



New South Wales

# Local Government Amendment (Filming) Bill 2000

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Local Government Act 1993* so as:

- (a) to facilitate the making of applications for council approvals, consents and other determinations (whether under the *Local Government Act 1993* or any other Act or law) necessary in order to carry out filming, and
- (b) to make special provision for the granting of leases, licences and other estates by councils with respect to community land in order to allow filming to be carried out on such land.

## 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 proclaimed.

**Clause 3** is a formal provision giving effect to the amendments to the *Local Government Act 1993* set out in Schedule 1.

## Schedule 1 Amendments

**Schedule 1 [1]–[3]** deal with the granting by councils of leases, licences and other estates with respect to community land.

Under the *Local Government Act 1993*, a council must prepare a plan of management for community land owned by the council, and community land is to be categorised (for example as a natural area, a sportsground, a park, an area of cultural significance, or land for general community use). The Act sets out core objectives for each category of land. **Schedule 1 [1]** provides that a council may grant a lease, licence or other estate with respect to community land in order to allow a filming project to be carried out, whether or not the project is in accordance with the plan of management for the community land or is consistent with the core objectives of the categorisation of the land concerned.

**Schedule 1 [2]** provides for the regulations to prescribe additional notification or advertising requirements if a council proposes to grant a lease, licence or other estate for a filming project with respect to community land that is critical habitat, or that is directly affected by a recovery plan or threat abatement plan, or that is declared to be an area of cultural significance because of the presence on the land of any item that the council considers to be of Aboriginal significance. Regulations may also be made providing for guidelines to be taken into consideration by councils in determining whether to grant a lease, licence or other estate in order to allow filming to be carried out on community land.

If the council is of the opinion that the filming proposed to be carried out under a lease, licence or other estate in community land will have a minor impact on the environment and on public amenity, the council may reduce the period in which written submissions may be made to the council on the proposal to grant the lease, licence or estate from not less than 28 days to not less than 7 days.

**Schedule 1 [3]** provides that a council may grant a lease, licence or other estate with respect to community land that is categorised as a natural area that authorises the erection or use of a building or structure on the land that is necessary to carry out filming on the land, subject to certain conditions. Those conditions are that any building or structure must be temporary in nature, and must be removed and any damage to the land made good at the expense of the person to whom the lease, licence or other estate was granted as soon as practicable after the termination of the lease, licence or other estate. Further conditions may be prescribed by the regulations.

**Schedule 1 [4]** inserts a new Division in Part 1 of Chapter 7 of the *Local Government Act 1993* that allows applications for approvals, consents and other determinations by a council necessary to carry out filming to be made in one form, called a *filming proposal*. Each application made in a filming proposal is to be determined in accordance with the Act, statutory instrument or other law under which it is made. However, in determining an application made in a filming proposal, the council is to take the *filming protocol* into consideration, in addition to any other requirements relating to determination of the application.

The *filming protocol* is a protocol approved by the Director-General of the Department of Local Government that includes any of the following:

- (a) information about procedures for obtaining approvals for carrying out filming,
- (b) guidelines or heads of consideration to be taken into account by councils determining applications for approvals made in a filming proposal,
- (c) codes of conduct for the carrying out of filming,
- (d) provisions for determining fees for an application, and fees and charges for services related to an application, made in a filming proposal,
- (e) any other matter related to filming.

**Schedule 1 [5]** amends section 612 of the *Local Government Act 1993* to provide that if a council complies with the filming protocol in setting a fee for an application made in a filming proposal, the council is not required to give public notice of the fee.

**Schedule 1 [6]** inserts definitions of *filming*, *filming project*, *filming proposal* and *filming protocol* into the Dictionary.

