

# Commercial Activities on Rous Water Operational Land

Version: 1.0

## COMMERCIAL OPERATOR GUIDELINES

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## 1. INTRODUCTION

The following application guidelines provide the requirements for activities permissible under the Rous Water Policy: *Private Recreation, Community Events and Commercial Uses on Operational Land*.

Any commercial activities that are issued a *Commercial Activities Permit* pending a successful application, must adhere to the applicable Commercial Activity Operating Conditions for the duration of the permit.

## 2. DEFINITIONS

In these guidelines the following definitions apply:

**Operating Conditions** Conditions required to be met by Commercial Activities Permit holder.

**Commercial Activities Permit** The approval containing consent for the operation of a commercial activity on Rous Water operational land. Commercial operators are issued a *Temporary Permit – For Use of Rous Water Owned or Managed Land – (Commercial Activities Permit)*.

**Public land** All Council owned or controlled land including Crown land that Council is the Trust manager of and community and operational land as classified under the *Local Government Act 1993*.

## 3. COMMERCIAL ACTIVITIES – GENERAL CONDITIONS

The following information provides details of Rous Water's general conditions for Commercial Activities on Operational Land.

### 3.1. Activities requiring a Commercial Activities Permit

Rous Water Policy: *Private Recreation, Community Events and Commercial Uses on Operational Land* establishes the permissible commercial uses. A Commercial Activities Permit is required to be obtained if it is intended to:

- a) Carry-out or be involved in commercial and / or business activities on Rous Water operational land. An application for a temporary permit from Rous Water will be required to be submitted.
- b) Carry-out activities on Rous Water operational land that are not limited to activities taking place wholly on this land but also include activities that involve crossing operational land, or transferring people or items on, off or over this land. Council requires issuing a permit for any activity, or part of an activity involving a reserve.

Note: Arrangements relating to the leasing and agistment of property are subject to separate approvals and agreements are excluded from the scope of these guidelines.

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### **3.2. Commercial Activities Permit**

Commercial operators with the intention of using Rous Water operational land to conduct their activities are required to make an application to Council. If Council deems the activity appropriate, then the commercial operator shall be granted a temporary *Commercial Activities Permit*. The permit is valid for a period of twelve (12) months.

The *Commercial Activities Permit* gives the commercial operator the legal right to carry out their proposed activity on Rous Water land and is a formal agreement where Rous Water has the opportunity to advise the operator of their responsibilities and obligations as it relates to their commercial activity.

Consent for commercial access to operational land does not provide exclusive use of the area, nor does it obligate Rous Water to carry out any works in association to that commercial access.

### **3.3. Applications for Commercial Activities Permit**

The application process allows Rous Water to obtain the commercial operator's insurance cover, risk and safety management and details about the commercial activity that will occur on operational land. The process also allows Rous water to provide the commercial operator with a permit to conduct their activity, operating guidelines and permit conditions.

- a) All applications shall be in writing on the approved form, setting out the proposal in detail and accompanied by the appropriate application fee.
- b) Any application for a permit that fails to meet the requirements as outlined in these guidelines shall be rejected with reasons given and returned to the applicant by Rous Water.
- c) All applications for permits under this policy shall be assessed and determined by the General Manager of Rous Water or by his or her delegate, in consultation with representatives from relevant agencies where appropriate.
- d) All applications for permits are to be assessed and determined within a two (2) week period from date of receipt.

### **3.4. Commercial Activities Permit - Operating Conditions**

Permit conditions for the listed commercial activities are explained in further detail in this document under Section 4 (Commercial Activities – Activity Specific Conditions). Rous Water may require operators to comply with additional permit conditions. These shall be noted on the permit.

### **3.5. Number and Type of Commercial Activities Permits to be issued**

There is currently no limit placed on the number of commercial activity permits issued by Council. The number of permits issued is renewed annually.

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### **3.6. Renewal of Commercial Activities Permits**

Commercial operators seeking to renew a permit must submit to Council an *Application for a Temporary Permit for use of Rous Water Operational Land* before a current permit expires. The renewal of an expired permit will depend on the following:

- a) Strict compliance with the permit conditions is required.
- b) The renewal of a permit will be dependent on the permit holder showing a satisfactory standard of performance in all areas.
- c) Breaches of permit conditions, or lapses in standards, may result in permit cancellation.
- d) Rous Water reserves the right not to renew permits to replace an expired permit.
- e) A renewal of a permit will be issued for a period of one (1) year.

