



FEATURE FILM PRODUCTION GUIDELINES

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These guidelines were released on 24 April 2012 and apply to all applications for Letters of Interest or Production Investment submitted from that date.

Screen Australia reserves the right to change its program guidelines from time to time. Please ensure you check the website for the latest version.

FEATURE FILM PRODUCTION

Australian screen stories are important to Australians, and Australia has a strong history of successful storytelling for the big screen. However, producing films for cinema release is a risky and highly competitive business in a market dominated by US studio films.

Screen Australia's vision is for an environment where audiences demand more Australian content, where Australian screen content contributes positively to the cultural fabric of Australian society, and where a commercially sustainable and creative screen production industry can flourish.

In this context, Screen Australia's Feature Film Production Program aims to assist in the creation of a diverse range of successful Australian films that resonate with their audiences – films that entertain, enlighten and reflect an Australian sense of identity both domestically and internationally.

The program is open to films in any budget range, including **low-budget projects** (see page 7). Where relevant, applications for **large-format projects** or **theatrical documentaries** can also be made under this program (see page 8)

The program can provide **post-production completion funding**.

Marketplace attachments are required, but the marketplace by itself is not the only criterion for making investment decisions.

Please note: A project cannot be submitted to this program, either for a Letter of Interest or production investment, concurrently with an application for Screen Australia development funding.

General information

Producers are able to apply for a **Letter of Interest** in order to receive an indication as to whether or not Screen Australia is interested in the potential of the project. The Letter of Interest can be an effective tool to help the producer finalise the project's finance plan in the marketplace. The producer can then apply for production investment once finance is in place.

Alternatively, projects with complete financial structures can apply directly for **production investment**.

In both cases, if an application is unsuccessful, the reasons will be conveyed to the applicant, with a written statement provided on request.

Industry specialists: Screen Australia uses external industry specialists to bring an additional industry perspective to its feature film decision-making processes. One specialist will be employed part-time to participate in the consideration of all Letter of Interest and production investment applications, as well as to advise on projects after investment is confirmed. For each round of production investment applications, that person will also be joined by a second consultant drawn from a small pool of distinguished practitioners with demonstrated experience across a wide range of projects. For more information, see the Screen Australia website.

External readers' reports: Screen Australia also commissions external readers to write reports for all feature film applications, whether for a Letter of Interest or production investment. Applicants are advised of the panel of readers who may be used and so have an opportunity to raise any potential conflict of interest issues. However, the name of the reader used on any particular project will remain confidential.

See also 'Information for applicants' on page 6.

Application timing

The Board will make feature film decisions at up to eight meetings in 2012/13, with application deadlines published on the Screen Australia website.

For complete applications received by a published deadline, Screen Australia aims to provide decisions within 8-10 weeks of that deadline.

Level of funding

Under this program, Screen Australia will not invest more than \$2.5 million in a single feature film unless there are exceptional circumstances.

Further, as set out in Screen Australia's Terms of Trade, the amount of direct support that Screen Australia can provide will be limited so that total Federal Government funds, including the Producer Offset, are capped at 65 per cent of the project budget (unless exceptional circumstances warrant funding up to 75 per cent).

Letter of Interest applications

Producers can apply for a Letter of Interest when:

- their screenplay is at a very advanced stage of development (for example, ready to cast but still one draft away from shooting); and
- they have a firm letter of interest from an appropriate domestic distributor.

There is no requirement for an international sales agent at this stage.

IMPORTANT: A Letter of Interest is not a commitment from Screen Australia to invest in a project. It is an indication to the producer and the marketplace that Screen Australia is interested in the project's potential. Any subsequent application for production investment will be considered against the criteria on page 5, based on the creative and commercial elements of the project in place at the time.

Consideration process

Letter of Interest applications will be considered by an external industry specialist and two Screen Australia executives - a Development Executive and an Investment Manager – as well as an external reader. Taking into account their evaluations, the Head of Production Investment and Head of Development will together recommend whether or not the application should be approved.

The CEO can approve a Letter of Interest where the eventual investment by Screen Australia is anticipated to be less than \$1 million. In other cases, the decision is made by the Board.

