

## DO I NEED A FILM LOCATION RELEASE?

### **Why do I need a location release?**

The Producer should obtain the owner and occupier's permission whenever property is required for shooting a film. Whilst the Australian Copyright Act allows you to film a building or a model of a building, and include it in a film or TV broadcast without infringing copyright, failure to obtain a location release could mean that the producer is liable for trespass on property or doing other things for which there are legal consequences.

Location releases are also important as many film festivals, funding bodies and distributors will require them as part of the chain of title. Chain of title is a series of documents that establish the producer's right to put all the different components of the film together.

It is important to do your research and find out who actually owns the building or land you want to film on and also to find out who the current occupier is. For example, if you are filming in a friend's rented house you should get permission from your friend who is renting the house (occupier) and his or her landlord (owner).

### ***What if I can only contact the Occupier?***

Under the law of trespass, the occupier is legally able to give permission for the filming to take place as the occupier possesses the property. However, it is best practice to ensure that the owner of the land has also given permission.

### ***Will I be trespassing if I don't get permission?***

If you do not seek permission from the occupier, there is a risk you could be trespassing. You will be liable for trespass whenever you enter private land without the permission of the occupier: regardless of any damage caused.

Filming or photographing private property from other premises, from public areas or from the air is generally alright but in some circumstances can amount to trespass, nuisance or criminal liability. For example, filming from the air amounts to trespass where an intrusion into airspace interferes with the occupier's use of the land; this includes prolonged hovering in a helicopter. If the recording includes audio recording of "private conversations" this will be an offence in most States and Territories.

**Do I need permission from the local council if I want to film in a public area?**

Councils play an important role in minimising the impact of activities carried out in the local area through an approval system. Council is also accountable to their ratepayers and residents for the responsible use of council resources, land and community amenities.

Therefore, if you are shooting in a park, on public land, or in a street you should get permission from the local council. A fee usually applies and it is important to allow sufficient time for the application process.

Some activities which may require local council approval include:

- carrying out a trade or business on community or public land;
- exclusive use of the land; the erection of structures (e.g. set construction);
- large numbers of people congregating in one place or parking and creating local traffic congestion (e.g. cast and crew, or trucks for catering);
- use of Crown reserve where the council is the manager;
- activities creating noise and pollution risks; and
- use of special equipment (e.g. cables on footpaths) and dangerous substances.

The relevant local council's power to approve filming related activities may also depend on the proposal and application that a producer is making and the status of the land. If the proposal involves an activity that requires local council approval under the relevant State or Territory Local Government Act then the council can either approve or refuse the application. Further, the local council may be both the landowner and the approval authority for the particular filming activity.

In some circumstances, a producer may be required to notify local residents or community that filming will take place, or agree that at the end of filming they will repair all damage, remove all rubbish and restore the location to its original condition prior to filming and to the satisfaction of the council.

In each State or Territory, and local council area, there may be a different application process. Many States and Territories also have a department of local government protocol for filming. For example, the NSW Department of Local Government has developed the *Local Government Filming Protocol* to guide Councils and filmmakers. The protocol sets out a standard application and approvals process which was developed jointly by the film industry and local and State government in NSW. A copy of this protocol can be obtained from the NSW Department of Local Government or downloaded from the NSW FTO website at: [www.fto.nsw.gov.au](http://www.fto.nsw.gov.au)

Apart from contacting the relevant local council directly, you can contact your regional, State or Territory film body, who can usually assist with the application process:

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- **NSW:** NSW FTO (there are also several regional organisations in NSW, including: Northern Rivers Screenworks; Film Mid-North Coast; Film Central; Film Hunter; Film Illawarra and Film Broken Hill);
- **Victoria:** Film Victoria;
- **South Australia:** South Australian Film Corporation;
- **Tasmania:** Screen Tasmania;
- **Western Australia:** ScreenWest;
- **Queensland:** Pacific Film and TV Commission;
- **Northern Territory:** Northern Territory Film, Television and New Media Office;
- **ACT:** Screen ACTion.

See the Useful Organisations section of this information sheet for the relevant contact details.

### **Insurance**

Most local councils may also require that filmmakers have sufficient public liability insurance. See *The Arts Law Insurance Handbook*, available from Arts Law for further information on insurance.