### **3.7. Assessing Commercial Activities Permit Applications**

Council will assess the information provided in applications for permits based on the following selection criteria:

- a) Demonstrated successful experience in conducting the activity to a high professional standard.
- b) Demonstrated history and experience of environmentally acceptable operations.
- c) Demonstrated appropriate level of knowledge and understanding of local conditions, natural and cultural history, ecological processes and possible constraints.
- d) Demonstrated experience in or capacity to, meet permit conditions including the keeping of records and prompt payment of fees.
- e) Demonstrated ability to provide appropriate safety requirements and duty of care responsibilities.
- f) Demonstrated capability to promote interpretive and educational information that ensures clients are receiving instruction in minimal impact techniques, environmental protection and ethics of appropriate behaviour.
- g) Demonstrated compatibility with the operational land purpose or any Plans of Management.

### **3.8. General Provisions for Commercial Activities Permits**

The general provisions listed in this clause will apply to all permits.

- a) Permits will be issued for a maximum period of twelve (12) months.
- b) Permits are not tangible assets and cannot be transferred to a new operator.
- c) Permits conditions will use industry standards, where applicable.

### **3.9. Breaches and Non-Permitted Activities**

Council will take all necessary action where there is any breach of permit conditions, including non-permitted activities and / or operating a commercial activity without a permit.

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This action includes but is not limited to: the issuing of written and verbal warnings; undertaking injunction proceedings and other legal action and where appropriate; and the removal of the activities from the reserve by an employee of Rous Water or NSW Police.

### **3.10. Termination or Suspension of Commercial Activities Permits**

- a) Council reserves the right to suspend any permitted activities for management reasons including, but not limited to, environmental protection, public safety and changes in policy or legislation. In the event of an extended closure (consisting of 4 or more weeks), Rous Water shall return that portion of the annual fee. Rous Water is not liable for any commercial losses caused by any such closure.
- b) The permit may also be terminated in the following circumstances:
  - If any fees payable, or any part thereof are in arrears for thirty (30) days, whether formally demanded or not;
  - If proof of current public liability insurance cover is not provided prior to commencement of, or during a permit period;
  - If the permit holder breaches any conditions of this policy or the permit;
  - If the permit holder has committed an act of bankruptcy; and
  - If the permit holder commits an unlawful act or breaches the requirements of any other relevant authority.
- c) If the permit is to be terminated due to the circumstances set out in this clause, Rous Water may terminate the permit by:
  - Notifying the permit holder to that effect; or
  - Restricting the permit holder from operating the activity on the reserves, by force if necessary; or doing both.

If a breach of a condition in the permit is witnessed and recorded by a Rous Water Officer or reported to Rous Water and investigated, a written warning may be forwarded to the operator. Rous Water reserves the right to issue verbal warnings for minor deviations from the permit.
- d) A permit holder has a right to provide a written response to a warning within twenty eight (28) days. The General Manager has the authority to determine whether or not the warning should be waived based on the response.
- e) If a permit holder receives three (3) written warnings, within a three (3) year period, Rous Water will terminate the permit.
- f) While a permit holder holds a one (1) year permit the issuing of two (2) written notices in that period will result in termination of the permit.

### **3.11. Nature and Determination of Fees and Charges**

Fees and charges for commercial use of operational land, establishes a small revenue stream that contributes to the management of Rous Water assets.

The fees and charges payable in relation to commercial activities on operational land are set out in Rous Water's *Fees and Charges* Schedule.

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Council will determine at a minimum the following fees:

- Permit Processing Fee
- Commercial Activities Permit Fee

Fees will be determined taking into account but not limited to, the following:

- Nature of activity
- Scale of the operation
- Use and impact on the public access area
- Impact on the community both beneficial and detrimental
- Consistency with Rous Water management objectives
- Level of administration required by Rous Water
- Level of impact of the activity on the environment

#### **4. COMMERCIAL ACTIVITIES – ACTIVITY SPECIFIC CONDITIONS**

The following schedule outlines the specific permit conditions as it relates to each commercial activity conducted on Rous Water Operational Land.