First print



New South Wales

# Local Government Amendment (Filming) Bill 2000

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New South Wales

## **Local Government Amendment (Filming) Bill 2000**

No. , 2000

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### **A Bill for**

An Act to amend the *Local Government Act 1993* to streamline approval procedures for filming; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Local Government Amendment (Filming) Act 2000</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5 6
<b>3 Amendment of Local Government Act 1993 No 30</b>	7
The <i>Local Government Act 1993</i> is amended as set out in Schedule 1.	8

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## Schedule 1 Amendments

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(Section 3)

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### [1] Section 46 Leases, licences and other estates in respect of community land—generally

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Insert after section 46 (1) (b):

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, or

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- (c) may be granted in order to allow a filming project to be carried out, whether or not the project is in accordance with the plan of management or is consistent with the core objectives of the categorisation of the land concerned,

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### [2] Section 47AA

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Insert after section 47A:

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#### 47AA Special provisions for leases, licences and other estates granted for filming projects

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- (1) A council that proposes to grant a lease, licence or other estate in respect of community land under section 47A in order to allow a filming project to be carried out on community land:

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- (a) that is critical habitat (as defined in section 36A (1)), or

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- (b) that is directly affected by a recovery plan or threat abatement plan, as referred to in section 36B (2), or

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- (c) that is declared to be an area of cultural significance under section 36D (1) because of the presence on the land of any item that the council considers to be of Aboriginal significance,

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must, in addition to complying with section 47A, notify or advertise the proposal in the manner prescribed by the regulations for the purposes of this section.

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(2) Despite section 47A (2), a council that is of the opinion that a filming project proposed to be carried out under a lease, licence or other estate granted under section 47A will have a minor impact on the environment and on public amenity may state in the notice of the proposal required by section 47A (2) that submissions in writing may be made to the council concerning the proposal within a period, not less than 7 days, specified in the notice.	1 2 3 4 5 6 7 8
(3) Regulations may be made for or with respect to guidelines that must be taken into consideration by councils in determining whether to grant a lease, licence or other estate in respect of community land in order to allow a filming project to be carried out on the land.	9 10 11 12 13
<b>[3] Section 47B Lease or licence in respect of natural area</b>	14
Insert after section 47B (5):	15
(6) Despite subsection (1), a lease, licence or other estate may be granted, in respect of community land categorised as a natural area, to authorise the erection or use of any building or structure necessary to enable a filming project to be carried out, subject to the conditions prescribed by subsection (7) and the regulations.	16 17 18 19 20 21
(7) It is a condition of any lease, licence or other estate referred to in subsection (6):	22 23
(a) that any building or structure so erected must be temporary in nature, and	24 25
(b) that as soon as practicable after the termination of the lease, licence or other estate:	26 27
(i) any building or structure erected must be removed, and	28 29
(ii) any damage to the land caused by the erection or use of a building or structure must be made good, and	30 31 32
(iii) the land must be restored as nearly as possible to the condition that it was in at the time the lease, licence or other estate was granted,	33 34 35
at the expense of the person to whom the lease, licence or other estate was granted.	36 37



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<b>[4] Division 4, Part 1, Chapter 7</b>	1
Insert after Division 3 of Part 1 of Chapter 7:	2
<b>Division 4 Approvals for filming</b>	3
<b>114 What is the purpose of this Division?</b>	4
(1) The purpose of this Division is to establish a streamlined procedure for obtaining any council approvals that are necessary in order to carry out filming.	5 6 7
(2) In this Division:	8
<i>approval</i> means:	9
(a) any approval, authorisation, consent, permit, determination or other decision that may be granted by a council (acting in any capacity) under this or any other Act or law (including the granting of a lease, licence or other estate in land, other than community land) prescribed by the regulations for the purposes of this paragraph, or	10 11 12 13 14 15 16
(b) if no regulations are made for the purposes of paragraph (a), any approval, authorisation, consent, permit, determination or other decision that may be granted by a council (acting in any capacity) under this or any other Act or law (including the granting of a lease, licence or other estate in land, other than community land).	17 18 19 20 21 22
<i>grant</i> includes give, approve, authorise, consent, determine or otherwise decide.	23 24
<b>115 Applications for approvals for filming</b>	25
(1) A person intending to carry out a filming project may lodge with the council a filming proposal in which the person makes an application for one or more approvals that are necessary in order to enable the filming project to be carried out and that may be granted by the council (acting in any capacity) under this or any other Act or law.	26 27 28 29 30 31
(2) A filming proposal may contain applications relating to the whole or part of a filming project.	32 33

