



SUBMISSION ON A DEPARTMENT OF CONSERVATION PLAN

AORAKI/MOUNT COOK NATIONAL PARK MANAGEMENT PLAN SUBMISSION

27 March 2002

Screen Producers and Directors Association of New Zealand

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We do wish to make an oral submission at the hearing. Please note that I am out of the country from 26 June until 1 August.

A: Background

1. SPADA is the foremost screen production industry organisation representing film and television producers and directors in New Zealand. We have nearly 300 company and individual members. Our mission statement is to be *the leading advocate for a robust screen production industry which strives to enhance the diversity of screen culture in New Zealand.*
2. This submission has been approved by SPADA's Executive, a board annually elected by its members, and has been prepared after member and industry consultation.
3. SPADA's interest in making submission on the Aoraki/ Mt Cook National Park Draft Management plan ("the Plan") derives from the fact that our members and associates have a long tradition of filming around and in Aoraki National Park ("the Park"). These include feature film makers, television programme makers and producers and directors of commercials (henceforth collectively referred to as film makers).

4. We note and respect the twin aims of national park philosophy as outlined in the Plan: *preservation as far as possible in its natural state, and freedom of entry and access for public enjoyment* (p9). As we have repeatedly said, it is as much in our interests, as in those of DOC, Ngai Tahu and park visitors, that the Park is respected and nurtured and that access is subject to some restriction. SPADA is vigorously interested in ensuring that access to the park by film makers, as well as other concessionaires, is operated under clear, fair, realistic and transparent policy guidelines.
5. As a separate exercise, we are currently discussing with Ngai Tahu the introduction of formal filming guidelines in the rohe. The process has been constructive and helpful.
6. It is critical that this Plan is workable, flexible and far-sighted as it will clearly provide a precedent for other conservancies and their own plans. We are deeply concerned that the devolved nature of conservation management planning requires intensive research and input on no fewer than thirteen plans. We urge the Board to support the concept of national filming guidelines being developed. This would not stop individual conservancies from developing requirements specific to their area, but it would be enormously helpful if this was in the context of a national framework where the substantive requirements were consistent across the country. Compliance costs in this area are significant, both for organisations such as ourselves with an interest in policy development, and for production companies who shoot in several different conservancies.
7. We are grateful to have had the opportunity of the DOC Workshop on 13 March. We understand the concerns being raised across New Zealand about the increasing numbers of visitors on DOC lands and how this might be managed. However one of the things that became clear is that film making has been singled out in the Plan without any real empirical evidence supporting this approach. Put simply, the increase in visitors is clearly the most marked in the recreational user category.
8. For example, we understand that in the year 2000/2001 there were about 7500 'client days' in the Park by concessionaires, excluding people landing on the glacier. This compares with around 300 person days for film crews. Despite the twenty-fivefold disparity in use, the Plan is still heavily weighted in favour of recreational use.
9. Screen production can clearly assist the 'public enjoyment' component of the Park philosophy. The Plan takes no cognisance of the positive effects associated with filming in national parks.

B: Submission Detail

10. Several assumptions were generally accepted by DOC at the Christchurch workshop. They include:

- That the record of film crews in fulfilling their concessions requirements is exemplary and that there is no suggestion that film crews are causing harm to the physical environment. In many cases, locations are left in a better condition than they were found
- That the growth of filming in Aoraki will be small and probably held at a relatively constant level
- That filming can benefit the wider Park-related infrastructure, such as providing business for aircraft operators which helps ensure that the business is viable and available for DOC activities
- That large productions of the scale of *Vertical Limit* and *The Lord Of the Rings* are exceptions and likely to occur perhaps once every five years in the case of *Vertical Limit* (throughout New Zealand, not just Aoraki) and possibly never again in the case of *Rings*.