##### **4.1. Schedule A - Personal Fitness Trainers Operating Requirements**

All personal fitness trainers must meet the following minimum requirements:

###### **4.1.1. Qualifications**

Documentation, as listed below, demonstrating current qualifications from all trainers, must be lodged with Rous Water at time of application. Once awarded, it is the permit holder's responsibility to maintain current qualifications and certificates for all trainers:

1. Personal Fitness Trainer accreditation and registration with Fitness Australia; and
2. Senior First Aid Certificate (from a recognised registered training organisation).

###### **4.1.2. Risk and Safety and Operational Management Protocol**

All personal fitness trainers must meet the following minimum requirements:

1. Ensure compliance with the *Work Health and Safety Act 2011 (WHS Act)*, and
2. Prepare, submit to Council and adhere to a documented "Risk, Safety and Operational Management Plan" according to legislative requirements. This is to include a risk assessment to cover the whole operations of your activity taking into account all associated hazards, the likelihood of consequence and appropriate control of identified hazard, first aid, emergency response and evacuation plan. This is also to include demonstrated experience in personal fitness training operations to a high professional standard, understanding and knowledge of local conditions, natural and cultural history, ecological processes and possible constraints to the personal fitness training

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operations, capacity to meet permit conditions, capability to promote interpretive and educational information.

Rous Water will review the risk assessment that you provide to verify that it appears to be appropriate for the nature and extent of the proposed activity. However in undertaking this review Rous Water is unable to verify the adequacy of the assessment provided by the applicant, nor the risk management measures adopted, and

3. Demonstrated compatibility with Rous Water operations and other uses of the site, and
4. Not allow the operation to result in an "*offensive noise*" to nearby residents as defined in the *Dictionary of the Protection of the Environment Operations (POEO) Act 1997*.
5. The following equipment is to be provided on the site with every class:
  - Mobile phone.
  - First Aid Kits (to be audited upon request by Council, each licence period); and
  - Drinking water.

#### 4.1.3. Insurance Cover

Current "Certificate of Currency" for Public Liability - \$10 million (such policy to include Rous Water noted as an interested party). Please note, as insurance is updated current "Certificate of Currency" must be lodged with Council at all times.

#### 4.1.4. Other Conditions

1. Personal fitness trainers are permitted to operate within public access areas on Rous Water operational lands at Rocky Creek Dam.
2. Fitness training groups may not incorporate any water based activity or craft of any form into their training.
3. Permits are not transferable or saleable.
4. Businesses are only permitted to run booking based operations and are not to operate shopfronts based on operational land.
5. A maximum of two (2) clients for each personal fitness trainer is permitted per class.
6. Each personal fitness trainer must operate at a minimum of 200m apart from any other permitted commercial operator.
7. No personal fitness trainer shall operate within 50m of a water body.
8. No personal fitness trainer shall have priority over any other permitted commercial operator when using Rous Water operational land. Each personal fitness trainer is encouraged to liaise with other permitted personal fitness trainers, to ensure that only one personal fitness trainer is present in the area at any one time and that the public access areas are shared.
9. Any permitted personal fitness trainer shall not interfere with any other private user, or enjoy exclusive use rights over the site.
10. Permitted personal fitness trainers shall ensure that when using paths, steps and stairs, participants maintain a single file and do not block the public access.

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11. Personal Fitness Trainers should be easy to identify from a distance and be distinguishable from clients, other commercial operators and the public, by using distinctively coloured garments with clear writing.
  12. Personal fitness training must be cancelled or relocated if conditions are unsafe, or if a major event is being held. All reasonable directions from Rous Water Officers must be complied with.
  13. No vehicles are to be driven off-road within Rous Water operational land.
  14. Personal fitness trainers are not permitted to operate in vegetated areas.
  15. Advertising on the reserve is only permitted when attached to vehicles, uniforms and equipment.
  16. Personal fitness trainers are required to provide caution and safety at all times when in close proximity to other private recreational users.
  17. Personal fitness trainers are to keep and retain a signed record of clients participating in training.
  18. Council reserves the right to undertake an onsite audit of the personal fitness trainer business at any time covering qualifications of instructors, safety and operating equipment, operations, compliance with conditions and daily signed records, including details of participants. All audit requirements must be made available by the personal fitness trainer to Rous Water as requested onsite.
  19. If found non-compliant, Rous Water may issue a verbal or written warning, or stop the personal fitness trainer operating until demonstrated compliance exists and / or revoke the permit.
  20. Liaison is to be maintained with the Rous Water Officer at the site to be used by a personal fitness trainer.
  21. Any class area or parking area is to be kept in a clean and tidy condition, free from litter and refuse at all times.
  22. Personal fitness trainers are not to be prohibited persons under the Child Protection legislation. (Please refer to [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)).
  23. Personal fitness trainers are responsible for ensuring compliance with the *WHS Act*.
  24. Any other conditions that Rous Water may impose from time to time must be immediately and strictly adhered to.

