

# **SUBMISSION ON PUBLICLY NOTIFIED DRAFT GENERAL POLICIES DEPARTMENT OF CONSERVATION**

**To:** The Department of Conservation

**Name of submitters:** Film New Zealand and the Screen Producers and Development Association

## **Introduction**

1. This is a joint submission by Film New Zealand and Screen Producers and Development Association on the following Department of Conservation Draft General Policies:
  - (i) Draft General Policy - National Parks Act; and
  - (ii) Draft General Policy - Conservation Act and Related Legislation.
2. This submission:
  - (i) supports, in part, aspects of the Draft General Policies
  - (ii) seeks the adoption and implementation of an effects based approach to decision making within the Department's Concession processes; and
  - (iii) seeks the inclusion in the relevant Draft General Policies to the use of screen production industry Codes of Practice (COP).

## **About Film New Zealand**

3. Film New Zealand is an incorporated charitable trust supported by the New Zealand Screen Production Industry and funded by New Zealand Trade & Enterprise and Investment NZ, the New Zealand Film Commission, the Community Employment Group and some sponsorship from private enterprise.
4. Film New Zealand is a member of the Association of Film Commissioners International and is New Zealand's film locations office, providing information and introductions to the screen production industry in New Zealand.
5. Film New Zealand works with Investment New Zealand to market New Zealand as a production destination.
6. A central role of Film New Zealand is to ensure that New Zealand can deliver on its marketing promise of being a "film friendly" regulatory environment. It works actively with central and local government agencies, including the Department of Conservation and the Regional Film Offices to streamline processes and policies.

## **About SPADA**

7. SPADA is the foremost screen production industry organisation representing film and television producers in New Zealand. It has approximately 370 company and individual members.
8. The SPADA 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. SPADA's main objective is to advocate to enhance the environment for the New Zealand screen industry.
9. This submission has been approved by SPADA's Executive, a board annually elected by its members, and has been prepared after member consultation.
10. SPADA's interest in making a submission on the Draft General Policies derives SPADA's members and associates having a long tradition of filming around and in National Parks in New Zealand. These members include filmmakers at work on feature films, television programmes and commercials.

## **Background - National Consistency**

11. The screen production industry has experienced considerable growth in New Zealand in recent years and is emerging as a significant contributor to regional economic development. The absence of well developed practice standards and processes on the part of both approval agencies and filming operators can represent a barrier to realising this economic and social potential.
12. The development of a nationally consistent and enabling approach to the processing of approvals for filming activities will reflect good practice for regulatory authorities and the screen production industry generally, and provide more certainty for the industry when it is investing and filming in New Zealand.
13. The Department of Conservation in its management of approximately one third of New Zealand's landmass has a significant role to play in assisting in the adoption of a nationally consistent approach to filming activities.
14. Areas of best practice include the:
  - development of screen production industry Codes of Practice
  - contracts between film makers and regulatory authorities
  - recognition of filming and economic development strategies and understanding benefits of filming activities
  - enabling attitudes
  - one stop shops
  - collaboration and partnership building
15. The submitters note the positive steps the Department of Conservation has undertaken in recent years to assist the screen production industry however, it submits there are further steps that can be undertaken to ensure greater consistency and the achievement of the above goals.

## **Relationship of General Policies to Conservation Management Plans**

16. The submitters recognise the Draft General Policies set the national framework under which the Regional Conservancies implement the relevant Conservation Management Plans (CMP). The submitters understand therefore, the detail of the management framework for particular parts of conservation land will be determined largely at the regional conservancy level.
17. It is important however, for the submitters that the Department of Conservation's national framework enables and facilitates appropriate outcomes for filming in New Zealand by positively influencing the CMP process.
18. It is further recognised the relevant conservation legislation is concerned with preserving, protecting and promoting the conservation values of New Zealand and that these goals are not always compatible with commercial outcomes.
19. The submitters note however, that an effects based approach to filming on conservation land that is supported by robust processes and appropriate conditions can address many of the concerns. This submission makes further reference to effects based approaches below. Before addressing this area the following section outlines central aspects of the production process.

