

LORD HOWE ISLAND BOARD POLICY

TITLE	Commercial Filming Policy		
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ASSOCIATED LEGISLATION	<i>Lord Howe Island Act, 1953</i> <i>Lord Howe Island Regulation, 2014</i> <i>Environmental Planning & Assessment Act, 1994</i> <i>Biodiversity Act 2015</i>		
ASSOCIATED POLICIES	Premier's Memorandum: M2014-04 <i>Making NSW Film Friendly</i> Local Government Film Friendly Protocol		

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1 Introduction

The Lord Howe Island Board is supportive of film making and photography on the Island. The Board also recognises that filming and photography and their associated activities may have a range of impacts on the Island and requires a balance between the interests of the local community, its economy and the environment.

1.1 Context

1.1.1 Premier's Memorandum: M2014-04 *Making NSW Film Friendly*

In May 2014, the NSW Government released the Premier's Memorandum M2014-04 *Making NSW Film Friendly*. The Memorandum requires that:

- a) There is a cooperative attitude in dealing with filming requests;
- b) Applications for access are processed promptly;

- c) Access to locations is supported wherever possible and should not be unreasonably withheld;
- d) Clear reasons for refusal should be provided and alternative arrangements for sites offered if possible;
- e) Fees are kept to a minimum and should only reflect costs;
- f) Agencies should permit filming activities and / or make locations and facilities available for filmmakers where possible, taking into account public amenity, safety, security and other operational requirements. Requests for agency services should receive a positive response where ever possible. Where filming access, services or approvals cannot reasonably be given, the filmmaker should be advised as early as possible of this response, reasons given for it and alternatives suggested if possible.

The Premiers Memorandum refers to the Local Government 2012 Film Friendly Protocol and makes a commitment that government agencies and State authorities will follow the protocol in facilitating filming.

1.1.2 Local Government Film Friendly Protocol

The Local Government Filming Protocol was developed under the Local Government Act 1993, which introduced a single application system for council approvals related to filming.

The Protocol includes the presumption that councils will grant approvals relating to filming projects. Councils are to ensure that requests for location film productions are able to occur, unless there are exceptional circumstances or legislation requires the council to refuse to grant the approval.

Local councils are to comply with the Protocol when determining applications or setting fees, rather than simply taking it into consideration as required previously. Fees and charges related to location filming activity are, at a maximum, to be cost reflective.

The Protocol has been prepared in consultation with local councils, government agencies and the screen industry.

The Protocol applies to all local councils except where another filming protocol has been adopted with the approval of the Director General of the Department of Local Government. Where a council has discretion to set fees and charges relating to a filming project, the legislation now requires the council to set them in accordance with the Filming Protocol.

1.2 Objectives

The policy aims to:

- a) Provide a framework which supports film-makers/photographers and is balanced with the interests of the local community, tourism, and the environment.
- b) Provide clear and consistent guidelines for when commercial filming and photography requires approval.
- c) Promote an effective working relationship between film-makers/photographers and the Board.

1.3 Scope of Policy

This policy applies to filming and photography, and related activities, carried out on land administered under the *Lord Howe Island Act, 1953* including Lord Howe Island and its offshore islands including Balls Pyramid.

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

This policy does not apply to filming in the Lord Howe Island Marine Park. Filming in marine parks requires approval under the *Marine Estate Management Act 2014* or as required under the *Film Approvals Act, 2004*.

2 Policy

2.1 Approval of Filming Applications

1. The provisions of the *Film Approval Act 2004* and the *Local Government Act 1993* relevant to filming (s 114 – 110F) do not apply to land administered under the *Lord Howe Island Act, 1953*.
2. Commercial filming taking place on Lord Howe Island requires approval from the Lord Howe Island Board. 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.
3. A licence is required under Section 49 of the Lord Howe Island Regulation, 2014 to carry-out commercial filming and associated activities.
4. Consent may also be required under other legislation such as the Environmental Planning and Assessment Act, 1979, Heritage Act, 1977, Biosecurity Act 2015 and the Environment Protection and Biodiversity Conservation Act 1999.

Note: In some cases, where the scale and duration (i.e. total filming activity is greater than 30 days) of the film warrant, a Development Application is required.

2.2 Assessment of Filming Applications

1. Given the context of the Premier’s Memorandum, the Board should permit filming activities and / or make locations and facilities available for filmmakers where possible, taking into account public amenity, safety, security and other operational requirements. Requests for agency services should receive a positive response where ever possible.
2. 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 bring to Lord Howe Island, the public and the state of NSW in general.
3. The Lord Howe Island Act, Lord Howe Island Regulation, Biodiversity Act, EPBC 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.
4. When assessing a filming application the delegated officer must have regard to the nature and extent each of the following matters:
 - a) Any relevant legislation, plan, or policy for the subject area.
 - b) Whether there will be any community impacts including positive economic benefits, reduced access to site locations, changes in amenity, public safety, security or impacts on services and facilities on the Island, and whether these have been addressed through vehicle importation requirements, traffic and parking plans, water, waste water management strategies.
 - c) Whether there will be any environmental impacts at site locations including those associated with access and support operations and whether these are addressed through a biosecurity, threatened species, or restoration plan.
 - d) Whether there will be any tourism impacts including the overall benefit to the Island,

and impact on visitor experience, and whether these have been addressed or offset in any way.

- e) Whether there will be any cultural heritage impacts and whether these can be effectively avoided or mitigated.
5. 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.
6. The approval cannot be refused on the grounds that the Board is not satisfied as to these matters unless the matter cannot be adequately addressed by imposing conditions on the approval.