Applicants may be interviewed to assist with consideration of the project.

Screen Australia will take the following into account when considering applications for Letters of Interest:

- **Script:** The readiness of the script to move to financing in relation to: (i) the quality of the writing and cinematic storytelling; (ii) the strength and distinctiveness of the idea within its own genre; (iii) the reader's emotional engagement with the story and characters.
- **Creative team:** The producer, director and writer according to: (i) evidence of skills, experience and achievements which demonstrate either an established successful track record or exciting new talent; and (ii) their demonstrated creative, technical and managerial capacity to deliver the project
- **Project:** The project's potential in relation to: (i) the team's demonstrated understanding of the film's intended audience; (ii) the director's vision for the film (iii) the quality of any cast attached or proposed; (iv) the potential for the film to be selected for an A list festival; (v) the potential for the film to appeal to a significant audience in Australia.
- **Viability:** The project's potential to be realised, with reference to (i) its proposed budget size relative to its intentions (ii) its proposed budget size relative to its potential audience. (iii) the track record of the distributor and its suitability to the project.

If an application for a Letter of Interest is unsuccessful, the applicant can:

- apply once more for a Letter of Interest after six months have elapsed from the date of the decision, or
- apply for Production Investment at any time, if and when finance has been confirmed (applicants should note, however, that unless the project has changed substantially and the reasons the LOI application was unsuccessful have been addressed, it's unlikely that Screen Australia will choose to invest).

If a project is unsuccessful twice, any further applications (whether for Letter of Interest or Production Investment) will be deemed ineligible, other than in exceptional circumstances.

If a decision is made to issue a Letter of Interest, the date of the letter will be the date the application was approved. Screen Australia expects that any subsequent application for production investment will be submitted within 12 months of the date of the letter.

Production investment applications (including completion funding)

To be able to apply for production investment the producer must demonstrate that, subject to the approval of Screen Australia funding, the project has a complete finance plan, which must include (but is not limited to):

- an acceptable offer to theatrically distribute the project in Australia (with sufficiently detailed core commercial terms) from an appropriate domestic distributor; and
- an acceptable offer to be the Rest of World sales agent for the project (with sufficiently detailed core commercial terms) from an appropriate sales agent.

Note that finance must be in place at time of application: there is no separate deadline for a confirmed finance plan, and applications for production investment without finance in place will not be accepted.

Consideration process

Complete applications (that is, those which provide all the required information and materials, including a complete finance plan) will be considered by a committee comprising the CEO, Head of Production Investment, Head of Development and two external industry specialists. The committee will also be provided with an external reader's report. Applicants will be interviewed by members of the committee to assist with consideration of the project.

Investment decisions will be made by the CEO for projects requesting less than \$1 million, and by the Board for all other projects.

Screen Australia will take the following criteria into account when considering projects for production investment or completion funding:

- **Script:** The readiness of the script to move into production in relation to: (i) the quality of the writing and cinematic storytelling; (ii) the strength and distinctiveness of the idea within its own genre; (iii) the reader's emotional engagement with the story and characters.
- **Creative team:** The producer and director according to: (i) evidence of skills, relevant experience and achievements which demonstrate either an established successful track record or exciting new talent; and (ii) their demonstrated creative, technical and managerial capacity to deliver the project.
- **Project:** The project's potential in relation to: (i) the team's demonstrated understanding of the film's intended audience; (ii) the director's vision for the film (iii) the quality of any cast attached or proposed; (iv) the quality of any proposed heads of department; (v) the potential for the film to be selected for an A-list festival; (vi) the potential for the film to appeal to a significant audience in Australia.
- **Viability:** The likelihood that the project can be realised with reference to (i) its budget size relative to its intentions (ii) its budget size relative to its potential audience (iii) the strength and quality of the deals proposed in the finance plan (iv) the proposed recoupment position for equity investors.
- **Market strength:** The project's potential to reach its Australian audience and sell internationally according to: (i) the strength of the domestic distributor's strategy for the film (ii) the track record of the distributor and its suitability to the project (iii) the international distribution strategy and sales estimates (iv) the track record of the sales agent and its suitability to the project.