(3) A filming proposal cannot be lodged for more than one filming project.	1 2
<b>116 Form of and fees for filming proposal</b>	3
(1) A filming proposal must be made in the approved form.	4
(2) A filming proposal is to be accompanied by the fee (if any) payable for each application made in the proposal, if at the time of lodging the proposal the amount of that fee can be determined.	5 6 7 8
(3) The fee payable for each application is to be determined in accordance with the Act, statutory instrument or law under which the application is made.	9 10 11
(4) If the council has a discretion to determine the amount of a fee payable in respect of an application, the council is to have regard to the filming protocol in determining the fee.	12 13 14
(5) If the person who lodged the filming proposal does not pay the fee payable for making an application within 14 days after the day on which the proposal is lodged, the council may refuse to consider the application until the fee payable with respect to the application is paid.	15 16 17 18 19
<b>117 Acknowledgment of application and notification of fees</b>	20
(1) The council must within 7 days after the day on which a filming proposal is lodged with it:	21 22
(a) give written acknowledgment of its receipt to the person who lodged the proposal, unless the council rejects the application under subsection (2), and	23 24 25
(b) if a fee payable for any application made in the proposal has not been determined or paid, advise the person what that fee is.	26 27 28
(2) The council may reject an application made in a filming proposal within 7 days after the day on which the filming proposal is lodged if the application is not clear as to the approval sought or if it is not easily legible.	29 30 31 32
(3) An application so rejected is taken not to have been made and any application fee is to be refunded.	33 34

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<b>118</b>	<b>What matters must accompany a filming proposal?</b>	1
	A filming proposal must be accompanied by:	2
	(a) such matters as are required to accompany each application made in the proposal (whether required by or under this Act or any another Act, statutory instrument or law), and	3 4 5 6
	(b) such matters specified by the council as may be necessary to provide sufficient information to enable the council to determine the applications made in the proposal.	7 8 9 10
<b>119</b>	<b>Filming protocol to be brought to attention of intending applicants</b>	11 12
	A council must take such steps as are reasonably practicable to bring the filming protocol, the existence of any relevant regulations and any relevant local policy adopted under Part 3 to the notice of any person who lodges or whom the council knows to be intending to lodge a filming proposal.	13 14 15 16 17
<b>119A</b>	<b>Amendment and withdrawal of applications</b>	18
	(1) A person who lodges a filming proposal may amend or withdraw an application made in the proposal in accordance with the Act, statutory instrument or law under which the application is made.	19 20 21 22
	(2) However, the making of a minor amendment to an application does not stop the running of a period of time specified in section 116 or 117.	23 24 25
<b>119B</b>	<b>Application for approvals under Division 3</b>	26
	(1) An application for an approval under Division 3 made in a filming proposal is to be dealt with under Division 3, except as provided by this section.	27 28 29
	(2) In determining an application for an approval under Division 3, the council must take into consideration the filming protocol in addition to the matters specified in section 89.	30 31 32

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- (3) For the purposes of Division 3: 1
- (a) a council is taken to have received an application made 2  
in a filming proposal on the day on which the approved 3  
fee for the application was paid, and 4
  - (b) a reference to an applicant, in relation to an application, 5  
is taken to be a reference to the person who lodged the 6  
filming proposal making the application concerned. 7
- (4) An application for an approval under this Part made in a 8  
filming proposal that complies with sections 115, 116 and 118 9  
is not subject to section 79, 80 (1), 81 or 85. 10
- (5) A council that complies with sections 117 and 119 is not 11  
subject to section 77 or 84. 12
- 119C Application for approval other than under Division 3** 13
- (1) An application for an approval other than under Division 3 14  
made in a filming proposal is to be dealt with as an application 15  
made under the relevant provision of the relevant Act, 16  
statutory instrument or law, except as provided by this 17  
Division. 18
- (2) In determining such an application, the council must take into 19  
consideration the filming protocol, in addition to any other 20  
requirements relating to the determination of the application. 21
- (3) In relation to such an application, a reference to: 22
- (a) a fee for making the application (however expressed) is 23  
taken to be a reference to the fee paid in relation to that 24  
application accompanying the filming proposal, and 25
  - (b) an applicant (however expressed) is taken to be a 26  
reference to the person who lodged the filming proposal 27  
with the council. 28
- (4) An application referred to in subsection (1) made in a filming 29  
proposal that complies with sections 115, 116 and 118 is taken 30  
to have complied with any requirements (however expressed) 31  
under the relevant Act or statutory instrument as to: 32
- (a) the form of the application, and 33
  - (b) any fee for making the application, and 34
  - (c) any matters required to accompany the application. 35