#### 4.1.5. Legislative Constraints

1. Commercial Personal Fitness Trainers must ensure their operations provide no impact upon any threatened species, population or ecological community or damage habitat listed under the *Threatened Species Conservation Act 1995* and the *Fisheries Management Act 1994*.
2. Should an impact be proposed, then appropriate licenses / permits must be obtained by the Personal Fitness Trainer.

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## 4.2. Schedule B - Ecotourism Tour Operating Requirements

Ecotourism operators may focus on (but are not limited to) flora, fauna and cultural heritage tours. All ecotourism tour operators must meet the following minimum requirements:

### 4.2.1. Qualifications

Documentation demonstrating current qualifications, as listed below, must be lodged with Council at the time of application. Once awarded, it is the permit holder's responsibility to maintain current qualifications and certificates for all trainers:

1. Senior First Aid Certificate (from a recognised registered training organisation);
2. Tour guide/leader accreditation with a recognised Educational Accreditation Organisation, Council or Academy in the same field as the proposed ecotourism tour topic; and
3. Any licenses or permits for working in or around threatened or protected species, ecological communities and cultural heritage sites.

### 4.2.2. Risk and Safety and Operational Management Protocol

All ecotourism operators must meet the following minimum requirements:

1. Ensure compliance with the *WHS Act*, and
2. Prepare, submit to Rous Water and adhere to a documented "Risk, Safety and Operational Management Plan" according to legislative requirements. This is to include a risk assessment to cover all operations of your activity, taking into account all associated hazards, the likelihood of consequence and appropriate control of identified hazard, first aid, emergency response and evacuation plan. This is also to include demonstrated experience in ecotourism operations to a high professional standard, understanding and knowledge of local conditions, natural and cultural history, ecological processes and possible constraints to the ecotourism tour, capacity to meet permit conditions, capability to promote interpretive and educational information and demonstrated compatibility with the operational land purpose, or any Plans of Management.

Rous Water will review the risk assessment that you provide to verify that it appears to be appropriate for the nature and extent of the proposed activity. However in undertaking this review Rous Water is unable to verify the adequacy of the assessment provided by the applicant, nor the risk management measures adopted, and

3. Not allow the operation to result in an "*offensive noise*" to nearby residents as defined in the Dictionary of the *Protection of the Environment Operations (POEO) Act 1997*, and
4. The following equipment is to be provided on the site with every tour:
  - Mobile phone;
  - First aid kits (to be audited upon request by Council, each licence period); and
  - Drinking water.

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#### 4.2.3. Insurance Cover

Current "Certificate of Currency" for Public Liability - \$10 million (such policy to include Rous Water noted as an interested party). Please note, as insurance is updated, current "Certificate of Currency" must be lodged with Council at all times.

