegated officer *must be satisfied of the following matters* (and is required to impose conditions to ensure these matters are satisfied):
 - that the filming activity is carried out in a manner that minimises any adverse environmental impact on the area;
 - that existing roads, tracks, paths or other means of access to the area will be used by the approval holder wherever feasible;
 - that the location in which the filming activity is to be carried out is the minimum area that is feasible for the carrying out of such an activity;
 - that the period of time required to carry out the filming activity is limited to the shortest period that is feasible for the carrying out of the activity;
 - that the filming activity is not inconsistent with any applicable threat abatement plan or recovery plan within the meaning of the *Threatened Species Conservation Act 1995*;
 - that the filming activity complies with any applicable policy of DECCW concerning filming in designated areas;
 - that the siting and timing of the filming activity, as far as is practicable, minimises the impact of the activity on the natural and cultural heritage values of the area and on the public enjoyment of the area.

30. In addition to clauses 25-26 and 29, when assessing a filming application for **wilderness areas**, the delegated officer:
- *must be satisfied* that the activity is to be carried out for the *primary* purpose of any one or more of the following: the education of or the raising of awareness of members of the public about, or research into, Aboriginal heritage or culture, historic heritage, biodiversity, threatened species, the management of parks, environmental processes, public recreation, bushfire management or visitor safety, or the promotion of visits by tourists. When assessing a proposal against these requirements, it is the *primary purpose* of the activity that is to be assessed, not a consequential outcome. For example, an action thriller movie cannot be classed as 'educational' even though it may lead to increased public awareness of the natural values of the area;
 - *must be satisfied* that the filming activity will be carried out by the minimum number of persons who could feasibly carry out such an activity; and
 - *must have regard to* whether there is no other feasible location outside of that land within New South Wales to carry out the activity.

Marine Parks

31. For marine parks, the requirements under sections 19 and 20 of the Marine Parks Act to consider various matters under Part 5 EP&A Act when assessing an application, *do not apply*.
32. Where approval is sought under the MP Regulations for non-commercial filming in a marine park the relevant criteria in those Regulations must be met. In particular, when determining whether to grant approval under the Regulations the consenting officer must have regard to the principal assessment criteria listed in the MP Regulation 2009, although this clause does not limit the factors that the delegated officer may have regard to when considering an application for consent.

Review of Environmental Factors

33. Subject to clause 31, where any part of the filming activity is classified as an 'activity' under Part 5 of the EP&A Act, the applicant is required to complete a Review of Environmental Factors (REF). Section 1.3.1 of the NPWS document *Proponents Guidelines for the Preparation of Review of Environmental Factors* (REF Guidelines) sets out a non-exhaustive list of undertakings that constitute 'activities'. Filming is not in itself considered to be an 'activity', however associated activities may be. Advice from DECCW's Legal Branch should be sought wherever it is not clear whether a filming activity is an 'activity' for the purposes of Part 5 of the EP&A Act. Something classified

as an activity can be considered either high or low risk, depending on whether or not it meets criteria set out in section 3.2.1 of the REF guidelines. Which category it falls into will determine what approval level it requires and how long it will likely take to process (refer to REF Guidelines for further information).

Aboriginal consultation

34. In determining an application the delegated officer will ensure compliance with DECCW policies related to Aboriginal Areas, Aboriginal places, Aboriginal objects and Aboriginal material more generally.
35. Where filming of locations or material culturally sensitive to Aboriginal communities is proposed the proponent must consult with the relevant Aboriginal custodians of that site or object and seek endorsement of the filming prior to commencement of filming. Such endorsement must specify the activities involved and who the endorsement was granted by. Where this endorsement is not obtained DECCW will take this into account in determining the application, from the point of view of the potential impact of the activity on Aboriginal cultural values. DECCW may play a facilitative role in this consultation and will ensure any conditions placed on a filming approval adhere to any relevant environmental laws relating to cultural heritage.
36. If the area where the filming is proposed is subject to an Indigenous Land Use Agreement (ILUA), Memorandum of Understanding, park management partnership agreement or other formal agreement between an Aboriginal group and DECCW or the Marine Parks Authority, permission from the Aboriginal parties to those agreements may be required before filming approval is granted, depending on the terms of the agreement.