2.3 Delegation

1. The Chief Executive Officer is delegated to approve applications for commercial filming which are classified as Very Low Risk, (news, current affairs), Low Risk (low scale productions including student, government and approved documentaries, lifestyle and travel)
2. Medium and High Risk applications will be referred to the full Board for determination. High risk applications will only be considered by the Board in exceptional circumstances

2.4 If Approval not Granted

1. 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, the Board should assist the applicant by giving advice and support on possible alternative locations and/or practices.

2.5 Dispute Resolution

1. If there is a dispute between the Board and the applicant, the dispute resolution procedures outlined in the Local Government Protocol will apply.

2.6 Procedural Guidelines

2.6.1 Application Process

1. An applicant is required to submit to the Board's Administration a signed application form and the application fee. The application form (available from the LHIB Website) will include details of the filming and proposed location and a risk assessment of economic, social and environmental matters. A review of environmental factors (REF) may also be required (see clause 34). The application form will form the basis of any filming approval under the Lord Howe Island Regulation.
2. The Board will appoint a film contact officer to assist the filmmakers in obtaining the necessary approval, support and access to the Board's services.
3. If approved, the application will be subject to the Standard Conditions of the Filming Agreement and any additional conditions deemed appropriate to ensure that the activity does not impact on the economic, social and environmental significance of the Island. For example, conditions can relate to the numbers of persons on-site at any time, limits on movement of vehicles, restricted areas or hours of operation (Attachment A).

2.6.2 Review of Agreements

1. The Board reserves the right to review the Agreement and the associated conditions of

approval if circumstances require it or change. Examples may include where there are concerns regarding a culturally or environmentally sensitive area, continuous wet weather, or where unforeseen circumstances arise which present immediate threats to habitat, wildlife or public safety.

2.6.3 Application Timeframes

1. Early consultation with the Board can help match the applicant's needs with appropriate sites and streamline processing times.
2. Applicants can minimise likely processing times by consulting with the Board 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, this policy.
3. The Board will endeavour to have a staff member available to respond to filming enquiries during normal business hours.
4. For filming proposals that do not require an REF, fully completed applications should be made at least ten 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.
5. 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.
6. If particularly complex arrangements are required to facilitate the filming 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.

2.6.4 Notifications

1. At the time of application, the applicant should be informed of:
 - a) any known circumstances that are likely to affect the proposed filming e.g. maintenance works; pest control; special events; etc.;
 - b) any known non-obvious hazards relevant to the location; and
 - c) 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.
2. 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.

2.6.5 Public Register

1. A register of approved applications to film on Lord Howe Island will be maintained by the Board showing the approval dates, applicant's 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.
2. Ensuring the currency of the register in relation to an approval is the responsibility of the delegated officer who approves the application.

2.6.6 Fees and Charges

1. A range of fees as set out in the Board Fees & Charges Schedule applies to all commercial filming.
2. The Board will ensure that all fees are kept to a minimum and only reflect costs. Fees include:

- a) non-refundable application fee to cover staff time spent processing the application;
 - b) fees for assessment of more complex applications;
 - c) supervision fees to cover staff time as necessary; and
 - d) charges for special requirements (e.g. hire of venues or equipment, meetings with Board staff, requirements for site inspections).
3. Application fees are payable upon application. Other fees are payable upon commencement.
 4. Filming for news and current affairs is not subject to fees under the Fee Schedule. Lifestyle and travel filming may be subject to fees.
 5. Delegated officers may waive or reduce fees for:
 - a) charity organisations;
 - b) community service announcements; and
 - c) filming which significantly promotes the Island, including programs which increase public appreciation, understanding and enjoyment of the natural and cultural values of the Island and its conservation or which encourage visitation

2.6.7 Review of Environmental Factors

1. Filming is not in itself considered to be an 'activity', however associated activities may be. 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).
2. For activities likely to affect threatened species, populations or ecological communities, a threatened species assessment will be required. For further information please see: <http://www.environment.nsw.gov.au/threatenedspecies/tsaguide.htm>

2.6.8 Environmental Management Bond

1. A suggested range for Environmental Management Bonds is outlined in the Fee Schedule.
2. The Board may require the forfeiture of all or part of the Environmental Management Bond to cover any unforeseen costs (e.g. additional supervision incurred after the approval is signed, site restoration). Any damage caused by the filming over and above the amount of the bond will incur a financial penalty for the cost of restoration work.
3. 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.

2.6.9 Insurance

1. 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 on Lord Howe Island. A certificate of currency must be attached to the signed Approval. The Certificate must name the Lord Howe Island Board as an interested party as per the following text: The Minister for the Environment, the Lord Howe Island Board and the Crown in right of New South Wales.
2. 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.
3. Advice should be sought from the Treasury Managed Fund, the Board's insurer, before any filming activity is approved with a variation of the standard insurance.

2.6.10 Supervision by Staff

1. 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.

2. In the case of filming projects that have potential to significantly promote the Island, the Board may provide staff to serve in a supervisory and interpretive role. The use of staff in interpretative roles does not attract fees.

