



Filming Approval Bill.

Second Reading

The Hon. IAN MACDONALD (Minister for Primary Industries) [5.21 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The *Filming Approval Bill 2004* has been introduced to allow filming within the national park estate and marine parks, subject to the imposition of strict environmental conditions.

The national park estate conserves a unique diversity of outstanding landscapes in New South Wales, from the red desert, to rainforests, alpine mountains and vast tracts of wilderness. It is this very diversity of magnificent locations that is a key factor in attracting both the Australian and the international film industry to New South Wales.

Our national parks have already served as successful locations for many Australian and international films, such as *Mission Impossible 2*, *Lantana*, *Rabbit Proof Fence* and *The Mask 2*. A number of these films have won awards. Similarly, successful Australian TV series such as *Fireflies* and *Home and Away* have been filmed, in part, in our national parks.

The NSW film and television industry provides around 50,000 jobs and is worth some \$4 billion a year to the State's economy. This Government strongly supports the industry and is keen to see it develop and flourish in this State.

The Government is of the opinion that filming is an appropriate activity within our national park estate. It frequently provides an opportunity to promote national parks, and to increase public appreciation and understanding of the natural and cultural values of our national parks. It is an activity that also helps to promote national parks to both local and international visitors.

For example, who can forget the inspiring and romantic images of the Snowy Mountains seen in *The Man from Snowy River*? The House would also be familiar with *The Lord of the Rings* films, which showcased New Zealand's magnificent national parks and natural landscapes with such remarkable effect. These areas are now being widely promoted to people who want to visit the stunning areas where the film was made.

The need for this legislation arises from the recent making of a film known as *Stealth*.

The Department of Environment and Conservation recently granted consent for the filming of *Stealth* in a part of the Blue Mountains National Park, which also happens to be in a declared wilderness area.

The decision was challenged in the Land and Environment Court by the local conservation group, the Blue Mountains Conservation Society. While the Court did not make any adverse finding about the environmental impact of the proposed filming, it nevertheless set aside the Department's consent on the basis that commercial feature filming was inconsistent with the objects of the National Parks and Wildlife Act and the management principles of the Wilderness Act.

Specifically, Justice Lloyd said that:

I do not think that a production of a commercial feature film is appropriate public recreation in the context of the objects of the National Parks and Wildlife Act or the purpose of reserving land as a national park. Such an activity has nothing to do with these objects or that purpose.

There is sufficient case law to suggest that, in these circumstances, such activities would be unlawful in a national park.

In this instance, the activity in question is the making of a commercial feature film.

In ruling on the *Stealth* case, the Land and Environment Court has specifically drawn attention to doubts concerning the power to approve the making of any commercial feature film in any national park or reserve, whether or not the land in question is in a declared wilderness area. I stress that the Court's observations were not limited to *Stealth*—they were made with respect to *any* commercial feature film.

The Court has also drawn attention to doubts concerning the power to approve the making of *any* film in a wilderness area, at least in the following circumstances:

- (a) where the filming is being undertaken commercially (that is, for sale, hire or profit); and
- (b) where the filming requires exclusive use of the area in question.

The Government is committed to eliminating these doubts.

As the law now stands, it is entirely possible that magnificent Australian feature films such as *The Man From Snowy River*, *Lantana* and *Rabbit Proof Fence* could not be filmed in a national park in New South Wales.

It is even possible that the making of a nature documentary or a tourist promotional video in a wilderness area, at least in those cases where exclusive occupation was necessary to film, would also be unlawful.

These are unacceptable restrictions and ambiguities on the making of films in New South Wales. They undermine the Australian film industry's ability to film in our magnificent Australian bushland settings.

The Bill will remedy this problem by putting beyond doubt the power of the Minister for the Environment, or a delegate, to authorise the making of a film in the national park estate. A similar power will be conferred on the Minister for the Environment and the Minister for Primary Industries or their delegates to permit the making of a film in a marine park.

This power will apply within the national park estate or a marine park whether or not filming is for commercial purposes and will include the power to authorise exclusive access to and use of a specified area for a defined period of time.

To ensure that the precious values of wilderness areas are protected, filming will be restricted in these areas. Wilderness includes large natural areas that remain substantially unchanged by modern human activity. They are the most intact and undisturbed expanses of our remaining natural landscapes and their special values are managed to ensure they're disturbed as little as possible.

The Minister for the Environment will have the power to approve commercial filming in declared wilderness areas, but only where the film is for scientific, research or educational purposes or for the promotion of tourism, and where the activity is consistent with the wilderness values of that particular area.

Of course, filming will only be permitted within the national park estate or marine parks subject to strict environmental conditions.

Indeed, I would like to reiterate here that the Land and Environment Court did not make any adverse finding regarding the environmental impact of the filming of *Stealth* within the Blue Mountains National Park. In fact the Department of Environment and Conservation's thorough environmental assessment concluded that any impacts could be mitigated through the imposition of conditions.

This Bill has been carefully drafted to enable filming to take place within the national park estate and marine parks in certain circumstances whilst ensuring that environmental protection is paramount.

Let me outline the steps that will ensure that outcome:

Firstly, the Bill ensures that the Minister or delegate will have the power to impose appropriate conditions when issuing filming approvals. This may include conditions to:

- provide that the filming is conducted in a manner which minimises or indeed eliminates adverse impacts upon the natural or cultural values of an area;
- require existing means of access to be used where feasible;
- restrict the area in which filming is conducted; and
- restrict the period during which filming is conducted.

Filming proposals will be subject to an environmental impact assessment under Part 5 of the *Environmental Planning and Assessment Act 1979*. This means that the Minister will require the preparation of a Review of Environmental Factors or, if needed, an Environmental Impact Statement.

Finally, if filming is proposed in Aboriginal co-managed national parks, such as in Mutawintji National Park in western New South Wales, the concurrence of the Board of Management for those lands must be obtained prior to granting any approval. This will ensure that the views of the Aboriginal owners are respected when filming occurs in these areas and that Aboriginal sites are protected.

These statutory safeguards are further strengthened by the Department of Environment and Conservation's Filming and Photography Policy, which ensures that filming activities do not compromise the unique natural and cultural values that our national park estate protects. That Policy will of course be reviewed and amended, following passage of this

legislation.

This Government remains committed to creating and managing one of the world's very best systems of protected areas.

Since coming to office in 1995, the Government has established around 345 new national parks and reserves, adding up to around two million hectares of land. In total, our national parks system now conserves 7.4 per cent of the total land area in NSW. The Government has also more than tripled the area of declared wilderness in New South Wales. Approximately one quarter of the State's protected area network is wilderness.

The Bill will allow films to be made in the national park estate and marine parks whilst ensuring that the environment that we have worked so hard to protect will receive maximum protection.

In particular, to ensure that the special values of wilderness areas are protected, filming will only be allowed in these areas for scientific, research, educational purposes or for the promotion of tourism and will be subject anyway to very strict environmental safeguards.

This is a necessary and sensible Bill, which takes a positive step for New South Wales. It will enhance the protection and public appreciation of our national park estate and will encourage tourism to these beautiful places, whilst also enhancing the State's international reputation as a film-making centre, attracting investment and creating jobs in the local film industry.

Can I finally say that I welcome feedback on the provisions in the Bill. I have already met with representatives of the Blue Mountains Conservation Society about the legislation and I expect to receive a submission from it in the near future.

The Government, as always, will be prepared to consider amendments that will improve the legislation.

I commend the Bill to the House.

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