11. Our comments on the wording of the Plan follow:

THE SPECIFIC PARTS OF THE PLAN OUR SUBMISSION RELATES TO	OUR SUBMISSION IS THAT WE	WE SEEK THE FOLLOWING DECISIONS
Clause 2.1.1, 1 st paragraph, page 37	<p>OPPOSE – SEEK AMENDMENT</p> <p>The reference to activities involving the use and development of the Park is biased and untrue. ‘Increased pressure for use and development’ is mainly from recreational users, not ‘advertising, filming and sports events’. As well, ‘appreciation of the Park’ is not confined to visitor appreciation but can also mean appreciation by audiences of filmed works.</p>	<p>Delete the last sentence.</p>
Clause 2.1.7 bullet points, page 40.	<p>OPPOSE – SEEK AMENDMENT</p> <p>The issues that are described as arising from concessionaire activity in the Park are couched in restrictive language that assumes particular activities will be inappropriate in the Park. Such an assumption is inappropriate and should instead focus on the effects of proposed activities.</p>	<p>Amend the sixth bullet point to:</p> <p><i>“Determining appropriate and inappropriate activities within the Park and avoiding adverse effects of developments not specifically focused on the purposes of the National Parks Act.”</i></p> <p>Add a new bullet point:</p> <p><i>“Providing opportunities for concessionaire activities that do not create adverse effects on the Park.”</i></p>

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Clause 2.2.2 Page 42	<p>SUPPORT</p> <p>The fourth Additional Objective at the fourth bullet point of this clause is supported because it provides an important balance to the other objectives in this section.</p>	<p>Retain this provision.</p>
Policy 4.1.10, Page 69	<p>OPPOSE – SEEK AMENDMENT</p> <p>This policy, as currently worded, ignores the existence of the additional objectives contained at clause 2.2.2 of the plan. The policy and accompanying explanation should be amended to reflect the existence of both primary and additional objectives.</p>	<p>Amend policy so that it reads:</p> <p><i>“To avoid, remedy or mitigate the adverse effects of activities and developments carried out within the Park to ensure that the primary objectives in s2.2.1 and the additional objectives in s2.2.2 of this plan are achieved.”</i></p> <p>Amend the explanation in para 1, 4.1.10 so that it reads:</p> <p><i>“The national parks are established to preserve natural values in perpetuity for the benefit, use and enjoyment of the public. Preservation of these values is fundamental. The Department will manage effects within the Park to ensure that the primary objectives in s2.2.1 and the additional objectives in s2.2.2 are achieved.”</i></p>
Clause 4.3.2, pp105-108.	<p>SUPPORT AND OPPOSE – SEEK MINOR AMENDMENT</p> <p>We generally support the wording of this section of the plan as it is neutral in terms of the factors that will be relevant to an assessment of whether a concession should be granted to any particular activity. Furthermore it provides valuable guidance to concession applicants as to the requirements for a concession application and the likely criteria that a concession will be assessed against. Having said that there is an aspect of the Method at clause 4.3.2(a) 2 that is uncertain.</p>	<p>Retain this section of the plan, however delete from the 14th bullet point under Method 4.3.2(a) 2 the words <i>“and philosophy”</i>.</p>

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Clause 4.3.2, pp105-108 (cont.)	In that an assessment is required of potential adverse effects on the culture and philosophy of a national park . An effect upon a philosophy is not possible.	
Policy 4.3.3(b) page 109	OPPOSE – SEEK AMENDMENT The policy as worded includes a blanket recommendation that landing of aircraft only occur in specified parts of the Park. This statement should at its strongest be only a “general” recommendation. It should not preclude a possible activity when an assessment of effects of the proposed concession indicates that it is appropriate to approve the concessions relating to aircraft elsewhere in the Park.	Delete the second sentence of the policy

