
FEATURE FILM: PRODUCTION

Revised draft guidelines for comment

6 MARCH 2012

As part of its ongoing efforts to improve the efficiency and effectiveness of its funding programs, Screen Australia is proposing a revised process for Letters of Interest and feature film production investment applications.

The aim is to:

- provide more flexibility by making Letters of Interest available at an earlier stage in the financing process so that producers can respond to marketplace feedback without already being locked into deals
- consider financing decisions at more Board meetings per year, reducing the need for producers to submit a project before it's ready just to make a deadline
- make best use of the time and skills of senior Screen Australia staff and external industry specialists, at the same time as creating opportunities to take diverse opinions into account, from both inside and outside the organisation
- provide a transparent and well-understood process that acknowledges the complexity of feature film financing.

The key changes are summarised on the following pages, and revised draft guidelines reflecting these changes are offered for industry comment **until Friday 6 April 2012**. We encourage you to provide your feedback as soon as possible, so that any issues that emerge can be fully considered in finalising the guidelines.

Submit your feedback through your industry guild, or direct to us at featuredraft@screenaustralia.gov.au or by mail to Screen Australia, GPO Box 3984, Sydney 2001; or fax + 61 2 9357 3737.

It is envisaged that the first deadline under the new guidelines would be 31 May, culminating in the July 2012 Board meeting. The schedule for the remainder of 2012 is available on the Screen Australia website.

Internally, we will also be refining new administration processes in preparation for an online application system later in the year.

Key changes

The key differences compared to the previous processes are:

Letter of Interest:

- Letters of Interest are more clearly targeted to reflect Screen Australia's interest in the *potential* of a project.
- An application for a Screen Australia Letter of Interest can be made when the screenplay is at a very advanced stage of development (for example, ready to cast but still one draft away from shooting), and will require only a firm letter of interest from a domestic distributor.
- Letter of Interest applications will be considered against different criteria from production investment applications, using a more streamlined process. The intention is for LOI applications to be considered by a Screen Australia Development Executive and a Screen Australia Investment Manager, taking into account an external reader's report. Their recommendations will then be considered by the Head of Production Investment and Head of Development, who will together recommend whether or not the application should be approved.
- Once a Letter of Interest is issued, Screen Australia expects its currency to be determined by the marketplace. There will be no specified expiry date, although Screen Australia anticipates that any subsequent application for production investment will be submitted within 12 months of the date of the letter.
- If a project is unsuccessful in applying for a Letter of Interest, the producer will be able to:
 - 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, once the finance plan has been confirmed.
- If a project is unsuccessful twice, any further applications (whether for Letter of Interest or production investment) would be deemed ineligible, other than in exceptional circumstances.

Production investment:

- Finance must be in place at time of application: there will be no separate deadline for a confirmed finance plan. Applications for production investment without finance in place will not be accepted. However, eight financing meetings during the year, rather than four, means producers can hold off applying until they are ready, without compromising their project. The annual feature film allocation will be spread across the year in quarterly budgets to be applied to the Board meetings that fall into that quarter.
- Investment criteria have been refined.
- The intention is for the external industry specialist (Feature Film Consultant) to be joined by the Head of Development and Head of Production in meeting with applicant teams as part of the consideration process.
- The current 12-month block on re-submitting a project for production investment will be removed. Unless the project has previously been rejected for a Letter of Interest, a project which is unsuccessful can be

re-submitted for production investment once more whenever the producer feels it is ready. As noted above, if a project is unsuccessful twice, any further applications would be deemed ineligible, other than in exceptional circumstances.

There is no change proposed to any other aspects of the guidelines, including funding caps or market attachment requirements for production finance.

Producer liaison

One of Screen Australia's Drama Investment Managers, Sally Browning, Mark Lazarus or Tim Phillips, will be assigned to the project and will continue to remain the producer's primary contact throughout the process once a project is under consideration.

FEATURE FILM PRODUCTION

We are proposing to revise the process for considering Letter of Interest and production investment applications from 31 May 2012. These draft guidelines reflect that revised process.

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 9). Where relevant, applications for **large-format projects** or **theatrical documentaries** can also be made under this program (see page 10)

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.

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).

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.

External readers' reports: Screen Australia 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.

Feature Film Consultants: For production investment applications, an external industry specialist also participates in the decision-making process, and may continue to advise on projects after Screen Australia has confirmed its investment.

See also 'Information for applicants' on page 8.

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 7, 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 two Screen Australia executives - a Development Executive and an Investment Manager - taking into account an external reader's report. Their recommendations will then be considered by the Head of Production Investment and Head of Development, who will together recommend whether or not the application should be approved. 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 the finance plan has been confirmed.

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 (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.

Consideration process

Complete applications (that is, those which provide all the required information and materials) will be considered by a committee comprising Screen Australia executives and at least one external Feature Film Consultant. 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).

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).

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 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 Letter of Interest applications, the Australian co-producer must have lodged an application for a Letter of Preliminary Compliance with Screen Australia at the time of applying for the LOI, and a Letter of Preliminary

Compliance must be obtained before the decision meeting at which the project is being considered.

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.