



# **BYRON SHIRE COUNCIL**

## **POLICY NO 3.41**

### **FILMING ON COUNCIL OWNED AND CONTROLLED LAND**

**Policy – Filming on Council Owned and Controlled Land**

**INFORMATION ABOUT THIS DOCUMENT  
(INTERNAL USE ONLY)**

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***Document History***

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***Further Document Information and Relationships***

<b>Related Legislation</b>	Local Government Act 1993, Local Government Filming Protocol, Northern Rivers Screenworks (Film Guidelines)
<b>Related Policies</b>	
<b>Related Procedures/ Protocols, Statements, documents</b>	

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**POLICY TITLE** FILMING ON COUNCIL OWNED OR CONTROLLED LAND

**FILE REFERENCE** COR050505

## **1. OBJECTIVES**

- 1.1. The purpose of this policy is to provide guidelines for filming on land owned and controlled by Byron Shire Council.
- 1.2. The policy is a mechanism by which operational, environmental and community issues associated with filming can be managed in an equitable manner while optimizing the employment and economic outcomes in a transparent and efficient approval process.
- 1.3. The policy provides guidance on fee structures, the application process, procedures, standard definitions, conduct and other issues that may arise.

## **2. POLICY STATEMENT**

2.1 Council-controlled land includes:

- Crown reserves managed by Byron Shire Council as Reserve Trust Manager
- Council-owned community land
- Council-owned operational land
- Council roads

Lands not affected by this policy include property under the control of the Cape Byron Trust, the Department of Land and Water Conservation, National Parks and Wildlife Service and private property.

These exclusions include but are not limited to the Cape Byron Lighthouse Precinct, Wategos Beach, Little Wategos Beach, The Pass, Cosy Corner, Cape Byron Headland, Broken Head Nature Reserve, Brunswick Nature Reserve, Arakwal National Park and Tyagarah Nature Reserve.

2.2. The policy is guided by:

- Local Government Act 1993
- Local Government Filming Protocol 2009
- Northern Rivers Screenworks (Film Guidelines)

2.3. Byron Shire Council:

- welcomes the use of areas under its control for film production
- has the responsibility to provide equitable access, care, control and management of the areas under its management and to ensure activities are carried out in an orderly manner which minimizes impact on the community
- understands the film industry has a need for efficient decision-making and flexibility
- values the contribution made by the local industry professionals to the fabric of the community and wishes to encourage the employment and economic opportunities that arise from locally-based film opportunities.

- considers filming at certain times of the year to be undesirable, notably when disruption to commercial or public activities is high (e.g. peak tourism periods, community events).

### **3. DEFINITIONS**

#### 3.1. What is a film?

For the purpose of this policy, the Local Government (Filming) Amendment Act 2000 definition of filming applies:

*“..... recording images (whether on film video tape or electronically or by other means) for exhibition of broadcast (such as by cinema, television or the Internet or by other means) and includes such acts or things as may be prescribed by the regulations as being filming, but does not include:*

- (a) still photography, or*
- (b) video recording of a wedding ceremony or other private celebration or event principally for the purpose of making a record for the participants in the ceremony, celebration or event, or*
- (c) recording for the immediate purposes of a television program that provides information by way of current affairs or daily news, or*
- (d) any act or thing prescribed by the regulations as not being filming.”*

The exemptions listed above are not covered by this policy except where approval is required for such items as the erection of structures for still photography or the use of barriers to regulate access to community land. To avoid misunderstanding, it is recommended that any person wishing to undertake this type of activity consult with Council to ensure they meet any requirements.

#### 3.2 Local exemption.

Council may exempt local filmmakers from the requirement to obtain approval if they meet all the following criteria:

- Local Resident – a person with a principal residence in one of the Shires of The Tweed, Ballina, Clarence Valley, Richmond Valley, Kyogle, Lismore or Byron
- Total production budget is less than \$20,000
- No anticipated impact on the environment
- No anticipated impact on the amenity of the area

### **4. GENERAL PROCEDURES**

#### 4.1. Requirements of the Local Government Act

Division 4 of the Local Government Act sets out the procedures designed to facilitate the approval of activities required to be undertaken under a filming proposal. These procedures are:

- a filming application is lodged with Council using the approved form
- fees as set out by Council's adopted fees and charges must accompany each application
- the application must include all relevant information as described by this policy and other relevant legislation
- Council will acknowledge receipt of the application within 7 days.