2.6.11 Filming from Airspace or Waters

1. The LHI Aerodrome is not a controlled airspace and has an operating certificate from first light to last light. Airservices Australia is responsible for regulating aircraft noise relating to take-off, landing and in-flight.
2. Low flying aircraft have the potential to disturb people and compromise conservation objectives (i.e. animals arising from the noise or air turbulence)
3. For applications involving helicopter operations, a special condition will be included in the Filming Agreement that a 'Fly Neighbourly Agreement' is to be developed between the applicant, the aircraft operator and the Board in the interests of minimising the impact of noise on the community. The Fly Neighbourly Agreement will include the number of operations, the height of operations, the time of operations, flight tracks to be used, sensitive areas to be avoided, and other measures to minimise noise impacts on residents and visitors.
4. Applications for filming from waters within the LHI Marine Park are the management responsibility of NSW Marine Parks.
5. The use of Unmanned Aerial Vehicles (UAV or drones) for filming is to be carried out in accordance with Civil Aviation Safety Regulations.

2.6.12 Rescheduling by the proponent

1. 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 rescheduling date agreed upon by both parties. Proponents should be encouraged to nominate contingency days in advance. Any reasonable cost incurred by the Board may be recovered from the applicant e.g. casual staff contracted for the period and an inability to change these arrangements.

2.6.13 Breach of the Conditions of the Agreement

1. The Board will monitor compliance with conditions for all filming approvals and will act to restrain any breaches by taking appropriate enforcement action. 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.
2. Standard conditions of the approval provide that the applicant does not have the right to claim against the Board for damages for loss of business or financial or other loss as a result of such a termination of approval.

2.6.14 Defences

1. The holding of an approval for filming is not a defence against an offence committed under any Act or Regulation unless the activity that constituted that potential offence was specifically permitted in the filming approval.

3 Definitions

3.1 Very Low Risk

Small-scale filming including filming undertaken as a bona-fide personal interest or hobby, weddings, news, and current affairs. No more than 10 crew, with low level equipment use and minimal props or talent.

3.2 Low Risk

Low scale filming including student, government and approved documentaries, lifestyle and travel productions. Minor or negligible impact on the community, tourism and the environment. No more than 25 crew, less than 4 trucks / vans, small or no unit base required.

3.3 Medium Risk

Medium scale productions valued under \$10 million. Minor to medium impact on the community, tourism and the environment. No more than 50 crew, less than 10 trucks / vans, unit base required.

3.4 High Risk

Large scale productions valued over \$10 million. Greater than 50 crew, greater than 10 trucks, large unit base required, medium to major impact on community, tourism and the environment.

4 Attachment A

FILMING AGREEMENT

AGREEMENT Made on _____ of 20 _____

BETWEEN _____ (the “Applicant”)
(Address)

AND LORD HOWE ISLAND BOARD
Bowker Road, Lord Howe Island (the “BOARD”).

WHEREBY:

1. Permission to Enter and Film

1.1. The BOARD, pursuant to section 49 of the Lord Howe Island Regulation, 2014 grants to the Applicant permission to enter and remain on Lord Howe Island for the purposes of filming, recording and related field production on a ‘general access’ basis, including the areas on the island known as:

- a) _____ ; and
- b) _____

(the “Location”),

in accordance with the conditions of the Approval, from _____ to _____ (the “Term”) and further to make use of the resulting footage, sound recording and related field production materials in, and in connection with, the Applicant with the current working title ‘_____’ (the “Production”).

Any additional time and or days required by the Applicant for the Production must be presented in writing to the Board for prior approval.

The Board permits the Applicant to:

- a) erect, maintain, dismantle and remove temporary sets and structures for the purposes of filming, recording and related field production for the Production;
- b) bring people and equipment onto the Location for the purposes of filming, recording and related field production for the Production;
- c) incorporate scenes showing or otherwise depicting the Location in the Production or any other program, either as a sequence on its own or preceded, interlaced or followed by such scenes as the applicant may determine; and
- d) exploit and exhibit film or still photographs including scenes photographed taken or made at, or of the Location which will be the Applicant’s absolute property to use as it thinks fit.

- 1.2. The Applicant agrees that they will vacate the Location on or before the end of the Term. The Applicant will leave the Location in the same state of cleanliness and repair as at the commencement of the occupation and use of the Location.

2. Film Contact Officer

_____ (LHIB _____) is appointed as the Film Contact Officer to assist the Applicant's field production crew in obtaining the necessary approval, support and access to the Board's services during the Term.

3. Consideration

- 3.1. In full and final consideration of the access granted and assistance provided by the Board, as provided in this Agreement, the Applicant will pay to the Board:
 - (a) the amount of _____ Australian dollars (\$____), being the application and ____ level environmental impact assessment fee (\$____) and the Environmental Management Bond (\$____), as set out in the *Lord Howe Island Board's Fees and Charges* published on lhib.nsw.gov.au, prior to filming commencing; and
 - (b) any other fees and charges, as incurred by the Applicant during the Term, as per the aforementioned fees and charges document, including any applicable LHIB officer supervision fee, within fourteen (14) days of the end of the Term, upon receipt of valid invoice from the Board.
- 3.2. If the Applicant needs to shoot re-takes or additional scenes at the Location, the Board will allow the Applicant to, at any time within 12 months after the end of the Term, re-enter the Location on the same terms as this Agreement, except that:
 - a) the dates for re-entry are to be reasonably agreed between the parties;
 - b) the Applicant must pay any additional fees on a pro-rata basis;
 - c) the Special Conditions are revised to reflect any impacts due to a change in dates;
 - d) a Development Application is required if the total additional filming activity is greater than 30 days.