### **There are some activities that may not need approval**

For example, in NSW under the *Local Government Act (NSW) 1933* “filming” does not include (and so therefore no approval is necessary for):

- still photography; or
- 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
- filming for the immediate purposes of a current affairs or daily news television program.

### **Special approval for certain locations or activities**

Certain locations or activities require special approval, for example locations such as:

- Sydney Opera House – Sydney Opera House Trust;
- Centennial and Moore Parks, Sydney NSW – Centennial and Moore Park Trust;
- Royal Botanic Gardens and Domain, Sydney NSW – Royal Botanical Gardens and Domain Trust;
- National Parks – National Parks and Wildlife Service;

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- Sydney Harbour Foreshore – Sydney Harbour Foreshore Authority; or

Activities such as:

- Regulation of traffic on a State or Territory road – State or Territory road and traffic authority;
- Filming in or on the water, or filming that will have an effect on the local environment or cause pollution (including lighting a fire, smoke, loud noise, explosions, vibrations or the appearance of some form of water or air pollution) – State or Territory waterways, environmental authority or land and water conservation authority;
- Discharging firearms or diverting traffic – Police; and
- Filming on buses, ferries or trains – State or Territory transit or rail authority.

### **Getting assistance**

Does this all sound complicated? Then contact your State or Territory film body (as listed in the Useful Organisations section of this information sheet). Film bodies are there to encourage and support filmmakers using locations in their region, State or Territory.

### **Need more help?**

If you have questions about Location Releases or would like a Location Release document reviewed contact Arts Law.

Telephone: (02) 9356 2566 or tollfree outside Sydney 1800 221 457

Also visit the Arts Law website for articles and information sheets

**[www.artslaw.com.au](http://www.artslaw.com.au)**

### **Additional information may be obtained from:**

#### **NATIONAL**

##### **Australian Film Commission**

(Sydney office)  
Tel: (02) 9321 6444 / 1800 226 615  
Email: [info@afc.gov.au](mailto:info@afc.gov.au)  
[www.afc.gov.au](http://www.afc.gov.au)

##### **Australian Film Commission**

(Brisbane office)  
Tel: (07) 3620 3600  
Email: [infobris@afc.gov.au](mailto:infobris@afc.gov.au)  
[www.afc.gov.au](http://www.afc.gov.au)

##### **Australian Film Commission**

(Canberra / National Film and Sound Archive office)  
Tel: (02) 6284 2000  
Email: [enquiries.nfsa@afc.gov.au](mailto:enquiries.nfsa@afc.gov.au)  
[www.afc.gov.au](http://www.afc.gov.au)

##### **Australian Film Commission**

(Melbourne office)  
Tel: (03) 8646 4300 / 1800 338 430  
Email: [infomelb@afc.gov.au](mailto:infomelb@afc.gov.au)  
[www.afc.gov.au](http://www.afc.gov.au)  
Email: [infomelb@afc.gov.au](mailto:infomelb@afc.gov.au)  
[www.afc.gov.au](http://www.afc.gov.au)

**Screen Producers Association of Australia**

Tel: (02) 9360 8988  
Email: [spaa@spaa.org.au](mailto:spaa@spaa.org.au)  
[www.spaa.org.au](http://www.spaa.org.au)  
Industry association of the Australian independent film & TV production industry, representing the interests of producers.

**AUSTRALIAN CAPITAL TERRITORY**

**ScreenACTion**

Tel: (02) 6205 0587  
Email: [screenact@act.gov.au](mailto:screenact@act.gov.au)  
[www.screenact.act.gov.au](http://www.screenact.act.gov.au)  
ACT Government Office of Film, Television and Digital Media, can assist with location assistance and information on production in the ACT; advocacy; and marketing assistance.

**NEW SOUTH WALES**

**NSW Film and Television Office**

Tel: (02) 9264 6400  
1300 556 386 (outside Sydney)  
Email: [fto@fto.nsw.gov.au](mailto:fto@fto.nsw.gov.au)  
[www.fto.nsw.gov.au](http://www.fto.nsw.gov.au)  
Project development & investment for film & TV; marketing assistance; location assistance & information on production in NSW.