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<p>Add new policy 4.3.3(j) and an accompanying explanation and method, page 110 and page 116.</p>	<p>OPPOSE – SEEK AMENDMENT</p> <p>The plan should recognise that filming activity within the Park, like many other activities, will from time to time require aircraft access and landing to parts of the Park not serviced by existing approved landing sites. Where possible use would be made of approved landing sites. However, there will be occasions when approved landing sites are not suitable and on these occasions an application for a concession to land elsewhere in the Park will be required and such an application should be assessed on its merits having regard to the effects of the proposed concession activity.</p>	<p>Add an additional Policy “4.3.3(j) <i>Aircraft may be approved to land anywhere in the Park or be excluded from specific parts of the Park for the purpose of filming and film making in the Park.</i>”</p> <p>Add the following “<i>Explanation P.4.3.3(j)</i> <i>When filming or film making has been approved within the Park access to the film location is generally to be preferred via existing approved landing sites. It is recognised however that on occasions due to the particular location this may not be possible. In such circumstances applications for a concession to land at other locations will be considered on their merits based on an assessment of the effects of the proposed activity.</i>”</p> <p>Add a new Method 4.3.3(j): “<i>Method 4.3.3(j)</i> <i>Recommended condition, in any concession approved for film making, that requires the concessionaire to notify the Department and Mount Cook and Westland National Parks Resident Aircraft User Group in writing of the approximate period in which they will be operating within the Park, and provide a description, and registration number, of the aircraft to be used.</i>”</p> <p>This will also require consequential amendments to policy 4.3.3(b) so that new policy 4.3.3(j) is given the same treatment as policy 4.3.3(i).</p>

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Method 4.3.3(b), (c) & (d) page 116	OPPOSE – SEEK AMENDMENT Requiring a concessionaire to fund a visitor monitoring programme is ultra vires the powers of the Department under s17X and 17Y of the Conservation Act.	Delete paragraph 2 of method 4.3.3(b), (c) and (d).
Explanation of methods M4.3.3(b), (c) & (d) page 117-119	OPPOSE – SEEK AMENDMENT Point 7 on page 118 of this section of the plan is inappropriate and probably ultra vires as it seeks to reserve to the Department and Minister a discretion to assess applications for concession against criteria that are not contained in the plan.	Delete all of explanation at point 7 under Method M.4.3.(b), (c) & (d) No. 7 except for the last two sentences. This also requires a consequential amendment to the last sentence of point 6.
Policy 4.3.9 Pages 134-135	OPPOSE – SEEK AMENDMENT There is no acknowledgment of temporary filming structures required for filming. These structures (sets) are erected and dismantled with no long term environmental effects and minimal short term impact. Thus these structures need to be considered in a different manner to permanent buildings	Add a new Policy 4.3.8(e): <i>Temporary buildings and structures may be erected in the Park for the purpose of filming where any adverse effects can be avoided, remedied or mitigated and the structure is removed on the completion of filming.</i>
Policy 4.3.10(b) Page 136	OPPOSE – SEEK AMENDMENT The policy should be altered to reflect that in general the policy should not preclude other accesses where any adverse effects of those accesses can be avoided, remedied or mitigated. It should be noted that using alternative aircraft landing sites may also help minimise effects on other Park visitors.	Amend policy 4.3.10(b): <i>“To ensure that all filming permitted within the Park is consistent with the visitor management setting. All other policies and objectives shall apply where relevant.”</i>

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Explanation 4.3.10(a) page 136	<p>OPPOSE – SEEK AMENDMENT</p> <p>This explanation requires alteration to make it clear that it is acceptable under certain circumstances that the Park be used as a “setting” or “backdrop” for filming works of fiction or advertisements. Such an activity should be assessed on the basis of its effects.</p>	<p>Add a new third paragraph at the end of explanation 4.3.10(a):</p> <p><i>“It is also acceptable to use the features of the Park as a setting for works of fiction or for advertisements when:</i></p> <ul style="list-style-type: none"> ▪ <i>The filming does not use the name of the Park.</i> ▪ <i>The filming does not carry any explicit or implied endorsement of the work or the subject of the work by Aoraki/Mount Cook National Park, Department of Conservation or Canterbury/Aoraki Conservation Board.</i> ▪ <i>Any actual and potential adverse effects of the filming, can be avoided, remedied or mitigated so as not to be inconsistent with the preservation of the Park.”</i>
Explanation 4.3.10(b) page 136	<p>OPPOSE – SEEK AMENDMENT</p> <p>This refers to the Department recommending that concessions to land aircraft outside of approved landing sites are only permitted when the filming will benefit the preservation of the Park. This is not a matter that relates to the purpose of clauses 4.3.10 of the plan. Rather, it relates to landing concessions for aircraft and should not be in this section of the plan. As well, it is inconsistent with the approach that we have advocated in relation to authorising aircraft landing. It ignores the merits and effects of the proposal and assumes landings for one purpose are acceptable and landings for another purpose are not. Clearly landings for filming may have</p>	<p>Amend Explanation 4.3.10(b) to:</p> <p><i>“Filming within the Park should be consistent with the visitor management setting(s). Where an application is received to land aircraft outside of approved landing sites, the Department will make a recommendation to the Minister based on the proposal’s merits and effects. Where such landings are approved, the Mount Cook and Westland National parks Resident Aircraft user Group is to be notified.”</i></p>