#### 4.2. Pre-submission process recommended

In order to improve the efficiency and timeliness of the approval process, filmmakers are encouraged to engage in a pre-submission process with Council and Northern Rivers Screenworks. This process is intended to inform application development, minimise misunderstanding and ensure speedy approval.

Council and Northern Rivers Screenworks each will nominate a contact person to:

- In the case of Council answer questions about the application process, act as a liaison when filming is about to begin and assist in obtaining any other approvals needed by Council
- in the case of Northern Rivers Screenworks provide information about skilled Local Residents who may be available to work on the project.

During pre-approval, applicants will provide:

- Company details
- Outline of the project including type (eg feature, documentary etc), schedule, locations, general outline of the shoot and special requirements (eg parking, traffic and other disruptions, set constructions, aerial requirements, special effects, etc)

Screenworks and Council will provide advice on:

- Schedules, locations and special requirements – including the requirements for public liability and indemnity insurance
- Identify other authorities who will need to be contacted for approvals
- The costs of lodging an application

Site inspections may take place during the pre-proposal process.

#### 4.3. Approvals

Once the application has been processed, written approval or otherwise for a filming licence will be issued. Council may grant unconditional approval or approval subject to one or more conditions.

It is understood the lead times for notice of filming activities need to be flexible as many productions change schedule and locations at short notice as a consequence of weather, noise and other circumstances. Byron Shire Council will endeavour to accommodate all reasonable requests. In the case of unfavourable weather and/or the change in filming dates, advice is to be given to Council's contact officer of the postponement and the proposed rescheduled date. No additional fees will be payable for this process provided the total number of filming days does not exceed that originally outlined in the application.

#### 4.4. Licence agreement

As part of Council's approval a licence agreement will need to be signed by both Council and the production company. This agreement expresses the applicant's responsibility to restore the film location(s) to its original state. Also it relinquishes Council's right to any copyright over any representation of the film location in favour of the production company. A copy of this agreement can be obtained from Council's nominated contact person.

## **5. MATTERS FOR CONSIDERATION IN THE APPLICATION PROCESS**

### **5.1. Notification**

All residents and businesses within the vicinity are to be notified in writing by the applicant at least five days before filming begins. The notification must include the name of a contact person on site to handle complaints, and details of the filming including whether firearms, aircraft, stunts or explosives are to be used. The start time for set up and hours during which filming takes place will also be specified. The applicant will need to prove to Council's satisfaction that this notification process has been satisfactorily undertaken. Council may require extended notification time if the location shoot is considered extensive.

### **5.2. Traffic control**

A detailed outline is to be provided of the number and size of the production vehicles, parking, any use of heavy equipment.

If the filming is to be conducted on a Council road specific details of filming times and duration of any hold and release, use of RTA authorised traffic control officers is to be submitted to Council in a traffic control plan.

Where road closure is required, the closure will need to be advertised in the local newspaper a week before the proposed time. Application for extended road closures may be referred to the Traffic Committee and if so, the applicant must provide sufficient time for the application to be considered by the Committee.

### **5.3. Vehicle access to beach**

If the applicant seeks vehicle access to a beach the number and activities need to be included in the application. If the application is approved, a separate beach vehicle permit and fee for access will be issued.

### **5.4. Security**

Detail is to be provided on:

- the manner in which security is to be conducted on the film location, including identification of measures which will be employed to maintain public order, crowd control and public safety
- the management strategy to be employed in the case of obstruction of vehicle or pedestrian traffic

### **5.6. Provision of amenities and wastewater management**

In many cases filming will occur in locations that do not have ready access to toilets, hand washing facilities, shower facilities, or other facilities. Appropriate facilities are required to support the number of crew and cast for the length of time at the filming location.

Where reticulated sewer is not available and/or access to adequate toilet facilities and amenities is not available, the applicant is to provide Council with details of the proposed method of meeting those requirements. If necessary, Council will issue an approval for wastewater management under Section 68C of the Local Government Act (1993).