4. Insurances and Indemnities

- 4.1. A minimum public liability insurance of \$AU 10 million must be held by The Applicant. A copy of the policy or a certificate of currency must be attached to the filming application.
- 4.2. The Applicant is required to ensure adequate insurance cover is in place for its field production crew and their filming and related equipment, as is the case with all commercial undertakings in areas managed by the Board. The Board is not liable for any loss or injury to the Applicant's field production crew or equipment except to the extent that such loss or injury arises from the negligence of the Board or any servant, agent, contractor of the Board.
- 4.3. The Applicant agrees to release to the full extent permitted by law the Minister for the Environment, the Board and the Crown in right of New South Wales in the absence of any negligence on their part from all claims and demands of every kind resulting from any accident, loss, death, damage or injury occurring in, on or near the Location and the Applicant expressly agrees that in the absence of any such negligence as aforesaid neither

the Minister for the Environment, the Board and the Crown in right of New South Wales shall have any responsibility or liability for any accident, loss, death, damage or injury suffered or incurred by the Applicant (whether to or in respect to the Applicant's property or business) or the Applicant's employees, agents or contractors or other persons claiming through or under The Applicant.

- 4.4. The Applicant will indemnify and keep indemnified the Minister for the Environment, the Board and the Crown in right of New South Wales and their respective successors, agents, servants, contractors and employees from and against all actions, suits, claims, demands, proceedings, losses, damages, compensation, costs, charges and expenses whatsoever to which any of those indemnified shall or may be or become liable in respect to or arising from or in connection with: loss, damage or injury from any cause whatsoever to property or person caused or contributed to by the Applicant or any servant, agent or contractor of the Applicant or any other person claiming through or under the Applicant in conducting the filming and related field production at and around the Locations; loss, damage or injury from any cause whatsoever to property or person within the Location occasioned or contributed to by any act, omission, neglect, breach or default of the Applicant or any servant agent or contractor of the Applicant or other person claiming through or under The Applicant.
- 4.5. This has effect notwithstanding that any time, waiver or other indulgence has been given to the Applicant by the Board in respect to any such obligations.
- 4.6. The Applicant's liability to indemnify the Board shall be reduced proportionately to the extent that any accident, loss, death, damage or injury referred to above is caused by any wilful or negligent act or omission of the Board or any agent, servant or contractor of the Board.
- 4.7. The obligations of the Applicant continue after the expiry or other determination of this Agreement in respect to any act, deed, matter or thing happening before the expiry or determination of this Agreement.
- 4.8. The Applicant will ensure that its field production crew complies with work health and safety legislation requirements at all times whilst on Lord Howe Island, and that all conditions required under its insurance cover will be met.

5. Warranties

- 5.1. The Board warrants that it has the authority to grant the rights granted to the Applicant pursuant to this Agreement and indemnifies the Applicant for any breach of this warranty.
- 5.2. The Board has no warranty over force majeure events.

6. Rights

- 6.1. Any and all footage, sound recordings and related field production materials made by or on behalf of the Applicant in and around the Location ("**Location Materials**") including all

copyright subsisting in such materials, will be the sole and absolute property of the Applicant who has the unrestricted right to use and exploit (and authorise others to use and exploit) the Location Materials in any and all media, worldwide, and in perpetuity, as it sees fit.

- 6.2. The Applicant has no obligation to make or exploit the Production, or to use any Location Materials in the Production, and the Board will not bring any claim against the Applicant for loss of opportunity in relation to the Production.

7. Confidentiality

- 7.1. The Board acknowledges that it is critical to the success of the Production that secrecy is maintained with respect to the contents of the Production. This includes anything that would impact on the suspense and surprise for viewers when the Production is broadcast. Accordingly the Board will not publicise or discuss this Agreement nor the Production in which the Location appears without the express knowledge and written consent of the Applicant, other than for the purpose of obtaining professional advice. This does not apply to any disclosure that is required by law to make.
- 7.2. The Board acknowledges that any breach of this clause 7.1 may result in irreparable harm and significant injury to the Applicant and that the Applicant is entitled, in addition to any other rights and remedies it may have, to enforce its rights by seeking and obtaining specific performance and/or injunctive relief from breaches of this Agreement.
- 7.3. The Board agrees that it will not seek injunctive relief in relation to the Production and/or the Location Materials.

8. Goods and Services Tax

- 8.1. The Board must provide the Applicant with a Goods and Services Tax (GST) valid tax invoice in accordance with the relevant legislation.

9. Inspection

- 9.1. The parties agree to inspect the Location jointly before and after the Term. Within 14 working days of the Applicant vacating the Location after the end of the Term, the Board may submit to the Applicant a list of property damage for which the Board claims the Applicant is liable. The Board must allow the Applicant to have access to the Location to inspect and, if liable, to rectify the damage. Failure by the Board to notify the Applicant in accordance with this clause relieves the Applicant of all responsibility in respect of damage arising from its use of the Location.

10. Review of Agreements

- 10.1. The Board reserves the right to review the Agreement and the associated conditions of approval if circumstances require it or change. Examples may include where there are concerns regarding a culturally or environmentally sensitive area, continuous wet

weather, or where unforeseen circumstances arise which present immediate threats to habitat, wildlife or public safety.

11. Rescheduling by the Applicant

- 11.1. If it is necessary for the Applicant to re-schedule filming and/or related field production at the Location (for example due to unfavourable weather), the Film Contact Officer must be notified as soon as possible and the proposed re-scheduling date agreed upon by both parties. Any reasonable cost incurred by the Board as a direct result of the re-scheduling may be recovered from the Applicant (for example the cost of contracted casual staff).