**Metro Screen**

Tel: (02) 9361 5318  
Email: [metro@metroscreen.com.au](mailto:metro@metroscreen.com.au)  
[www.metroscreen.com.au](http://www.metroscreen.com.au)  
Community resource centre for independent film, video & multimedia production.

**NORTHERN TERRITORY**

**Northern Territory Film, Television and New Media Office**

Tel: (08) 8951 1162  
Email: [filmoffice@nt.gov.au](mailto:filmoffice@nt.gov.au)  
<http://www.filmoffice.gov.au/>  
Established in 2004; development of the film, television and new media industries in NT; funding; professional development of NT's independent producers; location and production assistance in NT; support and research services; and cultural protocols.

**Department of Business, Economic and Regional Development**

Tel: (08) 8982 1700 / 1800 193 111  
Email: [info.dberd@nt.gov.au](mailto:info.dberd@nt.gov.au)  
[www.nt.gov.au](http://www.nt.gov.au)

**Office of the Arts and Cultural Affairs**

Department of the Chief Minister  
Tel: (08) 8989 7375

**QUEENSLAND**

**Pacific Film & TV Commission**

Tel: (07) 3224 4114  
Email: [pftc@pftc.com.au](mailto:pftc@pftc.com.au)  
[www.pftc.com.au](http://www.pftc.com.au)  
Project and production development and support; finance; marketing assistance; location assistance and information on production in Queensland.

**QPIX (Queensland Filmmaker's Centre)**

Tel: (07) 3392 2633  
Email: [qpix@qpix.org.au](mailto:qpix@qpix.org.au)  
[www.qpix.org.au](http://www.qpix.org.au)  
Community resource centre for independent film, video & multimedia production.

## **SOUTH AUSTRALIA**

### **South Australian Film Corporation**

Tel: (08) 8348 9300  
Email: [safilm@safilm.com.au](mailto:safilm@safilm.com.au)  
[www.safilm.com.au](http://www.safilm.com.au)  
SA government's film development agency offering financial & location assistance.

### **Media Resource Centre (MRC)**

Tel: (08) 8410 0979  
Email: [info@mrc.org.au](mailto:info@mrc.org.au)  
[www.mrc.org.au](http://www.mrc.org.au)  
Community resource centre for independent film, video & multimedia production.

## **TASMANIA**

### **Screen Tasmania**

Tel: (03) 6233 6995  
Email: [info@screen.tas.gov.au](mailto:info@screen.tas.gov.au)  
[www.screentas.tas.gov.au](http://www.screentas.tas.gov.au)  
State government agency supporting film, TV and multimedia.

## **VICTORIA**

### **Film Victoria**

Tel: (03) 9660 3200  
Email: [contact@film.vic.gov.au](mailto:contact@film.vic.gov.au)  
[www.film.voc.gov.au](http://www.film.voc.gov.au)

### **Australian Centre for the Moving Image**

Tel: (03) 9929 7040  
Email: [info@acmi.net.au](mailto:info@acmi.net.au)  
[www.cinemedi.net](http://www.cinemedi.net)  
Government agency supporting Victoria's film & multimedia industries.

### **Open Channel**

Tel: (03) 8610 9300  
Email: [infol@openchannel.org.au](mailto:infol@openchannel.org.au)  
[www.openchannel.org.au](http://www.openchannel.org.au)  
Community resource centre for independent film, video & multimedia production.

## **WESTERN AUSTRALIA**

### **ScreenWest**

Tel: (08) 9224 7340  
Email: [info@screenwest.com.au](mailto:info@screenwest.com.au)  
[www.screenwest.com.au](http://www.screenwest.com.au)  
State government agency providing project development & investment for film & TV; marketing & location assistance in WA.

### **Film Television Institute (FTI)**

Tel: (08) 9431 6700  
Email: [fti@fti.asn.au](mailto:fti@fti.asn.au)  
[www.fti.asn.au](http://www.fti.asn.au)  
Community resource centre for independent film, video & multimedia production.

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*This information sheet is intended as a guide to the law only. It is not legal advice and should not be used as a substitute for legal advice.*

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