Other factors, including availability of funds and diversity of slate, may also influence Screen Australia’s funding decisions.

If a project is approved, the applicant will receive a Letter of Approval detailing the level and timeframe of Screen Australia’s approved contribution, as well as any applicable conditions.

If a project is not approved, the project can be re-submitted once, at any time, as long as it has not previously been rejected for a Letter of Interest (in which case Screen Australia has rejected it twice already and it cannot be re-submitted, other than in exceptional circumstances).

INFORMATION FOR APPLICANTS

Application materials

Applications must be made on the relevant application form, and include all supporting material listed on that form.

Terms of Trade

Details of Screen Australia and NFSA delivery items, recoupment and other requirements are available in Screen Australia’s Terms of Trade.

Budget requirements

Screen Australia, in consultation with the completion guarantor, where applicable, will examine a producer’s schedule and budget to ensure that the production values in the script can be realised. Screen Australia will require access to the quotes and costings that support the budgeted amounts.

Budgets must be presented in the A-Z Budget format, available from the Screen Australia website (www.screenaustralia.gov.au/a-zbudget), or in Movie Magic or EP format.

The cost of production, both above and below the line, should reflect the level of recoupment that the project can reasonably expect to earn.

Fees should comply with industry standards. They will be considered in the context of the budget and track record of the personnel.

Screen Australia reserves the right to look at the whole package, including budget and target audience, in determining whether individual above-the-line fees, including cast fees, are appropriate.

Screen Australia will have approval over any variation in budget items that are exclusions under the completion guarantee (eg, music, cast breakage) and all above-the-line items.

The budget should include the following:

- Production company overheads to be capped at five per cent of the total of the company’s total film expenditure on the project, or A\$500,000, whichever is the lesser amount.
- Development costs breakdown including: any development funds; any funds allocated to this project from Screen Australia Enterprise Program

funds; general development investment (GDI) or producer fellowships from state agencies, Screen Australia or its predecessor agencies; and state agency administration fees (if applicable).

- Publicity spend during production;
- Marketing and promotional materials comprising the '**dedicated marketing budget**' (DMB). This includes (but is not limited to) budgeted amounts for:
 - stills photography
 - trailer
 - poster key art
 - EPK/DVD materials
 - cross-platform elements
 - the cost of a test screening;
- Foreign currency hedging mechanism to allow for currency fluctuations where applicable;
- The cost of captioning and audio description for theatrical release and DVD (Screen Australia's Terms of Trade require that feature films it finances be captioned to provide access for the hearing impaired, and audio-described for the visually impaired);
- Allowance for Screen Australia and NFSA delivery items;
- Sales company deliverables and other delivery items as required.

If producers have any questions when preparing a budget, they should contact Screen Australia's Sydney or Melbourne offices.

Foreign actors

Screen Australia encourages producers to engage with the Foreign Actor Certification Scheme (FACS) process early if they intend to bring foreign actors into Australia to be a part of any production. Separate to any requirement from Screen Australia, a production must meet the requirements of this scheme, the details of which can be found at http://www.arts.gov.au/film/film_foreign_actors_for_film_or_television.

Low-budget feature films

For feature films which could, in the opinion of Screen Australia, reasonably be produced with a total production budget under \$1.5 million, Screen Australia may exercise flexibility in the application of the above guidelines, particularly in relation to market components.

Post-production completion funding

Projects seeking post-production completion funding must apply using the Production Investment application form and are considered in the same way as applications for production investment.

Official co-productions

Projects approved as Official Co-productions are eligible for, but not automatically guaranteed of, direct Screen Australia support.

As co-productions have access to more than one domestic market, they must bring a higher level of genuine market attachment to the budget.

As well as satisfying all the normal criteria for Screen Australia production investment, the co-production partners must also secure acceptable offers to distribute or broadcast the project in each co-production territory from appropriate domestic distributors.

For production investment applications, the Australian co-producer must have lodged an application for provisional approval as a co-production with Screen Australia at the time of applying for funding, and provisional approval must be obtained before the decision meeting at which the project is being considered. See www.screenaustralia.gov.au/coproduction

Theatrical documentary features

Documentary projects intended for cinema release must be able to demonstrate a big-screen, visual quality, with clear cinematic potential in the concept.