12. Acknowledgements

- 12.1. The Location and assistance of the Board and community shall be acknowledged in the end credits for the relevant episode of the Production in which the Location is featured, provided that the precise wording, position and size of such acknowledgement will be determined at the discretion of the Applicant and further will be subject to applicable international broadcaster approvals. It is acknowledged that the Board's preferred form of wording is as follows:

"Filmed on location at Lord Howe Island with the assistance of the Lord Howe Island Board and community.

No environmental damage was incurred on location. The conservation values of the areas have been preserved."

13. Supply of copies of final Production

- Two (2) copies of the finished episode of the Production in which the Location is featured will be provided to the Board on DVD, or other media the Board deems appropriate, strictly for its own private, non-commercial use and further subject to any other conditions stipulated by the Applicant in its discretion.

14. Termination of and Breach of legislation and conditions of the Agreement

- 14.1. The Applicant must comply with all applicable legislation administered by the Board, and with the conditions of the Agreement, and will be subject to all penalties for breaches of such legislation and any conditions of the Agreement.
- 14.2. Any breach of applicable legislation or gross breach of conditions of this Agreement may result in termination of the permission granted, refusal of future applications and imposition of penalties outlined in the relevant legislation.
- 14.3. The Applicant may terminate this Agreement by giving 14 days written notice.

15. Arbitration

- 15.1. The parties agree that any and all disputes or controversies of any nature between them arising in connection with this Agreement shall be determined by binding arbitration in

accordance with the ACICA Arbitration rules (or with the agreement of the parties, ADR Services) before a single neutral arbitrator (“Arbitrator”) mutually agreed upon by the parties. If the parties are unable to agree on an Arbitrator, the Arbitrator shall be appointed by the arbitration service. The seat of arbitration shall be Sydney, Australia. The Arbitrator’s decision shall be final and binding as to all matters of substance and procedure, and may be enforced by a petition to the Superior Court for confirmation and enforcement of the award.

16. Environmental Management Bond

- 16.1. The Environmental Management Bond is required for all commercial filming and photography activities. The Board will retain part of or the entire Bond in the event of any unexpected costs incurred by the Board directly due to the Applicant’s field production activities at or around the Location. The Applicant will be responsible for repairing any damage to the Location caused by it over and above the amount of the Bond. Subject to the foregoing, the Bond, or the remaining portion of the Bond will be returned to the Applicant within 7 days of the completion of any applicable restoration works by the Applicant under clause 9.1 or the expiration of the 14 day period without delivery of a list of property damage by the Board as described in clause 9.1
- 16.2. Additional unforeseen fees or charges (e.g. unplanned time delays, additional supervision incurred after the Agreement is signed) will be deducted from the Bond.
- 16.3. The Board’s Approval granted under the filming application is effective only once the application and low level environmental impact assessment fee and the Environmental Management have been paid pursuant to clause 3 herein, proof of the required insurance cover is sighted, and the Agreement has been signed by an authorised LHIB officer and an authorised representative of The Applicant.

17. Special conditions

17.1. Environmental Management

All equipment and materials are to be removed at the conclusion of the filming activity.

No plant, animal or soil material is to be imported to, or exported, moved or relocated from, or within the Island, without prior approval from the Board outlined under the *Lord Howe Island Regulation 2004*. This includes seeds, cuttings, live or dead animals and rocks and other substances forming part of the island.

No detrimental environmental impact will result from the filming activities.

17.2. Biosecurity

Wash (launder) all clothes, hats and fabric bags and vacuum bags and pockets etc. to remove seeds and soil particles.

Brush all footwear and accessories that may have been in contact with soil to remove soil/mud.

Items such as boots, bags, hats, sporting equipment, camera tripods and walking poles etc. must be washed or sprayed with 70% methylated spirits and water, or Quatsan 1:500, to ensure gear is free of Myrtle rust spore, Phytophthora and other plant pathogens.

Upon arrival, and throughout your stay on LHI, regularly use the boot scrub bays provided at track heads and lodges to clean boots, walking poles and camera tripods.

Any items that may provide harbor for invertebrates must be treated with a knockdown insecticide when packing.

All packed gear should be searched for any other animals when packing and on arrival.

Any foreign plant or animal material found upon arrival should be contained and the Board's Ranger contacted as soon as possible for capture and quarantine management.

17.3. Waste Management

All waste is to be separated and disposed of in labelled waste bins. All food items, including seeds and pips, are to be taken out of bushland areas and disposed at waste bins.

All waste is to be managed, transported, reused, stored, collected, receipted and disposed of in an environmentally satisfactory manner pursuant to *NSW Protection of the Environment Operations Act 1997*, and that all reasonable measures regarding the control and prevention of pollution and waste from being introduced to LHI are implemented.

17.4. Signage

The applicant must not display any advertisement or a sign except with the consent of the LHIB under the Advertising and Signage Policy.

If any removal of existing signage is required the applicant must, within the rehabilitation period return the sign to its normal position.

17.5. Aerodrome Operations

The Applicant will be charged relevant landing fees and parking fees to operate aircraft in / out of the LHI Aerodrome.

The Board will appoint a Works Safety Officer (WSO) at the aerodrome to manage safety for loading and unloading operations and aircraft during these times. WSO charges are at the current 'Plant Operator' rate as per the Board's published fees and charges for the work between 7am and 3:30pm Mon - Fri, and overtime rates outside of that. Any of the Applicant's staff or contractors who do not have Aviation Security Identification Cards (ASICs) would need to provide proof of identification and be logged in as visitors if they are involved in the unloading and loading operations on the airside.