## **The Production Process**

20. "Filming" involves a range of production activities including feature films, television commercials, television series and productions. Location filming typically involves four different scales of activity:
  - TV commercials both local and overseas
  - TV documentaries, magazine and video programmes
  - Feature Films
  - Long-running TV series
  - Television movies
21. The choice of a film location requires several factors to be taken into account including the desired "look", safety, cost, convenience, noise in the distances between important production facilities and filming sites.
22. The international industry standard of working within a set zone (approximately 25-kilometre radius, dependant on the location) has a strong influence in New Zealand. Location managers may chose to shift a project to a new location, if working with the original option is perceived to be too costly, slow, inconvenient or complicated.
23. The Department of Conservation has experience with filming and concession applications in respect of "The Lord of the Rings" and "Vertical Limit" projects. These projects however, represent the exception rather than the rule, with the majority of screen production industry requirements operating at a lower level of activity in respect of duration and intensity of actual and potential environmental impacts.
24. One of the key outcomes of the Lord of the Rings project was that its environmental track record demonstrated that film productions on conservation land can occur on a large scale whilst still ensuring protection of the environment. This occurred as a

result of the development of robust environmental conditions and the requirement for specific site management practices to avoid remedy or mitigate environmental effects.

### **An Effects Based Approach**

25. The submitters recent experience with CMP processes is that some Regional Conservancies have adopted an "activity based" approach to the regulation and management of filming on conservation land.
26. An enabling regime should be adopted which makes provision for the following:
  - Provision for temporary set structures and equipment in support of filming
  - Access into particular areas be considered where the level of effects are demonstrated to be minimal
  - Concessions for aircraft use related to filming within the park are considered on a case-by-case basis where environmental effects can be avoided remedied or mitigated (as opposed to blanket restrictions/prohibitions)
  - Notification on concession applications for aircraft use be considered on a case-by-case basis (as opposed to blanket restrictions/prohibitions)
  - Plan provisions should focus on the actual physical effects of filming rather than seeking to control the end use of filmed images
  - A distinction should be made between temporary concessions for filming and tourism and recreation type concessions
  - The use of non-indigenous animals are considered on a case-by-case basis (as opposed to blanket restrictions/prohibitions)

### **NZ Local Government Filming Protocol and Industry Codes of Practice**

27. The New Zealand Local Government Filming Protocol: A Guide to Location Filming Activities and Regulatory Best Practice for Local Government describes best practice for the issuing of District, City and Regional Council approvals needed to undertake location filming such as TV commercials, documentaries, feature films and TV series.
28. The Guide is intended to assist Council's to carry out their statutory duties to protect the environment whilst representing the interest of their communities and encouraging the economic benefits of location filming.
29. The Guide does not address approvals from central government agencies such as the Department of Conservation however, this submission notes the Guide represents a useful precedent for the design and implementation of a streamlined and co-ordinated regulatory process.
30. In 2002 the Department of Conservation undertook some preliminary work, in consultation with the submitters, to consider the development of a SOP to manage commercial filming on conservation land.

31. The draft SOP records a body of departmental knowledge and understanding of the detail of the submitters' requirements. It is submitted that further work could be undertaken to develop an industry Code of Practice (COP), which could form the basis of ongoing discussions towards the rationalisation and co-ordination of filming on conservation land.
32. For that to occur, it would assist if a national standardised approach was established through the current Draft General Policy process and the submitters therefore seek that there be provision in the general policies for a reference to this document.

### **Use of non-statutory documents**

33. It is recognised that "non-statutory" / self-regulating processes often present regulatory challenges, as they are not representative of public processes. The submitters respond to that valid concern with the statement the future industry COP:
  - (i) Will address issues that arise as a consequence of implementation of the relevant departmental legislation
  - (ii) the "nuts and bolts" of the film project deployment and its relationship to Departmental concessions present no surprises with regards to proposed productions and are therefore are largely "anticipated" by the public
  - (iii) an industry COP would not avoid the public process, or the Department's statutory functions and duties. On the contrary, it would provide a robust and consistent framework by which concerns held by environmental interests, and the public generally, may be addressed.
34. It is important therefore that Regional Conservancy's are required by the General Policies to consider any industry COP, and to this end the following submissions are made.

