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21 March 2003

Submission on Tongariro National Park Draft Management Plan

The following is the Screen Production and Development Association's submission on the Tongariro National Park draft management plan released by the Department of Conservation. We wish to appear before the Board to present our submission.

A Background

SPADA is the foremost industry organisation representing film and television producers, line producers, directors and associated industry personnel in New Zealand. We have over 325 company and individual members. Our mission statement is to be *the leading advocate for a robust screen production industry which strives to enhance a diversity of New Zealand screen culture.*

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.

SPADA's interest in making a submission on the Tongariro National Park Management Plan draft derives from the fact that our members and associates have 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 subsequently collectively referred to as "films".

We respect the twin aims of National Park philosophy: *Preservation as far as possible in its natural state, and freedom of entry and access for public enjoyment.*¹ It is in our interest just as much as it is in the interest of DOC, iwi and park visitors that the Park is respected and nurtured and that access is subject to sensible restriction. SPADA is committed to ensuring that access to the park for film makers, as well as for other concessionaires, is operated openly under fair and easily understood guidelines.

B: Submission Detail

1. SPADA has consulted widely with the industry and the Department of Conservation on National Park Management plans. During that consultation several assumptions have been generally accepted by DOC. They include:
 - a) 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;
 - b) That the growth of filming in National Parks will be comparatively small and probably held at a relatively constant level;
 - c) That filming can benefit the wider Park-related infrastructure, such as providing business for aircraft operators which helps ensure that those businesses are viable and available for DOC activities; and
 - d) That the larger productions which involve DOC, 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) and possibly never again in the case of *Rings*.

2. It is of some concern to SPADA that the policies and assessment rationales in National Park Management Plans seem to be moving further away from effects based methodologies as under part IIIB of the Conservation Act 1987 towards a more prescriptive approach. This approach can make negative assumptions about filming activity without allowing the applicants an opportunity to demonstrate their activities can have low/no impact on their surrounds.

3. We are also concerned about various examples of imprecise wording in section 4.4.3.5, which may lead to difficulties of interpretation. The section purports to deal with 'advertising, promotion, filming and photography' yet the various implementation points refer to some or all of these words on an intermittent basis. For example, in implementation point 1, 'advertising or promotional activities' is specified: does this include filming or not? (not all filming is advertising or promotional). Ditto points 4 and 6 and the introduction to this entire section. This consistency of phrasing is important to avoid subsequent confusion.

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

¹ National Parks Act 1990, Section 4

<i>The specific parts of this plan SPADA's submission relates to are:</i>	<i>Our submission is that:</i>	<i>We seek the following decisions:</i>
1.4.3 Park Planning (p13)	<p>SUPPORT</p> <p>SPADA supports the use of effects based methodologies when processing concessionaire applications.</p>	
<p>4.3.2.4 Buildings, Structures and Utility Services (p107)</p> <p>Implementation Point 5 (p 107)</p>	<p>OPPOSE, SEEK AMENDMENT</p> <p>Occasionally film makers seek to build 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</p> <p>OPPOSE, SEEK AMENDMENT</p> <p>Non-permanent structures that have proved they can avoid, remedy or mitigate any adverse effects from their construction need not be subject to the limiting criteria of being "...necessary for core conservation management"</p>	<p>Add a new Implementation Point :</p> <p><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></p> <p>Amend this Implementation Point to:</p> <p><i>Permanent buildings and structures outside ski area boundaries will only be approved where they are necessary for core conservation management.</i></p>
4.4 1 Concessions Policies Introduction (p122)	<p>SUPPORT</p> <p>We note that this introduction lists the criteria the department will take into account when processing applications. This is helpful to concessionaires as it allows them to be as prepared as possible before undertaking the significant costs associated with lodging a concession with the department.</p> <p>We also note that the list takes into account whether or not concessionaires have consulted with iwi. We assume that this affects assessment of cultural values and, if positive consultation has occurred, then any Departmental concerns regarding the filming of mountain peaks and other significant cultural locations will have been addressed.</p>	

<p>4.4.3.4 Aircraft: Implementation Point 5 (p137)</p>	<p>OPPOSE, SEEK AMENDMENT</p> <p>Concessions to land aircraft inside the park are only permitted for management purposes. This approach disallows assessment of the merits and effects of any other proposal. Occasional landings for filming may have little or no effect, and landings for other “legitimate” purposes may have greater adverse effects.</p> <p>We understand and respect the history of low aircraft use in the park but would like to see, at least, that an adequately-supported proposal for filming-related aircraft use could be considered.</p>	<p>Delete Implementation Point 5.</p> <p>Alternatively, amend Point 5 to: <i>The Department will, in general, recommend to the Minister that concession applications for aircraft landings within Tongariro National Park be declined unless a special case can be presented taking into account relevant legislation.</i></p>
<p>4.4.3.5 Advertising, Promotion, Filming and Photography</p> <p>The introductory paragraph (p138)</p> <p>Objective 1 (p138)</p>	<p><i>See also our opening comments in B3 above regarding inconsistent terminology.</i></p> <p>OPPOSE, SEEK AMENDMENT</p> <p>The wording does not effectively encapsulate the point of requiring concessions. It also strays into editorial matters in an inappropriate way (the end-use of a project, and whether or not this relates to the physical environment, is not and should not be the Department's concern). In addition, the wording does not reflect an understanding that the location can either be a feature, or a backdrop for other activity. There is nothing wrong with the latter approach but the wording intimates there is.</p> <p>OPPOSE, SEEK AMENDMENT</p> <p>The wording of this objective appears to preclude all filming which does not specifically provide for preservation of national park values. This is a severe and stringent editorial policy which has the unfortunate effect of appearing only to condone ‘propaganda’ filming. We are sure this is not the intention.</p> <p>We strongly believe that DOC should concern itself only with the effects of physical production processes, not the subject of the filming.</p>	<p>Delete second and third sentences. (“These may range.....advertising of office furniture”)</p> <p>Amend this Objective to:</p> <p><i>To consider advertising, filming or promotional activities in the park in accordance with relevant legislation where any adverse effects can be avoided remedied or mitigated</i></p> <p>[This wording is similar to the approved Westland and Te Urewera plans, among others.]</p>

