

Legislative Council

Filming Approval Bill

Schedule of the amendments agreed to in Committee of the Whole on
Thursday 3 June 2004

- No. 1 Page 2, clause 3 (1), line 28. Insert “reasonably” after “activity”.
- No. 2 Page 4, clause 4. Insert after line 9:
- (3) In determining whether to grant a filming approval to carry out a filming activity in a designated area, the relevant Minister must have regard to each of the following matters:
 - (a) if the area forms part of land that is reserved or dedicated under Part 4 or 4A of the *National Parks and Wildlife Act 1974* or land acquired under Part 11 of that Act:
 - (i) any heritage values of the land,
 - (ii) if the approval will authorise the use of any building or structure on the land—the cultural significance of the building or structure,
 - (iii) any management plan for the land,
 - (iv) in the case of land that is a wilderness area within the meaning of that Act—whether there is no other feasible location outside of that land within New South Wales to carry out the activity,
 - (b) if the area forms part of a marine park within the meaning of the *Marine Parks Act 1997*:
 - (i) any heritage values of the park,
 - (ii) if the approval will authorise the use of any building or structure in the park—the cultural significance of the building or structure,
 - (iii) any operational plan or zoning plan under that Act for the park.
- No. 3 Page 4, clause 4 (3), lines 10–15. Omit all words on those lines. Insert instead:
- (3) The relevant Minister for a designated area that forms part of a wilderness area within the meaning of the *National Parks and Wildlife Act 1974* may not grant approval for the carrying out of any filming activity in the designated area unless the Minister is satisfied that the activity is to be carried out primarily for any one or more of the following purposes:
 - (a) the education of or the raising of awareness of members of the public about Aboriginal heritage or culture, historic heritage, biodiversity, threatened species, the management of parks,

environmental processes, public recreation, bushfire management or visitor safety,

- (b) the research or investigation into Aboriginal heritage or culture, historic heritage, biodiversity, threatened species, the management of parks, environmental processes, public recreation or bushfire management,
- (c) the promotion of visits by tourists.

No. 4 Page 4, clause 4 (6), lines 23-26. Omit all the words on those lines. Insert instead:

- (6) In determining whether or not to grant a filming approval to carry out a filming activity in a designated area, the Minister is to be satisfied of the following matters (and is, if required for that purpose, to impose conditions on any filming approval granted to ensure that those matters are satisfied):

No. 5 Page 4, clause 4 (6). Insert after line 37:

- (e) that the filming activity is not inconsistent with any applicable threat abatement plan or recovery plan within the meaning of the *Threatened Species Conservation Act 1995*,
- (f) that the filming activity complies with any applicable policy (if any) of the Department of Environment and Conservation concerning filming in designated areas,
- (g) that the siting and timing of the filming activity, as far as is practicable, minimises the impact of the activity on the natural and cultural heritage values of the area and on the public enjoyment of the area,
- (h) where the activity is to be carried out in a wilderness area within the meaning of the *National Parks and Wildlife Act 1974*—that the filming activity will be carried out by the minimum number of persons who could feasibly carry out such an activity.

No. 6 Page 5, clause 4. Insert after line 4:

- (8) Subject to the regulations, a relevant Minister may approve fees from time to time for either or both of the following:
 - (a) the making of applications for filming approvals in designated areas for which the Minister is the relevant Minister,
 - (b) the granting of filming approvals to carry out filming activities in designated areas for which the Minister is the relevant Minister.

- (9) A relevant Minister for a designated area may not:
- (a) determine any application for a filming approval to carry out a filming activity in the area unless the fee (if any) approved under subsection (8) (a) for the application is paid by the applicant to the Minister, or
 - (b) grant a filming approval to carry out a filming activity in the area unless the fee (if any) approved under subsection (8) (b) for the grant is paid by the applicant to the Minister.

No. 7 Page 6. Insert after line 23:

7 Approval holder to comply with conditions of filming approval

An approval holder must comply with each condition of the holder's filming approval when carrying out the filming activity to which the approval relates.

Maximum penalty: \$50,000 in the case of a corporation and \$10,000 in any other case.

No. 8 Page 7. Insert after line 1:

8 Restraint of contraventions of this Act

- (1) In this section, *contravention* includes threatened or apprehended contravention.
- (2) Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a contravention of this Act (including a contravention of a filming approval), whether or not any right of that person has been or may be infringed by or as a consequence of that contravention.
- (3) Proceedings under this section may be brought by a person on the person's own behalf or on behalf of that person and on behalf of other persons (with their consent), or a body corporate or unincorporate (with the consent of its committee or other controlling or governing body), having like or common interests in those proceedings.
- (4) Proceedings under this section in relation to a contravention that affects the validity of a filming approval may only be brought within the period of 14 days after the date on which the approval was granted.

- (5) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.
- (6) If the Court is satisfied that a contravention has occurred, or that a contravention will, unless restrained by order of the Court, be committed, it may make such order as it thinks fit to remedy or restrain the contravention.
- (7) The Court may not make an order under subsection (6) to remedy or restrain a contravention of a condition of a filming approval in proceedings brought by a person (other than a person who brings the proceedings by or on behalf of the Crown) unless the Court is satisfied that:
 - (a) the Crown has decided not to take any remedial action in respect of the contravention within 30 days after the contravention, or
 - (b) the Crown has not made a decision on whether to take such action within 30 days after the contravention.
- (8) For the purposes of subsection (7), *remedial action* is not limited to the institution of criminal proceedings, but includes action to require the person who committed the contravention to prevent, control, abate or mitigate any harm to the environment caused by the contravention or to prevent the continuance or recurrence of the contravention.

9 Fees to be paid into National Parks and Wildlife Fund

Any fee paid under this Act is to be paid into the Fund within the meaning of the *National Parks and Wildlife Act 1974*.

No. 9 Page 7, clause 8, lines 6–8. Omit all the words on those lines. Insert instead:

- (a) any member of staff of the Department of Environment and Conservation, or
- (b) a board of management or trust board within the meaning of the *National Parks and Wildlife Act 1974*.

No. 10 Page 7. Insert after line 8:

9 Register of filming approvals to be publicly available

- (1) The Director-General of the Department of Environment and Conservation is to cause information on filming approvals granted under this Act:
 - (a) to be recorded in a register that is to be kept in the head office of the Department and made available to the public, free of charge, during ordinary office hours, and
 - (b) to be placed on the Department's website.

- (2) Information to be included on the register and website is to include the following:
 - (a) the name of each person to whom any filming approval has been granted,
 - (b) the designated area to which the filming approval relates,
 - (c) the purpose for which the filming approval has been granted,
 - (d) information as to the terms and conditions of the filming approval, except information that the Director-General would be prevented from disclosing by the *Freedom of Information Act 1989* or the *Privacy and Personal Information Protection Act 1998*.

No. 11 Page 7. Insert after line 19:

10 Nature of proceedings for offences

Proceedings for an offence under this Act may be dealt with summarily before the Land and Environment Court.

Note:

Government Amendments No. 6 and 8 (*9 Fees to be paid into the National Parks and Wildlife Fund*).

Greens Amendments Nos 1 – 5 , 7 & 8, 9 – 11.