

	<b>PUFFING BILLY RAILWAY PRESERVATION SOCIETY</b> <b>INTELLECTUAL PROPERTY POLICY AND PROCEDURE</b>	<b>Document Number</b>
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## INTELLECTUAL PROPERTY POLICY

### BACKGROUND

In recognition of the fact that the Puffing Billy Preservation Society (PBPS) have significant Intellectual Property (IP) which is perceived as having tangible value, the Executive Committee of the Puffing Billy Preservation Society has determined to effectively control the use of that Intellectual Property, particularly where it is used for commercial purposes.

### PURPOSE

To protect and establish the conditions of use for the 'Intellectual Property' of the Puffing Billy Preservation Society.

#### 1. POLICY STATEMENT

The Executive Committee of the Puffing Billy Preservation Society will impose conditions of use and may impose a monetary charge for the use of any Intellectual Property belonging to the Puffing Billy Preservation Society, in accordance with conditions as described in this policy document and as per a fee schedule determined, reviewed and amended from time to time by the Executive Committee of the Puffing Billy Preservation Society. The Executive Committee may, at its absolute discretion, (but generally as per the conditions contained within this document), through its authorised officers, waive or modify any charges that may otherwise be applicable.

#### 2. RESPONSIBILITY FOR IMPLEMENTATION, COMPLIANCE MONITORING, MEASURING AND CONTINUAL IMPROVEMENT

The Executive Committee of the Puffing Billy Preservation Society are responsible for adopting this Policy.

All Puffing Billy Preservation Society Members are responsible for the implementation of this Policy.

The Executive Committee of the Puffing Billy Preservation Society or their authorised delegates ONLY may grant permission for the use of PBPS Intellectual Property.

#### 3. SCOPE OF POLICY

This policy applies to:

- Any entity or individual seeking to access PBPS Intellectual Property with intent to use that I.P. for any commercial application
- Members of the Puffing Billy Preservation Society (PBPS)
- Directors and Officers of the Puffing Billy Preservation Society (PBPS)

#### 4. DEFINITIONS

**Emerald Tourist Railway Board (ETRB):** Established by the *Emerald Tourist Railway Act 1977* to manage the operation of the Puffing Billy Railway.

**Puffing Billy Railway (PBR):** Trading name of the narrow gauge (two feet six inch gauge) tourist railway operating between Belgrave and Gembrook and managed by the Emerald Tourist Railway Board established under the *Emerald Tourist Railway Act 1977*.

	<b>PUFFING BILLY RAILWAY PRESERVATION SOCIETY</b> <b>INTELLECTUAL PROPERTY POLICY AND PROCEDURE</b>	<b>Document Number</b>
---	--	----------------------------

**Puffing Billy Preservation Society (PBPS):** Company Limited by Guarantee under the *Corporations Act 2001*. The prime objects of the Company are to preserve and continue to develop the narrow gauge railway line between Belgrave and Gembrook as a world class heritage railway known as Puffing Billy Railway and to maintain a museum of related artefacts. The Company also supports the Emerald Tourist Railway Board to keep the railway in operation as a major tourist attraction.

**Recordable:** The recording or copying by any electronic means or medium, by photographic or movie film, by magnetic recording, including video and audio, direct recording to Compact Disc (CD), or Digital Versatile Disk (DVD), or any other digital or physical means, including artistic works (artworks), of any intellectual property owned or controlled by P.B.P.S. and any material appearing on the Puffing Billy Preservation Society Website.

**Intellectual Property (IP):** This is all the photographable or recordable visual attributes and environment owned and controlled by the PBPS, including but not limited to equipment (fixed or mobile), spare parts, museum exhibits, projects within workshops, signs, members, PBPS publications, brochures, paintings, posters, documents (current and / or archival), photographs (current and / or archival), artifacts, inventions, plans, blueprints, CAD drawings, or computer software written by or for the PBPS, PBPS produced or authorised video, still photography and art work in any for (i.e. electronic or printed or published copy or original artwork on or in any medium), the name 'Puffing Billy Preservation Society', 'PBPS', and / or any other registered name owned or controlled by the PBPS.

**Trademark:** A trademark is any word, name, symbol or other device used to identify one's goods and distinguish them from goods offered by others. Trademark laws also recognise service marks which are similar to trademarks and serve to identify a company's services from those offered by others.

**Commercial Purposes:** Defined as recording, by any means, of Intellectual Property for inclusion in any document, book, magazine, video (including but not limited to tape based video and DVD), poster, postcard, art work, brochure and the like, that is intended to be published or broadcast or otherwise sold for profit, either by a company, a registered organisation, or an individual. This includes both dedicated publications and inclusions or insertions in general publications.

**Personal Release:** In general, it is not necessary to obtain personal releases where individuals are photographed or otherwise recorded as part of a wider scene, however where individuals are specifically featured or photographed, or interviewed and recorded, a Personal Release, either absolving the P.B.P.S. from any immediate or future cost or fee for appearance, or determining a fee for appearance as the case may be, should be obtained, in writing, prior to the recording taking place. See release documents under related documents.