Where this is not clear, projects will need to provide some compelling footage to suggest a theatrical release is warranted.

Projects seeking funding as theatrical documentaries will be considered under these Feature Film Production Program guidelines (rather than the Documentary Guidelines).

Large-format programs

Screen Australia will consider large-format programs on a case-by-case basis under the Feature Film Production Program guidelines.

INDIGENOUS CONTENT OR PARTICIPATION

Where there is Indigenous community participation or content involved in a project, written confirmation of the willingness of both the subject(s) and the community to be involved in the project is essential.

Indigenous content means: a film or program based on an Indigenous story, with Indigenous characters or featuring Indigenous culture and heritage in any form.

Where the content involves a true story or real-life character, you will need to provide a signed clearance or release for any individual or community depicted. Where the content involves culturally specific material, you may need written consent to use Indigenous cultural heritage.

Where the content involved is not specific to a particular community or does not involve a real-life story or depictions of culturally specific material, the team will still need to provide a written statement of how they will deal with the material, i.e. what research has been done to date and what provision or thought has been given to consultation on the material.

For example, the feature film *Japanese Story* is a story without Indigenous content or principals, but an early draft cited specific locations significant to the Indigenous traditional owners. The producers consulted with the community at length in the scripting stage. They were subsequently welcomed onto the land at commencement of production.

The required statements should be supplied on a separate page that is clearly labelled – in accordance with the checklist on the relevant application form. Please ensure you allow sufficient time for consultation so that people giving consent can more fully understand what they are consenting to.

Consultation and consent

(taken from Screen Australia's Pathways & Protocols: A filmmaker's guide to working with Indigenous people, culture and concepts)

Consultation and consent in Indigenous communities are interrelated. Through consultation a filmmaker can come to understand what requires consent and the correct people to give it, and the people giving consent can more fully understand what they are consenting to.

Consultation refers to the process whereby people exchange views and information. Consultation is not just a one-way process, but a process of sharing knowledge and opinions. Consultation means working together, listening to what the other party has to say and acting upon it.

Consent is a process whereby permission is given, based on a relationship of trust. Consent should be informed, and this means filmmakers need to provide the communities with a clear explanation of the filmmaking process, timeframes, contract details, possible benefits, impacts and future uses of footage at the time of seeking consent, to avoid misunderstandings at a later time. The consent process should be transparent for all parties, and information should be explained in plain English or with the help of an interpreter.

The protocols publication is available on the Screen Australia website www.screenaustralia.gov.au. Any queries, please contact the Screen Australia Indigenous Branch on 1800 213 099 or email indigenous@screenaustralia.gov.au

We recommend that filmmakers intending to use any Indigenous material in their projects read the protocols. It is a useful guide that provides information on dealing with Indigenous material from research to marketing of your film. It also provides useful tips for consultation with Indigenous communities.

Indigenous Cultural & Intellectual Property (ICIP) Rights

Indigenous cultural and intellectual property (ICIP) rights refer to Indigenous people's rights with respect to their cultural heritage. This is a living heritage, which comprises all objects, sites, stories, images and knowledge, the nature or use of which has been transmitted or continues to be transmitted from generation to generation, and which is regarded as pertaining to a particular Indigenous group or its country.

Wording similar to the following provision will be contained in all Screen Australia development, production and post-production contracts for projects involving Indigenous content or participants:

The Producer and Screen Australia acknowledge the existence of ICIP Rights of the Indigenous participants in the Film. The Producer agrees and undertakes to endeavour to ensure that the ICIP Rights of Indigenous participants are respected and upheld in the production and all aspects of distribution of the Film.

In the event that the Producer wishes to include ICIP Rights material in the Film, the Producer shall obtain a non-exclusive licence from the ICIP Rights holder/s or custodian/s to include such ICIP Rights materials in the Film.

In the event of a dispute regarding the ICIP Rights of any Indigenous participant in the Film, all parties shall use their best endeavours to resolve the dispute.