If approval not granted

37. If approval is refused, the applicant must be given clear reasons for the refusal in writing as soon as the decision is made. Where practical, DECCW should assist the applicant by giving advice and support on possible alternative locations and/or practices.

Dispute resolution

38. If there appears to be a conflict between the delegated officer and the applicant, DECCW staff may seek advice on resolution from Tourism and Partnerships Branch or Legal Services Branch depending on the nature of the dispute. Applicants can be advised separately to seek advice from Screen NSW, who also offer mediation services. However, DECCW staff must consult the Director Legal Services before themselves referring a dispute to Screen NSW for mediation.

Public register

39. A public register of approved applications to film in parks and marine parks will be maintained on the DECCW website showing the name, area and purpose of the filming, and information on the conditions of the approval so far as can be disclosed subject to privacy legislation (see FA Act s12 for more information). This includes approvals given under clauses 7 and 9. Ensuring the currency of the register in relation to an approval is the responsibility of the delegated officer who approves the application. The currency of the register is important as certain third party enforcement action may only be exercised within 14 days of the granting of an approval (although filming can commence from approval).

Procedural Guidelines

Application process

40. An applicant for a filming approval is required to submit to the nominated officer a signed application form and the application fee. The application form (available from the [DECCW website](#)) will include details of the shoot and proposed location and a conservation risk assessment. A review of environmental factors (REF) may also be required (see clause 33). The application form will form the basis of any filming approval under the FA Act. The nominated officer will forward the application to the delegated officer for assessment.
41. If approved, the application will be subject to the Standard Conditions and any additional conditions deemed appropriate to ensure that the activity does not impact on the significance of the area in which it is to be carried out. For example, conditions can relate to the type of footwear to be used, numbers of persons on-site at any time, limits on movement of actors/crew between takes, and numbers of vehicles on site.
42. Where an REF application is referred to the EPRG for determination (as per the REF Guidelines), any other supporting documentation and contact information relating to the application should also be forwarded, and a briefing and site inspection arranged for EPRG officers. Additional fees will be charged by EPRG to cover the costs of inspection and assessment. Note that REF applications for marine parks are referred to Aquatic Protected Areas Section rather than EPRG.
43. Any REF determined through EPRG should incorporate agreed conditions forwarded by NPWS in relation to the application.

Application timeframes

44. Early consultation with DECCW can help match the proponents' needs with appropriate sites and streamline processing times. Applicants can minimise likely processing times by consulting with DECCW early in the process, factoring in time for the preparation of the application form, site inspection and ensuring that adequate information is provided in the application in accordance with any necessary environmental assessment, the FA Act and this policy. Early consultation is also recommended for applications where consultation with Aboriginal communities or other stakeholder groups is required (see clauses 35-36).
45. Each NPWS Region will endeavour to have a staff member available to respond to filming enquiries during normal business hours, including having staff in acting positions able to answer questions and deal with applications in the absence of the usual delegated officer. However DECCW reserves the right to delay dealing with requests in exceptional circumstances, such as when declared incidents (eg. emergency fire fighting) are taking up staff time.
46. For filming proposals that do not require an REF, fully completed applications should be made *at least* seven business days prior to the proposed activity to allow for applications to be adequately considered. As shown in the fee schedules, varying levies are payable for applications submitted in less than this time.
47. In situations where an REF is required, fully completed applications will be assessed in a timeframe of between ten and forty business days. As outlined in the fee schedule, varying levies are payable for applications submitted less than this time. If particularly complex arrangements are required to facilitate the filming (e.g. park roads must be closed) or a High Risk of Impact REF is Required (see REF Guidelines) it may not be possible to process applications submitted at short notice and therefore no short notice levy option will exist.

Notifications

48. At the time of application, the applicant should be informed of:
 - any known circumstances that are likely to affect proposed filming e.g. hazard reduction; maintenance works; pest control; special events; etc;
 - any known non-obvious hazard relevant to the location; and
 - any known sensitive environmental and cultural issues relating to the site; special conditions; known constraints or access restrictions that may be imposed on the activity.
49. Notwithstanding this, it is still an approval holder's responsibility to undertake appropriate safety precautions and avoid causing harm to the environment and cultural values.