17.6. Use of Drones

The applicant must comply with Civil Aviation Safety Regulations 1998, Part 101 - Unmanned aircraft and rockets and Civil Aviation Safety Authority Instrument No. CASA 96/17. Lord Howe Island is an

uncontrolled airspace. A map of Lord Howe Island Aerodrome, the approach and departure paths and movement area is provided as Attachment A

17.7. Work Health & Safety

The applicant is required to ensure, as far as reasonably practicable that the activity is undertaken in accordance with all laws, regulations, standards and other requirements in relation to work health and safety.

AGREED BY THE PARTIES

SIGNED for and on behalf of
The Lord Howe Island Board

Name.....

Date

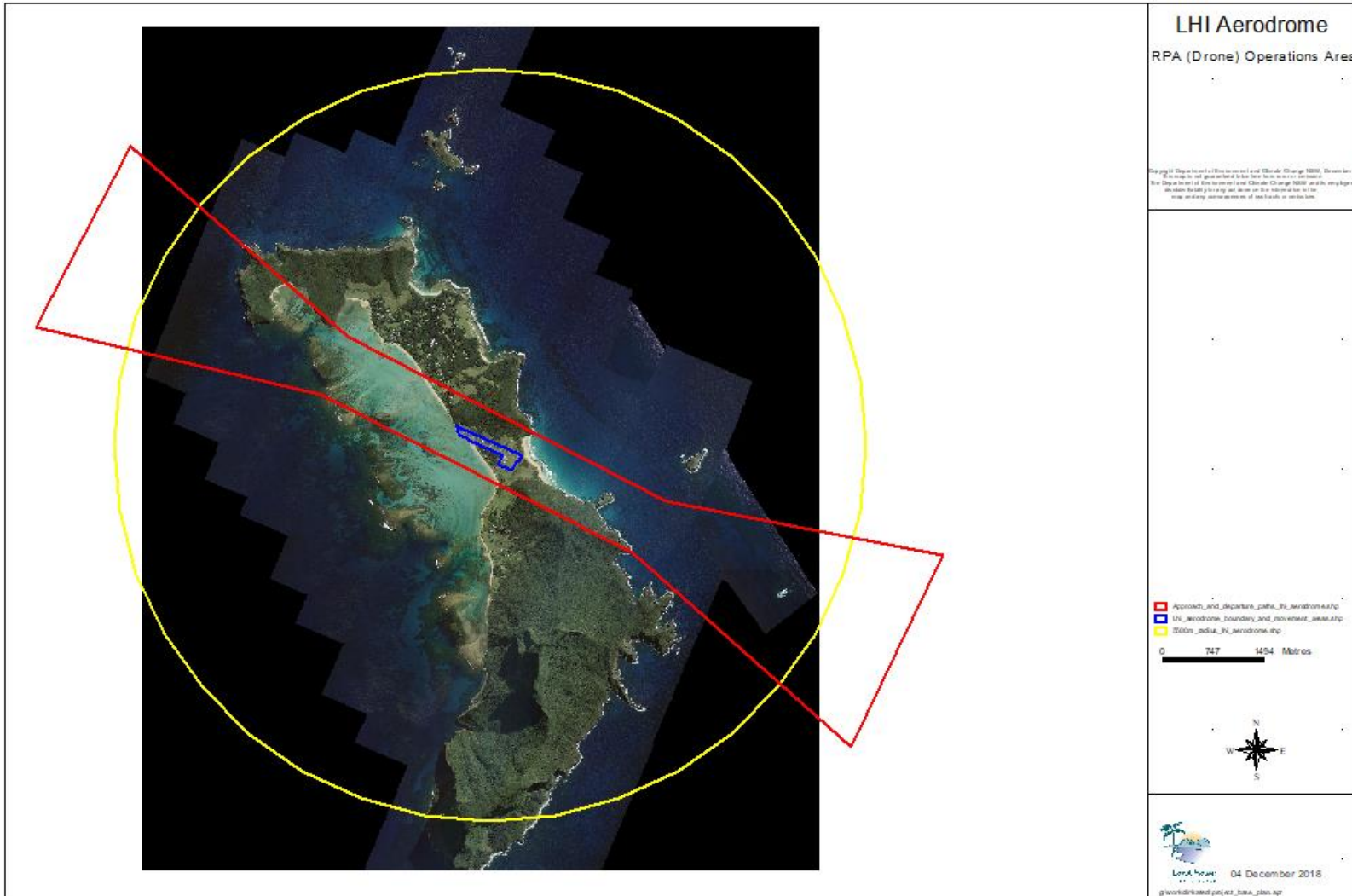
SIGNED for and on behalf of

_____ .

Name.....

Date

5. Attachment B Drone Operations Area



LORD HOWE ISLAND BOARD COMMERCIAL FILMING APPLICATION

SECTION A

APPLICANT DETAILS

Contact Name:

Company Name:

Address:

Phone: Fax:

Email:

PRODUCTION DETAILS

Title of Production:

Director (Name):

On-site Contact: Phone:

Email:

Filming Category:

Commercial Filming – Advertisements Product Name:

Production Filming – Theatre, Television, Cinema Productions

Over \$40 million \$10 million to \$40 million Less than \$10 million

Documentary Filming – Television, Cinema Productions

Documentary Filming – NSW Tourism Sponsored Productions (Endorsement attached)

Government-sponsored Productions – Other Government Agencies E.g.

Educational Filming – TAFE, University, DSE

Research Specify:

Non-profit – Student Productions, Grant Funded (Supporting documentation attached)

Other Specify:

Provide a description of the filming:

.....

.....