**Commercial Release:** There may be occasion where the company logo or trade name or registered trade mark may be photographed and recorded as part of a scene, and in this case written permission should be sought from the owner of any such logo, tradename, or trade mark, prior to the recording of same.

## 5. PERMISSIONS

### Private or Personal Use

In general terms, passengers, and/or visitors are permitted to photograph or video the Intellectual Property of P.B.P.S., as long as the resulting photographs and / or video are strictly for personal or family use, and are not to be used for commercial purpose. No specific permissions are required, however if it is obvious that the equipment being used for recording

 <b>PUFFING BILLY RAILWAY</b>	<b>PUFFING BILLY RAILWAY PRESERVATION SOCIETY</b>	<b>Document Number</b>
	<b>INTELLECTUAL PROPERTY POLICY AND PROCEDURE</b>	

is commercial or professional in nature, PBPS will enquire of the user the purpose of the recording. If advised that the recording is for commercial purposes, the matter will be referred to the PBPS President or authorised delegates.

### **Commercial Permissions**

These are written permissions granted for commercial purposes, whether fee based or not, to organisations who have applied to access and record any intellectual property defined above as being the property of PBPS.

PBPS will be provided with at least one copy of any photographs taken or video recorded.

Persons entitled to grant such permissions are the Executive Committee of the PBPS or their authorised delegates.

### **Marketing Permissions**

These are written permissions granted, whether fee based or not, to organisations wishing to record any intellectual property as defined above, specifically for marketing or promotion use, including brochures or other point of sale material, whether produced for the PBPS or not. In general 'Marketing Permissions' will not attract fees, as long as there is a definable exposure for PBR / PBPS to acceptable standard, and that copies of the final publishing or broadcast medium are provided to PBPS. Person entitled to grant such permissions are the President, Directors and Officers of the Puffing Billy Preservation Society (PBPS) Executive Committee or their authorised delegates.

### **Fees**

The fee schedule will be determined, reviewed and amended from time to time by the Executive Committee of the PBPS. The Executive Committee may, at its absolute discretion, (but generally as per the conditions contained within this document), through its authorised officers, waive or modify any charges that may otherwise be applicable.

The current schedule of fees is attached at Appendix 1.

<b>Policy Manager</b>	President of Puffing Billy Preservation Society
<b>Contact</b>	president@pbps.org.au
<b>Approval Authority</b>	Executive Committee of the Puffing Billy Preservation Society
<b>Review Date</b>	2021

	<b>PUFFING BILLY RAILWAY PRESERVATION SOCIETY</b> <b>INTELLECTUAL PROPERTY POLICY AND PROCEDURE</b>	<b>Document Number</b>
---	--	----------------------------

## 6. SUPPORTING PROCEDURES

Individuals or commercial entities seeking permission to access and use PBPS Intellectual Property are required to complete an 'Application for use and release of Puffing Billy Preservation Society Intellectual Property'.

The completed form to be submitted to the Executive Committee of the PBPS or their authorised delegates for consideration. Applicants will be notified in writing of the outcome of their request.

## 7. RELATED DOCUMENTS/LINKS

### APPENDIX 1 Current Fee Structure

#### **FEE Schedule for access to and use of Puffing Billy Preservation Society Intellectual Property.**

This fee schedule is reviewed and amended from time to time by the Executive Committee of the Puffing Billy Preservation Society.

Basic Fees:

- |   |         |
|---|---------|
| 1. Minor Video Production, for resale (less than one day production). | \$150   |
| 2. Major Video Production, for resale (more than one day production). | \$275   |
| 3. Major or Minor Video Production, free to air broadcast.            | No cost |
| 4. Minor photo shoot, for publication (less than 10 photographs).     | \$150   |
| 5. Major photo shoot, for publication, (more than 10 photographs).    | \$275   |
| 6. Wedding photography/videography (Commercial).                      | \$150   |
| 7. Phot/video shoot, for marketing purposes (Permission required).    | No cost |
| 8. Personal photography or video.                                     | No cost |
| 9. Provision of special trains, crews, locations.                     | T.B.D.  |

**Fees quoted do not include GST.**

	<b>PUFFING BILLY RAILWAY PRESERVATION SOCIETY</b> <b>INTELLECTUAL PROPERTY POLICY AND PROCEDURE</b>	<b>Document Number</b>
---	--	----------------------------

**APPENDIX 2 Application for use and release of Intellectual Property**

**Application for use and release of Puffing Billy Preservation Society Intellectual Property.**

**Company or Individual Name:**

**ABN if applicable:**

**Professional Indemnity Insurance: Yes No**

**Medium which is the subject of this application:**

**Video/DVD**

**Photography**

**Recording**

**Date of requested access:**

**Time period of requested access:**

**Please give a short description of the purpose of the requested access for example 'Photography at Menzies Creek Museum'.**

**I understand that this permission relates only to the circumstance described in this application. I agree that at least one copy of the product outcome from this access will be given to Puffing Billy Preservation Society to be used as determined by the Executive Committee of the Puffing Billy Preservation Society or their authorised delegate.**

**Signature of applicant or authorised delegate of applicant**

**Dated**