50. Listing of any special conditions or activities should be attached to the written filming approval and signed and dated by the delegated officer and the applicant.

Fees

51. A range of fees as set out in the Fee Schedule apply to all commercial filming, except for (i) those carried out entirely in marine parks, where only application fees will apply; and (ii) commercial small scale filming as outlined in clause 10, where no filming related fees will apply. Park use fees are included in the filming fee structure and are not an additional charge. DECCW will ensure that all fees are kept to a minimum and only reflect costs. Fees include:
- non-refundable application fee to cover staff time spent processing the application (this fee will be higher if an REF is required);
 - possible fees for assessment of more complex applications;
 - possible supervision fees to cover staff time as necessary (see clauses 65-66); and
 - possible charges for special requirements(e.g. hire of venues or equipment, meetings with DECCW staff, requirements for site inspections).
52. Application fees are payable upon application. Other fees are payable upon commencement.
53. In addition, DECCW will require an Environmental Management Bond, which may be forfeited in part or in full to pay for additional costs to DECCW arising from the activity (see clauses 57-58).
54. Filming for news and current affairs is not subject to fees under the Fee Schedule. Lifestyle and travel filming may be subject to fees.
55. Delegated officers may waive or reduce fees for:
- charity organisations;
 - community service announcements; and
 - filming which significantly promotes DECCW or its parks, including programs which increase public appreciation, understanding and enjoyment of the natural and cultural values of parks and their conservation or which encourage visitation (for examples, see clauses 8 and 66).
56. In accordance with s.10 of the FA Act, fees and charges collected from filming activities in parks or marine parks will be paid into the National Parks and Wildlife Fund (the general fund). Where the filming activity is wholly or partially within a marine park, the appropriate proportion of the fees and charges will subsequently be transferred to the Marine Parks Fund.

Environmental Management Bond

57. A suggested range for Environmental Management Bonds is outlined in the Fee Schedule. For filming which requires the use of a significant number of props or vehicles or is undertaken in more sensitive environments, the delegated officer or EPRG Branch Director may require a higher level of Environmental Management Bond. This will be specified in conditions of approval following assessment. Details of all Environmental Management Bonds should be retained by the relevant regional office.
58. DECCW may require the forfeiture of all or part of the Environmental Management Bond to cover any unforeseen costs (e.g. unplanned delays, additional supervision incurred after the approval is signed, site restoration). The delegated officer is to ensure that timely inspection of sites takes place before filming commences and on completion. If any portion of the Environmental Management Bond is to be forfeited the reasons for this must be given in writing.

Insurance

59. A minimum public liability insurance of \$10 million, valid for operations in Australia, must be held by any individual or company undertaking commercial filming activities in a park or marine park. A certificate of currency must be attached to the signed Approval.
60. Higher insurance coverage may be required in some circumstances depending on the scale or nature of the activity and its potential risks to staff, the public or the environment. Advice should be sought from the Treasury Managed Fund, DECCW's insurer, before any filming activity is approved with a variation of the standard insurance.

Location

61. Proponents should consult the relevant delegated officer (see accountabilities table at end of this policy) before choosing locations. The delegated officer will consider whether alternative more suitable locations are available on other public or private lands. Location advice can also be sought from the Production Attraction Team of Screen NSW.
62. DECCW will encourage the appropriate use (e.g. for purposes that serve conservation outcomes) of high profile landscape and cultural features that are readily recognised as parks or marine parks managed by DECCW and will strongly discourage their use where likely to result in inappropriate associations or messages concerning the agency or conservation. However DECCW will not assert any editorial control over the content of filming.
63. Where possible, DECCW will encourage applicants to carry out filming activities in places set aside for visitors or other modified areas rather than undisturbed environments.