### **Specific Submissions on the General Policies**

#### **Draft General Policy National Parks Act**

##### **Submission 1**

35. The submitters support the statement in policy 9.4: Commercial filming and photography:

*"The effects of commercial filming in National Parks should not be incompatible with the principals of Section 4 of the National Parks Act and not have adverse effects on natural, cultural and historic values, the enjoyment of the public or sites of significance to Tangata Whenua."*

##### **Reason for submission**

36. This statement is supported as the submitters seek an effects based approach whereby specific film projects can be assessed on their merits.

## Submission 2

37. The submitter seeks the deletion in policy 9.4 (a) of the words "...and restricted to existing access...".

### Reason for submission

38. Access options, and the means to obtain access to a more remote location, can be managed by way of appropriate use of technologies, practices and concession conditions to ensure that access is undertaken appropriately.
39. A blanket restriction to existing access reduces the opportunities to consider access options on their merits, and the deletion of these words is consistent with an effects based approach.

## Submission 3

40. The submitters support policy 9.4(b) and notes its desire to assist in the maintenance of the values of sites of significance including those of significance to Tangata Whenua.

## Submission 4

41. The submitters seek the inclusion of a new policy 9.4(c) as follows:

*Commercial filming and photography within National Parks should take into account any formally recognised screen production industry code of practice.*

### Reason for submission

42. The above proposed policy provides both a basis for an integrated management framework across the National Park network whilst ensuring the non-statutory documents are brought within the ambit of public policy processes.
43. These types of documents should be given consideration within any National Park management plan process and in particular in respect of policy 11(d) in the assessment and weighting of risk management of activities within the National Park.
44. The addition of the proposed policy would also assist in informing the relevant management plan process in respect of vehicle transport and use. It is noted the Draft General Policy provides the opportunity for vehicle transport and use however the management plan process will determine the extent of those opportunities. It is therefore important the proposed policy (9.4(c)) above is implemented in the current Draft General Policy.
45. The same comment is made in respect of policy 8.7: Domesticated animals.
46. It is noted the above proposed approach has no relationship to policy 1.5 interpretation of policies which addresses non-statutory policies such as the New Zealand biodiversity strategy while the current proposed approach addresses non-statutory documents.

## Draft General Policy Conservation Acts and Related Legislation

### Submission 5

47. The submitters seek the addition of words to the pre-amble paragraph in policy 10.4 as follows:

*"The effects of commercial filming and photography should not have adverse effects on natural and historic values, on the enjoyment of the public or sites of significance to Tangata Whenua **and where a film or photographic production proposal is submitted the Department will consider the means by which any adverse effect is to be avoided remedied or mitigated.**"*

### Reason for submission

48. The reference to the effects of commercial filming and photography not having adverse effects on (values) presents an unworkable scenario. All activity regardless of its character has "an adverse effect" on the environment at some level of impact (even if only negligible).
49. In the absence of any qualification the current wording would represent in practice an absolute prohibition to a proposal, or would act as a threshold that is so difficult to achieve that it would be impossible to proceed with a proposal.
50. In contrast, the options of "avoid remedy or mitigate" adverse effects is an accepted process of objective assessment of the appropriate thresholds of effects and their management.

### Submission 6

51. The submitters seek amendment to policy to 10.4 (a) to include the following words:

*"Commercial filming and photography activities should be subject to the same conditions as other uses... and be consistent with recreational uses and opportunities in order to **avoid, remedy or mitigate adverse** effects on the public".*

52. A similar comment is made in respect of the words "minimise effects" which by themselves may raise an impossible threshold as any activity is likely to have an effect on the public.

### Submission 7

53. The submitter supports policy 10.4 (b).

### Submission 8

54. The submitter seeks the addition of the same words as noted above in paragraph 9.4(c) and restates the reasons in support of that proposed addition.

*Commercial filming and photography within National Parks should take into account any departmental standard operating procedure, or any formally recognised screen production industry code of practice.*

## **Conclusion**

55. The submitters thank the Department of Conservation for the opportunity to present this submission and express their willingness to clarify any matter raised in this submission.

**Signature** .....

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**Date** .....

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