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Explanation 4.3.10(b) page 136 (cont.)	little or no effect, and landings for other “legitimate” purposes may have greater adverse effects. The current approach is also contrary to the principles of freedom of entry and access to National Parks contained in section 4(2)(e) of the National Parks Act.	
Method 4.4.10(a) & (b) Page 136	<p>OPPOSE – SEEK AMENDMENT</p> <p>The method that is currently contained in the draft plan improperly restricts the type of activity for which filming concessions will be granted. The 4th and 5th bullet points in particular would arbitrarily exclude certain types of activities irrespective of whether they have lesser or the same effects as filming of other activities.</p> <p>We also submit that the 4th and 5th bullet points are in contravention of s14 of the Bill Of Rights Act: <i>Everyone has the right to freedom of expression, including the freedom to seek, receive and impart information and opinions of any kind and in any form.</i> (emphasis ours). We refer you also to the discussion about the application of the Bill Of Rights Act in <i>Moonen v Film and Literature Board Of Review</i> [2000] 2 NZLR 9.</p> <p>The method is not necessary to achieve the objectives of the plan set out in clauses 2.2.1 (page 41) and is not necessary to achieve the principles in the NP Act. The content of a completed film does not have an effect on the Park : it is the effects associated with filming <i>activities</i> that should be taken into account. It is therefore outside the Department’s powers to attempt to control the end use of a film product.</p> <p>S17 U of the Conservation Act sets out the criteria for the granting of concessions. This</p>	<p>We strongly urge that the 4th and 5th bullet points under method 4.4.10(a) & (b) be deleted.</p> <p>Alternatively, as a much less palatable option for the reasons outlined at left, the word “or” should be added at the end of the 5th bullet point and a sixth new bullet point inserted as follows:</p> <p><i>“the film, photograph or painting provides the setting for a work of fiction or advertisement that achieves the outcomes identified in Policy 4.3.10(a) and Explanation 4.3.10(a).”</i></p>

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Method 4.4.10(a) & (b) Page 136 (cont.)	<p>does not focus on activities “normally” conducted within a national park.</p> <p>Accordingly the 4th and 5th bullet points are outside the principles for the granting of concessions and should be deleted from the draft plan.</p>	
Text box page 137	<p>OPPOSE – SEEK AMENDMENT</p> <p>The text box may have served some purpose to provoke discussion and comment on filming in the Park. It however serves no function that assists with the quasi – regulatory function of the plan in relation to providing for and assessing concession applications.</p> <p>The text box identifies some potential adverse effects that might arise from filming in the Park. It is not however counter- balanced by consideration of potential positive effects associated with filming and is couched in biased language that assumes filming for any sort of commercial purpose is inherently bad. The text box contains discussion of end use controls eg. how photographs or footage are not allowed to be used or edited. There is a form of control proposed over end use in that the method at clause 4.4.10(a) &(b) deals with endorsement by the Park, DOC and Conservation Board. Attempts to go beyond that scope effectively amount to censorship without justification for why it is necessary or why potential end use of the images could be adverse to the Park.</p> <p>The best interests of the Park are the twin aims of preservation and freedom of access for its enjoyment.</p>	<p>Delete text box at page 137 in its entirety (we assume that the box is for discussion only and there is no intention to include it in the final draft).</p> <p>This will also require the consequential deletion of the first paragraph of Explanation 4.3.10(a).</p>

Where this submission seeks alteration or addition to the wording of the draft plan and such specific wording is not considered appropriate SPADA seeks such similar wording or alterations as is necessary to give effect to this submission.

Thank you for the opportunity to comment.

Yours sincerely

Jane Wrightson

Chief Executive

[sent unsigned by email]