<p>Objective 2 (p138)</p>	<p>The sole exception may be a need to take into account any cultural matters with iwi.</p> <p>From a strictly legal perspective, it is conceivable that if an application for a concession to film in the Park was declined because it did not promote an activity which provided for the preservation of national park values, the decision to decline the application could be challenged by way of judicial review. The basis of the review would be that management plan goes beyond the provisions of the National Parks Act.</p> <p>OPPOSE, SEEK AMENDMENT</p> <p>The phrase "...do not undermine" and "...impinge" are vague, ambiguous and can not be objectively assessed.</p>	<p>Amend this Objective to:</p> <p><i>To ensure that advertising, promotion and filming are not inconsistent with the values for which the park is set aside, or adversely effect core visitor use.</i></p>
<p>Implementation Point 1 (p138)</p>	<p>OPPOSE, SEEK AMENDMENT</p> <p>Further to the points made regarding Objective One, requiring a concessionaire's activity both to complement <i>and</i> be consistent with natural values goes beyond the scope of the existing legislation that informs park management plans.</p> <p>SPADA understands that the department must protect against physical harm to the area in which the filming activity proposes to take place.</p> <p>It is unreasonable and beyond the provisions of the National Parks Act to ban filming on editorial grounds (namely for content reasons) rather than to assess on an effects basis.</p>	<p>Delete this Implementation Point.</p>
<p>Implementation Point 2</p>	<p>OPPOSE, SEEK AMENDMENT</p> <p>Asking an applicant to prove a unlimited negative "...an applicant must demonstrate the activity cannot be undertaken elsewhere..." is unreasonable and virtually impossible.</p>	<p>Amend this Implementation Point to:</p> <p><i>An applicant must demonstrate that the activity cannot reasonably be undertaken elsewhere on conservation or private land.</i></p>

<p>Implementation Point 3 (p139)</p>	<p>OPPOSE, SEEK AMENDMENT</p> <p>SPADA requests that assessments officially recognise an applicant's proposal to address any potential adverse effects of their activities</p>	<p>Add to the end of Implementation Point 3:</p> <p><i>...and the methods to avoid remedy or mitigate any adverse effects on these values.</i></p>
<p>Implementation Point 4 (p139)</p>	<p>OPPOSE, SEEK CLARIFICATION</p> <p>There are two separate issues in the point and we suggest they be separated for clarity.</p> <p>Regarding the first sentence we are unclear about the practical meaning. It appears to reflect an editorial-inspired point and we reiterate that a filming promotional activity (the subject) should not be related to concession consideration (production effects)</p> <p>Regarding the second sentence, we understand that the above 2300 metres restriction relates to the pristine area provisions. We respect these, but as with our submission on 4.4.3.4 we would like to see an ability by the Department to assess exceptional proposals on their merits. There are already stringent requirements in 4.4.3.4 Implementation Points 9 and 10 which will preclude all but the most unusual cases.</p>	<p>Clarify and separate these Implementation Points</p> <p>Amend this sentence to read:</p> <p><i>The department will recommend to the Minister that concession applications which require the use of aircraft above 2300 metres be declined unless the applicant can show that the negative effects of the proposed activity can be avoided, remedied or mitigated, taking in account the other provisions of this plan.</i></p>
<p>Implementation Point 9</p>	<p>OPPOSE, SEEK AMENDMENT</p> <p>Is this point, banning flights below 500 feet, intended solely for filming concessionaires?</p> <p>If so, why? It is an unreasonable constraint specific to an industry which precludes an applicant making a case.</p> <p>If not, why is it here and not under the 4.4.3.4 provisions?</p>	<p>Delete this Implementation Point.</p>
<p>Implementation Points 5,6,7,8</p>	<p>SUPPORT</p> <p>We have no objection to these provisions</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.

Conclusion

Tongariro receives close to one million recreational visitors a year. The number of filming concessions processed in the last 12 months was approximately 81. All of the filming concessions that were granted were small scale, one off permits. It is likely that this will continue to be the type of filming requested for the park. Clearly, recreational visitors have a far greater impact on the park; this is the pattern nationally. Yet, in the Tongariro National Park draft management plan, while most of the concession policies for activities other than filming take an effects based approach to evaluating their merits and demerits, filming is subject to a values system that has the potential to be vague and confusing to applicants.

Encouraging a clear and open process for filming concessions is in interests of both the screen production industry and the Department. SPADA believes developing sensible and enforceable policies for filming activity in consultation with industry groups such as SPADA, Film New Zealand, the local councils and runanga will ensure that the needs of both the Department and the screen production industry will be met.

We forward to hearing from you. Thank you for the opportunity to comment.

Yours sincerely

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[sent unsigned by email]