.....

SECTION B

FILMING REQUIREMENTS

Please complete Attachment A (Filming Requirements Schedule) for dates, location, cast, crew and vehicle details. Please mark on map/s, the location/s of filming proposed and proposed access and use.

Special Details

Scenes to be filmed:

.....

.....

.....

.....

.....

.....

Presenter/Cast:

Tick the relevant boxes below. Provide further details if you tick 'yes' to any of the boxes.

Do you intend filming marine mammals within the specified minimum distance?

Yes (Additional information is required and a Section 120 Licence must be obtained from NSW National Parks and Wildlife Service.)

.....

No

Are any special security arrangements proposed?

Yes (Specify):

No

Do you require the public to be excluded from the area where filming will be undertaken?

Yes (Specify):

No

Will any special parking arrangements be required on the location?

Yes (Specify):

No

Do you intend to film motor vehicles?

Yes (Specify roads or tracks to be used and indicate if you seek to use vehicles on roads or trails not available for public access):

.....

No

Will vessels, aeroplanes or helicopters vehicles be used?

Yes (Specify):

No

Will you be seeking permission to bring animals including horses, dogs or cats onto the island?

Yes (Specify):

No

Will there be any earthworks or other environmental modification required?

Yes (Specify):

No

Will any signs, including posters or other advertising material, be erected?

Yes (Specify):

No

Will any disturbance to animals or their habitats, including breeding sites, be caused?

Yes (Specify):

No

Will any animals, including fish, be caught or trapped?

Yes (Specify):

No

Will any fires be lit other than in public fire places or flammable substances be brought onto the island?

Yes (Specify):

No

Will there be any structures, including sets, erected or plant and equipment brought onto the island?

Yes (Specify):

No

Will there be any clearing of vegetation required?

Yes (Specify):

No

Will any weapons, including spearguns, firearms, explosives, fireworks be brought onto the island?

Yes (Specify):

No

Will any dangerous activities such as abseiling, base jumping, bungee jumping, rock climbing, parachuting, white water boating or hang gliding be undertaken on the island?

Yes (Specify):

No

Insurance (Attach a copy of public liability insurance cover or certificate of currency to this application).

Public Liability Insurance Company:

Policy No.: Amount:

Expiry Date:..... Agent:

SECTION C

TO BE COMPLETED BY THE LORD HOWE ISLAND BOARD:

1. Supervision Rates

Standard hourly rate

After hours rate (After hours, weekends and public holidays)

Other (Reduced or waived)

18. Short Notice Levy

Application received with less than 24 hours' notice

Application received with less than three days' notice

Application received with less than seven days' notice

19. Miscellaneous

Approved hire of Board equipment

Additional charges for camping fees etc.

Is a Section 120 Licence required for filming marine mammals within minimum distances?

20. CHECK ATTACHMENTS

Filming Application

Map

Application Fee

Location Request Form

Insurance Cover or Certificate of Currency

Security Deposit

21. AUTHORISING OFFICER

Chief Executive Officer

Vice Chairman

Chairman

SECTION D

FILMING INDEMNITY

Applicant's Name:

Address:

Phone:..... Fax:

Email:

This section must be completed by the Applicant before the Agreement comes into effect.

..... indemnifies the State of New South Wales, the Minister administering the Lord Howe Island Act and the Lord Howe Island Board against all actions, claims, demands, losses, damages, costs and expenses in respect of any damage to, or loss of, property, or death or injury to any person which may be suffered or sustained carrying out the filming, which is the subject of this agreement, during the term of this agreement, other than where the same is caused by or contributed to by (but only to the extent of the contribution) by any act or omission of the State of New South Wales, the Minister administering the Lord Howe Island Act and the Lord Howe Island Board or their servants, agents or contractors.

I, in my capacity as the duly authorised agent of the Applicant herein acknowledge having read the Standard Conditions, agree that by signing this Agreement I shall render the applicant legally bound by them, and any special conditions that may be attached in the event that the Agreement is authorised.

Signature of Applicant or Applicant's Representative

Position: Date:

ATTACHMENT A

FILMING REQUIREMENTS SCHEDULE

Location Name of service area and location in area. Attach map with details.	Dates Requested	Between the Hours	Set up Times	Filming Times	Take Down Times	Number of Cast	Number of Crew	Vehicles Types and Registration Numbers (If insufficient space, add additional rows.)
								Cars Trucks Other
								Cars Trucks Other
								Cars Trucks Other
								Cars Trucks Other

Location Name of service area and location in area. Attach map with details.	Dates Requested	Between the Hours	Set up Times	Filming Times	Take Down Times	Number of Cast	Number of Crew	Vehicles Types and Registration Numbers (If insufficient space, add additional rows.)
								Cars Trucks Other
								Cars Trucks Other
								Cars Trucks Other
								Cars Trucks Other

LORD HOWE ISLAND BOARD COMMERCIAL PHOTOGRAPHY APPLICATION

SECTION A

APPLICANT DETAILS

Contact Name:

Company Name:

Address:

Phone: Fax:

Email:

DESCRIPTION / TYPE OF PHOTOGRAPHY

Photography is for a specific project / promotion outlined below:
.....

Photography has been commissioned by a third party for:
.....

Photography is for commercial use and resale to photographic libraries as outlined below:
.....

Photography is for research as outlined below:
.....

The photography falls into the following category (see Lord Howe Island Board Fees and Charges).

Small Scale

Large Scale

Concessional Small Scale (Charities, Not-for-profit organisations, Tourism NSW sponsored or Educational) as outlined below:
.....