#### 4.2.4. Other Conditions

1. Ecotourism operators are permitted to operate on Rous Water operational lands at Rocky Creek Dam and Emigrant Creek Dam.
2. No water based activities may occur as part of the tour at any time.
3. Permits are not transferable or saleable.
4. Ecotourism businesses are only permitted to run booking based operations and are not to operate reserve based hiring of equipment or shopfronts.
5. A maximum of thirty (30) clients per tour are permitted.
6. Each tour operator is to maintain a minimum distance of 50m apart from other permitted commercial ecotourism operators whilst conducting business.
7. The ecotourism operator is to maintain activities at a distance of over 50m to a water body.
8. No ecotourism business shall have priority over any other permitted commercial operators when using a site. Each ecotourism business is encouraged to liaise with other permitted commercial operators, to ensure that only one business is in the same area at the same time.
9. Any permitted tour shall not interfere with any other reserve user, or enjoy exclusive use rights over any operational land under the care, control and management of Rous Water.
10. Permitted ecotourism operators shall ensure that when using paths, steps and stairs, participants maintain a single file and do not block the paths allowing public access.
11. Tour guides / leaders should be easy to identify from a distance and be distinguishable from clients, other commercial operators and the public by using distinctively coloured garments with clear writing.
12. Ecotourism activities must be cancelled or relocated if a major event is being held that the ecotourism business is not a part of. All reasonable directions from Rous Water Officers must be complied with.
13. No vehicles are to be driven off-road on Rous Water operational land.
14. Ecotourism operators are not permitted to enter vegetated areas that are not part of designated walking tracks.
15. Advertising on the reserve is only permitted when attached to vehicles, trailers, uniforms and equipment.
16. Ecotourism operators are required to provide caution and safety at all times when in close proximity to other private users.
17. Ecotourism operators are to keep and retain a signed record of clients participating in activities.

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18. Rous Water reserves the right to undertake an onsite audit of the ecotourism business at any time covering qualifications of instructors, safety and operating equipment, operations, compliance with conditions and daily signed records, including details of participants. All audit requirements must be made available by the ecotourism business to Rous Water as requested onsite.
  19. If found non-compliant, Rous Water may issue a verbal or written warning or stop the ecotourism business operating until demonstrated compliance exists and / or revoke the permit.
  20. Close liaison is to be maintained with the Rous Water Officer at the site to be used by the Ecotourism Operator.
  21. Any activity area or parking area is to be kept in a clean and tidy condition free from litter and refuse at all times.
  22. Ecotourism businesses are responsible for ensuring that guides / leaders are not prohibited persons under the Child Protection legislation (please refer to [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)).
  23. Ecotourism operators are responsible for ensuring compliance with the *WHS Act*.
  24. Any other conditions that Rous Water may impose from time to time must be immediately and strictly adhered to.

#### 4.2.5. Legislative Constraints

1. Ecotourism operators must ensure their operations provide no impact upon any threatened species, population or ecological community or damage habitat listed under the *Threatened Species Conservation Act 1995* and the *Fisheries Management Act 1994*.
2. Should an impact be proposed, then appropriate licenses / permits must be obtained by the ecotourism operator.

### 4.3. **Schedule C – Seed Collectors Operating Requirements**

All commercial seed collectors must meet the following minimum requirements:

#### 4.3.1. Qualifications

Documentation, as listed below, demonstrating current qualifications from all seed collectors, must be lodged with Rous Water at time of application. Once awarded, it is the permit holder's responsibility to maintain current qualifications and certificates for all seed collectors.

1. Membership to the Australian Association of Bush Regenerators (AABR); and/or
2. Possession of Bush Regeneration Certificate IV or an equivalent qualification in natural resource management, or currently undertaking appropriate studies combined with extensive practical experience; and
3. Senior First Aid Certificate (from a recognised registered training organisation).

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#### 4.3.2. Risk and Safety and Operational Management Protocol

All seed collectors must meet the following minimum requirements:

1. Ensure compliance with the *WHS Act*, and
2. Prepare, submit to Rous Water and adhere to a documented "Risk, Safety and Operational Management Plan" according to legislative requirements. This is to include a risk assessment to cover the whole operations of your activity taking into account all associated hazards, the likelihood of consequence and appropriate control of identified hazard, first aid, emergency response and evacuation plan. This is also to include demonstrated experience in seed collection operations to a high professional standard, understanding and knowledge of local conditions, natural and cultural history, ecological processes and possible constraints to seed collection operations, capacity to meet permit conditions, capability to promote interpretive and educational information and demonstrated compatibility with the sites purpose or any Plans of Management.