Access Restrictions

64. Where filming activities are likely to obstruct vehicle or vessel traffic, a Traffic Control Plan must be submitted at the time of application. This plan should include a description of measures proposed by the applicant to ensure appropriate access and safe management at the site e.g. employing qualified traffic controllers, security officers etc. The applicant may also be required to obtain approval from the NSW Police Service, local council and the Roads and Traffic Authority. The delegated officer must also notify any lessees or occupants of in-holdings if their access may be affected.

Supervision by staff

65. The delegated officer will determine the need for staff to supervise the filming activity based on the sensitivity of the site or sites, the nature of the location and shoot and equipment used. Where supervision is deemed necessary, a standard hourly rate will be charged for each staff member required to supervise. A higher rate will be charged for supervision outside normal business hours.
66. In the case of filming projects that have potential to significantly promote DECCW or parks and marine parks in general Public Affairs Division may provide staff to serve in a supervisory and interpretive role. The use of Public Affairs staff in supervision roles does not attract fees and may negate the need for supervision by local staff.

Use of the logo, equipment or staff

67. Prior written consent is required from the delegated officer for the publication or use of any DECCW, NPWS or MPA logo, uniforms or insignia or its image, and for DECCW employees to appear in any film or photograph. The delegated officer will consult with Public Affairs Branch before giving such an approval.
68. Identifiable DECCW, NPWS or MPA equipment, uniforms or insignia must not be portrayed in commercial advertising in any way that would imply endorsement of the product.
69. DECCW employees, while on duty or in uniform, may not be employed by the film maker/photographer on a commercial basis.

Rescheduling by the proponent

70. If it is necessary for the proponent to re-schedule due to filming requirements, e.g. unfavourable weather, the delegated officer must be notified as soon as possible and the proposed re-scheduling date agreed upon by both parties. Proponents should be encouraged to nominate contingency days in advance. Any reasonable cost incurred by DECCW may be recovered from the applicant e.g. casual staff contracted for the period and an inability to change these arrangements.

Breach of an Approval

71. DECCW will monitor compliance with conditions for all filming approvals and will act to restrain any breaches by taking appropriate enforcement action. There are legal ramifications resulting from the time taken to take action against a breach, and a decision on how to respond to a breach will be made within seven days of the breach coming to DECCW's attention. Action to restrain the breach or offence may include issuing of infringement notices, the immediate termination of the approval and taking legal action against the Approval holder. Legal action may be under the FA Act or park/marine park legislation. Standard conditions of the approval provide that the applicant does not have the right to claim against DECCW for damages for loss of business or financial or other loss as a result of such a termination of approval.
72. The FA Act gives any person (e.g. DECCW, third parties) rights to bring proceedings for breaches of filming approvals or contraventions of the FA Act in the Land and Environment Court. DECCW may also be able to take legal action under parks/marine parks legislation. Legal advice must be sought in this regard.

Defences

73. The holding of an approval for filming is not a defence against an offence committed under any Act or Regulation (e.g. NPW Regulation, Wilderness Act) unless the activity that constituted that potential offence was specifically permitted in the filming approval.

Definitions

Approval means approval under section 4(2) of the Filming Approval Act.

Commercial filming means any filming or photography “for sale, hire or profit” (as per Part 2 of the NPW Regulation). Commercial filming includes advertisements, feature films, news and current affairs on commercial networks (e.g. Pay TV such as Fox and free to air stations - including ABC), TV or internet drama, documentaries, educational films, Government sponsored filming and tourism promotions. Commercial photography includes images for magazines, postcards, commercial websites, promotional material, books and advertisements and the commercial photography of private events, including professional wedding photography.

Consent means authorisation under the *National Parks and Wildlife Regulation 2009* or where relevant to the *Marine Parks Regulation 2009*.

Delegated Officer means the holder of delegation under Section 11 of the *Filming Approval Act 2004* to approve filming (see accountabilities table at end of this policy) or an officer delegated under the *Marine Parks Act 1997* pursuant to Section 43A.

EPRG means the Environment Protection and Regulation Group of the Department of Environment, Climate Change and Water.

Filming is as defined under the *Filming Approval Act 2004*, which at the time of writing means recording images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the Internet or by other means) or for sale. For purposes of this policy, a reference to filming also includes photography (see below) unless stated otherwise.