Provide a description of how the photographs will be used:

.....

.....

.....

.....

.....

.....
SECTION B

PHOTOGRAPHY REQUIREMENTS

Please complete Attachment A (Photography Requirements Schedule) for dates, location, times and vehicle details. Please mark on map/s, the location/s of photography proposed and proposed access and use.

Is an annual photographic licence required?

Yes Please provide two passport size photographs of the applicant or individual who wishes to be authorised.

This Licence is valid for undertaking small scale photography on Lord Howe Island for a period of 12 months. "Small scale" means any photographic activity which involves a maximum of one photographer plus one assistant; requires only low level equipment use (i.e. backpackable equipment single tripod); and uses no props or talent.

The applicant must make all reasonable efforts to contact the Board office (by phone, fax or e-mail) prior to undertaking photography to indicate locations, dates and times. The applicant must have this Agreement to show the Board and have it on their person at all times while taking pictures. Access rights to parks and reserves is the same as for any member of the public.

No

Tick the relevant boxes below. Provide further details if you tick 'yes' to any of the boxes.

Do you intend photographing marine mammals within the specified minimum distance?

Yes (Additional information is required and a Section 120 Licence must be obtained from NSW National Parks and Wildlife Service.)

.....
 No

Are any special security arrangements proposed?

Yes (Specify):

No

Do you require the public to be excluded from the area where photography will be undertaken?

Yes (Specify):

No

Will any special parking arrangements be required on the location?

Yes (Specify):

No

Do you intend to photograph motor vehicles in the Permanent Park Preserve?

Yes (Specify roads or tracks to be used and indicate if you seek to use vehicles on roads or trails not available for public access):

.....
 No

Will vessels, aeroplanes or helicopters vehicles be used?

Yes (Specify):

No

Will you be seeking permission to bring animals including horses, dogs or cats onto the island?

Yes (Specify):

No

Will there be any earthworks or other environmental modification required?

Yes (Specify):

No

Will any signs, including posters or other advertising material, be erected?

Yes (Specify):

No

Will any disturbance to animals or their habitats, including breeding sites, be caused?

Yes (Specify):

No

Will any animals, including fish, be caught or trapped?

Yes (Specify):

No

Will any fires be lit other than in public fire places or flammable substances be brought onto the island?

Yes (Specify):

No

Will there be any structures, including sets, erected or plant and equipment brought onto the island?

Yes (Specify):

No

Will there be any clearing of vegetation required?

Yes (Specify):

No

Will any weapons, including spearguns, firearms, explosives, fireworks be brought onto the island?

Yes (Specify):

No

Will any dangerous activities such as abseiling, base jumping, bungee jumping, rock climbing, parachuting, white water boating or hang gliding be undertaken on the island?

Yes (Specify):

No

Insurance (Attach a copy of public liability insurance cover or certificate of currency to this application).

Public Liability Insurance Company:

Policy No.: Amount:

Expiry Date:..... Agent:

SECTION C

TO BE COMPLETED BY THE LORD HOWE ISLAND BOARD:

Supervision Rates

Standard hourly rate

After hours rate (After hours, weekends and public holidays)

Other (Reduced or waived)

Short Notice Levy

Application received with less than 24 hours' notice

Application received with less than three days' notice

Application received with less than seven days' notice

Miscellaneous

Approved hire of Board equipment

Additional charges for camping fees etc.

Is a Section 120 Licence required for filming marine mammals within minimum distances?

CHECK ATTACHMENTS

Filming Application

Map

Application Fee

Location Request Form

Insurance Cover or Certificate of Currency

Security Deposit

AUTHORISING OFFICER

Chief Executive Officer

Vice Chairman

Chairman

SECTION D

PHOTOGRAPHIC INDEMNITY

Applicant's Name:

Address:

Phone:..... Fax:

Email:

This section must be completed by the applicant before the Agreement comes into effect.

..... indemnifies the State of New South Wales, the Minister administering the Lord Howe Island Act and the Lord Howe Island Board against all actions, claims, demands, losses, damages, costs and expenses in respect of any damage to, or loss of, property, or death or injury to any person which may be suffered or sustained carrying out the filming, which is the subject of this agreement, during the term of this agreement, other than where the same is caused by or contributed to by (but only to the extent of the contribution) by any act or omission of the State of New South Wales, the Minister administering the Lord Howe Island Act and the Lord Howe Island Board or their servants, agents or contractors.

I, in my capacity as the duly authorised agent of the Applicant herein acknowledge having read the Standard Conditions, agree that by signing this Agreement I shall render the applicant legally bound by them, and any special conditions that may be attached in the event that the Agreement is authorised.

Signature of Applicant or Applicant's Representative

Position: Date:

ATTACHMENT A

PHOTOGRAPHIC REQUIREMENTS SCHEDULE

Location Name of service area and location in area. Attach map with details.	Dates Requested	Between the Hours	Set up Times	Filming Times	Take Down Times	Number of Cast	Number of Crew	Vehicles Types and Registration Numbers (If insufficient space, add additional rows.)
								Cars Trucks Other
								Cars Trucks Other
								Cars Trucks Other
								Cars Trucks Other

Location Name of service area and location in area. Attach map with details.	Dates Requested	Between the Hours	Set up Times	Filming Times	Take Down Times	Number of Cast	Number of Crew	Vehicles Types and Registration Numbers (If insufficient space, add additional rows.)
								Cars Trucks Other
								Cars Trucks Other
								Cars Trucks Other
								Cars Trucks Other