Rous Water will review the risk assessment that you provide to verify that it appears to be appropriate for the nature and extent of the proposed activity. However in undertaking this review Rous Water is unable to verify the adequacy of the assessment provided by the applicant, nor the risk management measures adopted, and

3. Not allow the operation to result in an "*offensive noise*" to nearby residents as defined in the *Dictionary of the Protection of the Environment Operations (POEO) Act 1997*.
4. The following equipment is to be provided on the site with every person or group undertaking collection:
  - Mobile phone;
  - First aid kits (to be audited upon request by Council, each licence period); and
  - Drinking water.

#### 4.3.3. Insurance Cover

Current "Certificate of Currency" for Public Liability - \$10 million (such policy to include Rous Water noted as an interested party). Please note as insurance is updated current "Certificate of Currency" must be lodged with Rous Water at all times.

#### 4.3.4. Other Conditions

1. Commercial seed collectors are permitted to operate within public access areas on Rous Water operational lands at Rocky Creek Dam.
2. Seed collectors may not enter the water body to undertake seed collection activities.
3. Permits are not transferable or saleable.
4. A maximum of one (1) support seed collector is permitted to work alongside each commercially permitted seed collector at any given time.
5. Each commercial seed collector must operate at a minimum of 200m apart from any other permitted seed collectors.
6. No permitted seed collector shall operate within 50m of the water body.

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7. No commercial seed collector shall have priority over any other permitted commercial operator when using Rous Water operational land. Each commercial seed collector is encouraged to liaise with other permitted seed collectors to ensure that only one collector is present in the area at any one time and that the public access areas are shared.
  8. Any permitted seed collector shall not interfere with any other private user, or enjoy exclusive use rights over any area.
  9. Permitted seed collectors should ensure that when using paths, steps and stairs, they and their equipment do not block public access.
  10. Seed collectors should be easy to identify from a distance and be distinguishable from other commercial operators and the public by using distinctively coloured garments with clear writing.
  11. Seed collection activities must be cancelled or relocated if conditions are unsafe, or if a major event is being held. All reasonable directions from Rous Water Officers must be complied with.
  12. No vehicles are to be driven off-road on Rous Water operational land. Commercial operators are to use the main car parking area.
  13. Advertising on the reserve is only permitted when attached to vehicles, uniforms and equipment.
  14. Seed collectors are required to provide caution and safety at all times when in close proximity to other private recreational users.
  15. Permitted seed collectors are to keep and retain daily signed record of staff or support crew participating in collection activities.
  16. Rous Water reserves the right to undertake an onsite audit of the commercial seed collectors at any time covering qualifications of instructors, safety and operating equipment, operations, compliance with conditions and daily signed records, including details of collectors. All audit requirements must be made available by the seed collector to Rous Water as requested onsite.
  17. If found non-compliant, Rous Water may issue a verbal or written warning or stop the seed collector operating until demonstrated compliance exists and / or revoke the permit.
  18. Close liaison is to be maintained with Rous Water personnel at the site to be used by a commercial seed collector.
  19. Any seed collection area or parking area is to be kept in a clean and tidy condition free from litter and refuse at all times.
  20. Commercial seed collectors are not to be prohibited persons under the Child Protection legislation. (Please refer to [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)).
  21. Commercial seed collectors are responsible for ensuring compliance with the *WHS Act*.
  22. Any other conditions that Rous Water may impose from time to time must be immediately and strictly adhered to.

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#### 4.3.5. Collection Guidelines

1. The collector should take care to minimise damage to any understorey plants including flowers and groundcovers by trampling under foot or by vehicles.
2. Within largely intact forests systems, taking should be aimed at abundant and secure populations of any particular species and not at relict specimens.
3. Taking should not be undertaken from solitary plants and should be undertaken only from stands or groups of plants.
4. All nesting sites, tree hollows and other habitats of protected animals must be left undisturbed.
5. Any damage caused to fences, or other property must be reported immediately to Rous Water.
6. To maximise biological diversity, take seed from five or more plants of the same species at least 100 metres apart if practical.
7. Take only as much seed as is required and ensure all cuts are judicious; cut capsules/fruits as close their base as is practicable.
8. In harvesting seed or other propagating material, no plant is to be cut down or mutilated. If limbs are removed by hand saw, commando saw or other means, no more than 10 percent of the crown is to be removed. Limbs or branches removed are to be less than 10cm in diameter at the removal point for non-eucalypt species and less than 20cm in diameter for eucalypt species.
9. No more than 20 percent of the capsules/fruits or other propagating material from any one plant is to be collected in any calendar year.
10. Where possible, take only fully ripe seed. All cycad seed harvested must be ripe and shed from the plant or be on the point of being shed.
11. At the time of collection, all seed should be labelled clearly with the species of plant, the date of collection, place of collection and the name, address and licence/permit number/s of the collector.
12. Where practical, harvested twigs and discarded seed capsules/fruit should be dispersed within the general area where some germination might be expected. However, disposal of these unwanted parts must be in a manner that does not interfere with the day-to-day operations of the landholder.