#### 5.7. Dangerous materials

Details of storage and use of any dangerous material (defined by Dangerous Goods Act 1975 NSW) on the film location should be included in the application. For example, if any pyrotechnics, explosives or flammable materials are to be used and details of the time, method of use and the details of the suitably qualified person to conduct such events must be advised.

#### 5.6. Night filming

If any filming occurs in the evening, provide details of special arrangements which will be made to prevent any excessive noise or lighting which may interfere with nearby residential amenity.

#### 5.7. Notification of emergency services

An application for film location will need to contact the local emergency services of the film location details especially traffic control, use of aircraft, use of dangerous materials and night shoots.

#### 5.8. Details of filming

Details of all filming locations and times are required including a map of the location/s area proposed for use. All activity associated with the filming must be undertaken in compliance with the Protection of the Environment Operations Act 1997.

#### 5.9. Construction

Any building work associated with the film shoot is to be advised in the application and may be subject to Council's development application processes depending on size, scale and longevity.

#### 5.10. Public liability

Prior to any approval to film within the Byron Shire Council area being granted, it is necessary that the applicant indemnify Council and provide proof that it has public liability insurance to cover the filming activities. The applicant will need to provide a copy of the certificate of currency of their public liability for a minimum amount of \$10 million. The name of the company, details of the policy and its expiry date must also be provided in the application. Byron Shire Council must be identified as an Interested Party on the policy. Council accepts no liability for activities during filming

#### 5.11. Risk Management

The applicant will ensure that all conditions required under its insurance policy are met and that the site complies with Occupational Health and Safety Act 1983 (NSW), Construction Safety Act 1912 (NSW) and Dangerous Goods Act 1975 (NSW) including all relevant regulations, codes of practice and Australian Standards associated with these Acts.

Applicants using the services of stunt performers are required to provide evidence of approved specialized risk insurance or Workcover.

A comprehensive risk management plan is to be considered a fundamental element of the application process.

5.13. Site to be left in original state

The site must be left in the condition in which it was found prior to filming taking place. Any damage caused as a result of filming activities will incur a financial penalty for restoration work.

5.14. Copyright

It is the film production company's responsibility to check whether copyright applies to any objects that might be filmed.

5.15. Aboriginal Consultative Committee

In certain circumstances the application may be referred by Council to the Aboriginal Consultative Committee for advice.

**6. COMPLIANCE WITH APPROVAL CONDITIONS**

6.1. General

The film production organisation will agree to comply with any approval conditions imposed by the Council. Copies of the filming conditions will be provided by the Council at the time approval is granted.

6.2. Failure to comply with approval conditions

Failure to comply with approval conditions may result in cancellation of the approval and or termination of the licence and refusal of future applications.

6.3. Post filming

On completion of filming, Council will arrange for an inspection of the location(s) and attend to a refund of the bond as appropriate.

**7. FEES AND CHARGES**

7.1. Fees will be in accordance with Council's adopted fees and charges.

7.2. Waiver of fees

In addition to Local Exemptions, fees can be waived for project in excess of \$20,000 under the following conditions:

- demonstrable community benefit
- related to charitable activities
- documentaries specific to the cultural heritage of Byron Shire
- projects produced by amateur local and student filmmakers.

A partial or total fee waiver is treated as sponsorship by Byron Shire Council. The applicant is required to acknowledge the Council in credits. Sponsorship must be requested in writing. If the applicant is requesting the fees be waived because they are a student, proof of enrollment is required. Fees will not be waived retrospectively.

### 7.3. Bond

A bond may not be required. However, Council may ask for a bond to be lodged in circumstances where there is extensive filming or if there is the potential that restoration works may need to be carried out. Council reserves the right to request a bond of higher value.

## **8. FILMING ON PRIVATE PROPERTY**

Where filming is confined entirely to private property, a licence is not required and no fee will be charged. Where there will be an impact on public land (such as stringing or laying cables, vehicles parking in the street, and so on) an application will need to be made and approval conditions followed. Further, Council approvals that may be required (for example in relation to the construction of structures on private land).

## **9. APPROVAL REQUIRED FROM OTHER AGENCIES BY THE APPLICANT**

Where filming will require the approval of other authorities such as the Police, Roads and Traffic Authority, National Parks and Wildlife Service or Waterways Authority, the applicant is to obtain that approval and provide details with their application to Council.