



New South Wales

Filming Related Legislation Amendment Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend various Acts and instruments to support the screen industry by reducing or simplifying regulatory impediments to the carrying out of filming projects.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the Acts and instruments set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1.1 amends the *Crown Lands Act 1989* as follows:

- (a) to enable subleases, licences and sublicences to be granted over Crown land that is the subject of a lease under that Act or the *Crown Lands (Continued Tenures) Act 1989*, and over Crown reserves, to enable the carrying out of filming projects despite any provision that would otherwise prevent the grant of the sublease, licence or sublicense (**Schedule 1.1 [2], [3], [4] and [5]**),
- (b) to enable a reserve trust to grant a lease or licence over the reserve for the purpose of enabling a filming project to be carried out whether or not the carrying out of the project is in accordance with any plan of management adopted for the reserve or is consistent with the declared purpose of the reserve (**Schedule 1.1 [6]**),
- (c) to make consequential amendments (**Schedule 1.1 [1] and [7]**).

Schedule 1.2 amends the *Filming Approval Act 2004* as follows:

- (a) to create a presumption in favour of the relevant Minister granting approval to the carrying out of filming activities in a designated area under that Act that forms part of land that is reserved under Part 4 of the *National Parks and Wildlife Act 1974* (other than a wilderness area) unless the carrying out of filming activities on the land is expressly prohibited by a plan of management for the land (**Schedule 1.2 [2]**),
- (b) to ensure that applications for approvals are not refused where any concerns about giving the approvals could be adequately addressed by imposing conditions on the approvals (**Schedule 1.2 [4]**),
- (c) to make consequential amendments (**Schedule 1.2 [1] and [3]**).

Schedule 1.3 amends the *Local Government Act 1993* as follows:

- (a) to require a council to grant an application for a lease, licence or other estate in respect of certain community land to allow a filming project to be carried out unless the plan of management for the land expressly prohibits use of the land for filming projects or there are exceptional circumstances warranting refusal of the application (**Schedule 1.3 [1]—proposed section 46 (5A)**),
- (b) to ensure that applications for approvals are not refused where any concerns about giving the approvals could be adequately addressed by imposing conditions on the approvals (**Schedule 1.3 [1]—proposed section 46 (5B)**),
- (c) to require a council to give notice of such a refusal as soon as practicable, and the reasons for it within 3 days, after the refusal (**Schedule 1.3 [1]—proposed section 46 (5C)**),
- (d) to enable regulations to be made capping the amount of security deposits, bonds, fees or charges payable in respect of applications for approvals necessary to carry out filming projects (*filming approvals*) and to require

- council's having discretions to determine the levels of such amounts to do so in accordance with applicable filming protocols (**Schedule 1.3 [2]**),
- (e) to require councils to comply with either a filming protocol issued by the Director-General or a comparable filming protocol adopted by the council and approved by the Director-General in determining applications for filming approvals (**Schedule 1.3 [4], [6] and [10]**),
 - (f) to require councils to give notice of the reasons for refusing applications for filming approvals and of any review or appeal rights within 3 business days after the refusals (**Schedule 1.3 [5] and [8]**),
 - (g) to create a presumption in favour of the grant of an application for a filming approval unless exceptional circumstances warrant refusal of the application or an Act requires refusal and to require councils to consider the imposition of conditions to address concerns they have about granting approvals (**Schedule 1.3 [9]**),
 - (h) to make consequential amendments (**Schedule 1.3 [3], [7] and [11]–[14]**).

Schedule 1.4 and 1.5 amend the *Standard Instrument (Local Environmental Plans) Order 2006* and the *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*, respectively, to allow, as exempt development, the erection and use of temporary structures and the temporary alteration or addition to buildings or works for the sole purpose of filming subject to certain specified requirements concerning the period of use and accessibility to the public.

Schedule 1.6 amends the *Western Lands Act 1901* as follows:

- (a) to enable the grant, with the consent of the Minister, of a sublease of land held under a lease for the purposes of enabling the carrying out of a filming project, despite any provision of the head lease or the Act relating to the purposes for which the land may be used (**Schedule 1.6—proposed section 18G (6A)**),
- (b) to enable the holder of a lease to grant a licence with the consent of the Minister and on such terms and conditions as the Minister determines to enable the carrying out of a filming project and to do so without the consent of the Minister in specified circumstances (**Schedule 1.6—proposed section 18G (6B)–(6E)**),
- (c) to enable consent to be given and licences to be granted by the Minister or a lessee to enable the carrying out of a filming project despite any provision to the contrary in a lease (**Schedule 1.6—proposed section 18G (6F)**).