#### 4.3.6. Legislative Constraints

1. Commercial seed collectors must ensure their operations provide no impact upon any threatened species, population or ecological community or damage habitat listed under the *Threatened Species Conservation Act 1995* and the *Fisheries Management Act 1994*.
2. Similarly you are not authorised to collect seed from any threatened species or ecological community listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.
3. Should an impact be proposed then appropriate licenses/permits must be obtained by the seed collector.

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4. Much of the remnant vegetation on the NSW north coast coastal floodplain occurs within Endangered Ecological Communities (EEC), scheduled under the *TSC Act*, and care needs to be taken that the functioning of these communities is not adversely impacted by your activities.
  5. Destruction of threatened fauna habitat will constitute a breach of this authority, for example the *Vulnerable Common Blossom Bat* (*Syconycteris australis*) feeds almost exclusively on coastal banksia species flowers.

#### **4.4. Schedule D Commercial Filming/Photography Operating Requirements**

All commercial film makers and photographers must meet the following minimum requirements:

##### **4.4.1. Qualifications**

Documentation, as listed below, demonstrating current qualifications from the filmmaker/photographer, must be lodged with Council at time of application. Once awarded it is the permit holder's responsibility to maintain current qualifications and certificates for:

1. Senior First Aid Certificate (from a recognised registered training organisation).

##### **4.4.2. Risk and Safety and Operational Management Protocol**

All commercial film makers and photographers must meet the following minimum requirements:

1. Ensure compliance with the *WHS Act*.
2. Prepare, submit to Council and adhere to a documented "Risk, Safety and Operational Management Plan" according to legislative requirements. This is to include a risk assessment to cover the whole operations of your activity taking into account all associated hazards, the likelihood of consequence and appropriate control of identified hazard, first aid, emergency response and evacuation plan. This is also to include demonstrated experience in filming/photography operations to a high professional standard, understanding and knowledge of local conditions, natural and cultural history, ecological processes and possible constraints to the filming/photography operations, capacity to meet permit conditions, capability to promote interpretive and educational information, and demonstrated compatibility with Rous Water operations and other uses of the site.

Rous Water will review the risk assessment that you provide to verify that it appears to be appropriate for the nature and extent of the proposed activity. However in undertaking this review Rous Water is unable to verify the adequacy of the assessment provided by the applicant, nor the risk management measures adopted, and

3. Not allow the operation to result in an "*offensive noise*" to nearby residents as defined in the *Dictionary of the Protection of the Environment Operations (POEO) Act 1997*, and

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4. The following equipment is to be provided on the site with each days shoot:
- Mobile phone;
  - First aid kits (to be audited upon request by Council, each licence period); and
  - Drinking water.

#### 4.4.3. Insurance Cover

Current "Certificate of Currency" for Public Liability - \$10 million (such policy to include Rous Water noted as an interested party). Please note as insurance is updated current "Certificate of Currency" must be lodged with Council at all times.