Filming activity is as defined under the *Filming Approval Act 2004*, which at the time of writing means (a) filming and (b) any other activity reasonably connected with the carrying out of filming, whether or not for a commercial purpose.

Marine Park means any area of water and/or land declared under the *Marine Parks Act 1997*.

Marine Parks Authority means the Authority established under the *Marine Parks Act 1997*, consisting of the Director-General of the Department of Premier and Cabinet, the Director General of the Department of Environment, Climate Change and Water and the Director-General of the Department of Primary Industries.

Minister means the Minister administering the NPW Act.

Lifestyle and travel programs means footage filmed for television or internet programming (but not feature films or advertising) or magazines or other print media, the primary intent of which is to encourage visitation to the area that is the subject of the filming. It is limited to activity that has negligible impact on the environment.

News and current affairs means programs or footage filmed to relay information about recent events or happenings and includes filming of segments related to weather reporting. It is limited to the duration of a specific event with a discrete (though not necessarily pre-defined) timeframe, and has negligible impact on the environment.

Nominated officer means the officer publicly identified as the person who is the first point of contact for filming applicants, and who receives filming applications. This may vary for news and current affairs, lifestyle and travel programs, and other types of filming.

Park means any land reserved or acquired under Parts 4 or 11 of the NPW Act (including any wilderness area located on such land).

Photography includes the recording of still images on any recording medium or format (eg. digital, film)

NPWS (National Parks and Wildlife Service) means the Parks and Wildlife Group of DECCW

Small scale filming is filming or photography that involves a maximum of one camera operator and one assistant; requires only low level equipment use (i.e. backpackable equipment; single tripod); does not use structures, film sets or professional talent; does not exclude an area from use by other users and has negligible potential to impact on a park environment (wedding photography and speculative work generally falls into this category).

Accountability Table

This table shows the officer with legal delegation to approve a filming application (see Definitions). This is not the nominated officer to whom the application is submitted.

Type of application	Officer with delegation to approve the application
Area/s within one Region (incl. marine parks)	NPWS Regional Manager
More than one Region (incl. marine parks)	NPWS Branch Director / Regional Managers to approve individual location requests. Only one application and Environmental Management Bond applies.
More than one Branch (incl. marine parks)	Director, Tourism and Partnerships Branch / Regional Managers to approve individual location requests. Only one application and Environmental Management Bond applies.
News and current affairs filming	Director Public Affairs Branch (in consultation with NPWS Regional Manager)
Travel and lifestyle filming	Director Tourism and Partnerships Branch (in consultation with NPWS Regional Manager)
Proposals requiring Review of Environmental Factors (REF)	PWG Regional Manager for minor REFs, and EPRG delegate for major REFs.
Non-commercial, non-small scale filming in a marine park	Marine Park Manager

Relevant Legislation

Filming Approval Act 2004
National Parks and Wildlife Act, 1974
National Parks and Wildlife Regulation, 2009
Wilderness Act, 1987
Threatened Species Conservation Act, 1995
Protection of the Environment Operations Act, 1997
Marine Parks Act, 1997
Marine Parks Regulation 2009
Marine Parks (Zoning Plans) Regulation 1999
Environmental Planning and Assessment Act, 1979

Relevant Policies/Documents

[Screen NSW](#)
[Proponents Guidelines for Review of Environmental Factors](#)
[Premiers Memorandum M2008-10 Making NSW Film Friendly](#)
[MPA Permit Policy](#)

Contacts

NPWS applications, advice and implementation:
Project Officer, Tourism and Partnerships Branch
Tel: (02) 9585 6009 Fax: (02) 9585 6447

[Filming & photography licences](#)

Marine park applications, advice and implementation:
Manager Operations Unit, Aquatic Protected Areas Section
Tel: (02) 4916 3922 Fax: (02) 4982 1107

NPWS policy review and advice:
Manager Park Management Policy Unit
Tel: (02) 9585 6542 Fax: (02) 9585 6666

Assistance to industry
Senior Production Attraction Executive
Screen NSW
Tel: (02) 8222 4844, Fax (02) 8222 4840.

[Screen NSW](#)