(5) A council that complies with sections 116 and 117 is taken to have complied with any requirements (however expressed) under the relevant Act or statutory instrument as to acknowledgement of an application and determination of a fee for making the application.	1 2 3 4 5
(6) An application referred to in subsection (1) is to be determined under the relevant provisions of the relevant Act or statutory instrument.	6 7 8
(7) A determination of such an application is to be notified in accordance with the relevant provisions of the relevant Act or statutory instrument (if any).	9 10 11
<b>119D Director-General may approve filming protocol</b>	12
(1) The Director-General may approve a filming protocol that includes any of the following:	13 14
(a) information about procedures for obtaining approvals for carrying out filming,	15 16
(b) guidelines or heads of consideration to be taken into account by councils determining applications for approvals made in a filming proposal,	17 18 19
(c) codes of conduct for the carrying out of filming,	20
(d) provisions for determining fees for an application, and fees and charges for services related to an application, made in a filming proposal,	21 22 23
(e) any other matter related to filming.	24
(2) Before approving such a protocol, the Director-General must consult such persons or bodies as he or she considers appropriate for such period as he or she considers appropriate.	25 26 27
(3) A filming protocol has no effect to the extent that it is inconsistent with an express provision of an Act or statutory instrument.	28 29 30
(4) The Director-General may vary or revoke a filming protocol.	31

<b>119E Advertising or notification of applications made in filming proposal</b>	1 2
(1) An application made in a filming proposal must comply with all the advertising or notification requirements for that application under any relevant Act or statutory instrument.	3 4 5
(2) However, two or more applications made in a filming proposal that are required or permitted to be advertised or notified by particular means may be advertised or notified by those means in one advertisement or notice if that advertisement or notice satisfies all the advertising or notification requirements for the applications concerned under the relevant Act or statutory instrument.	6 7 8 9 10 11 12
<b>119F Application of this Division</b>	13
(1) The provisions of this Division prevail to the extent of any inconsistency between the provisions of this Division and the provisions of any other Act, statutory instrument or law.	14 15 16
(2) Nothing in section 116 affects the operation of section 97 or of any provision of any other Act, statutory instrument or law that allows a council to require payment of a security deposit, bond, fee (other than a fee for making the application) or charge (however expressed) in relation to an application made in a filming proposal.	17 18 19 20 21 22
(3) Nothing in this Division affects any right of appeal under this or any other Act, statutory instrument or law.	23 24
<b>[5] Section 612 Public notice of approved fees</b>	25
Insert at the end of section 612:	26
(4) This section does not apply to an approved fee determined by a council for an application made in a filming proposal, if that fee is consistent with a scale or structure of fees set out in a filming protocol.	27 28 29 30

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**[6] Dictionary**

Insert in alphabetical order in the Dictionary:

***filming*** means recording images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the Internet or by other means) and includes such acts or things as may be prescribed by the regulations as being filming, but does not include:

- (a) still photography, or
- (b) 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
- (c) recording for the immediate purposes of a television program that provides information by way of current affairs or daily news, or
- (d) any act or thing prescribed by the regulations as not being filming.

***filming project*** means a project (such as a film, a documentary, an advertisement, a television program or a specified set of television programs) involving filming.

***filming proposal*** means a proposal under section 115.

***filming protocol*** means a protocol referred to in section 119D as approved by the Director-General from time to time.