#### 4.4.4. Other Conditions

1. Commercial film makers and photographers' are permitted to operate within public access areas on Rous Water operational lands at Rocky Creek Dam, Whian Whian Falls' area and Emigrant Creek Dam.
2. Commercial film makers and photographers may not incorporate any water based activities of any form (swimming, boating) into their filming / photography without prior consent from Rous Water.
3. Permits are not transferable or saleable.
4. Film makers are not permitted to set up an office on site. If your project requires filming outside normal business hours, you need to get permission to be on location out of normal operational hours. You may be granted special permission to leave vehicles on site for the duration of the shoot should the shoot last several days.
5. Each commercial film maker or photographer must operate at a minimum of 200m apart from any other licensed commercial operator.
6. No commercial film maker or photographer shall film from within 50m of a water body unless specific consent has been provided by Rous Water.
7. No commercial film maker or photographer shall have priority over any other permitted commercial operator when using Rous Water operational land. Each film maker/photographer is encouraged to liaise with other permitted film makers and photographers to ensure that only one filmmaker / photographer is present in the area at any one time and that the public access areas are shared.
8. Any permitted film maker or photographer shall not interfere with any other private user, or enjoy exclusive use rights over the site unless specific approval has been provided.
9. Any permitted film maker or photographer shall not film or photograph visitors to Rous Water operational land without the visitor's consent.
10. Permitted film makers or photographers shall ensure that when using paths, steps and stairs, (unless specific approval has been provided) the shoot and associated equipment does not block the paths allowing public access.
11. Film crew and photographers should be easy to identify from a distance and be distinguishable from other commercial operators and the public by using distinctively coloured garments with clear writing.

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12. Commercial filming and photography must be cancelled or relocated if conditions are unsafe, or if a major event is being held. All reasonable directions from Rous Water Officers must be complied with.
  13. No vehicles are to be driven off-road within Rous Water operational land unless specific approval has been provided.
  14. Commercial film makers and photographers are only permitted to shoot in areas agreed to in the commercial activities permit (NOTE: Commercial Film makers must submit a site plan at application stage).
  15. Advertising on the site is only permitted when attached to vehicles, uniforms and equipment.
  16. Commercial film makers and photographers are required to provide caution and safety at all times when in close proximity to other private recreational users.
  17. Commercial film makers and photographers are to keep and retain a signed record of all crew participating in the shoot.
  18. Rous Water reserves the right to undertake an onsite audit of the commercial film maker or photographer at any time covering qualifications of crew, safety and operating equipment, operations, compliance with conditions and daily signed records, including details of participants. All audit requirements must be made available by the film maker or photographer to Rous Water as requested onsite.
  19. If found non-compliant, Rous Water may issue a verbal or written warning or stop the film maker or photographer operating until demonstrated compliance exists and / or revoke the permit.
  20. Liaison is to be maintained with the Rous Water Officer at the site to be used by film maker or photographer.
  21. Any work area or parking area is to be kept in a clean and tidy condition free from litter and refuse at all times.
  22. Film makers or photographers are not to be prohibited persons under the Child Protection legislation. (Please refer to [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)).
  23. Commercial film makers and photographers are responsible for ensuring compliance with the *WHS Act*.
  24. Any other conditions that Rous Water may impose from time to time must be immediately and strictly adhered to.

#### 4.4.5. Filming Guidelines

The Local Government Filming Protocol outlines some filmmakers' responsibilities:

1. Follow the *Code of Conduct for Location Filming in NSW* as set out in the Local Government Filming Protocol. Failure to comply with the Code of Conduct may result in termination of your Commercial Activities Permit (Filming / Photography).
2. Meet special conditions of approval or of any other relevant legislation including SEPP4, children employment legislation, occupational health and safety laws, normal traffic laws, management of noise, air or water pollution. The Protocol provides a comprehensive list of considerations.

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3. Local community notification with letters delivered with enough lead time for people to make further inquiries. The notification should outline the details of the shoot and the production should have a strategy for managing community concerns.
  4. Provide access to utilities (electricity, water phone lines and gas crew) and emergency vehicles at all times
  5. Clearly identify crew and respond to reasonable inquiries from the public about the filming.
  6. Keep a copy of all permits for filming on location
  7. Maintain regular communication with Rous Water and report any changes to filming schedule or damage to the site as soon as possible.
  8. Abide by the film industry safety practices

#### 4.4.6. Legislative Constraints

- Commercial film makers or photographers must ensure their operations provide no impact upon any threatened species, population or ecological community or damage habitat listed under the *Threatened Species Conservation Act 1995* and the *Fisheries Management Act 1994*.
- Should an impact be proposed then appropriate licenses/permits must be obtained by the commercial film maker or photographer.

## 5. **SPECIAL CONDITIONS**

Rous Water reserves the right to specify additional conditions as it relates to your specific commercial activity. You will be notified of any additional conditions related to your activity when you receive your permit.