

CITY OF CAPE TOWN

CITY OF CAPE TOWN FILM POLICY AND PROTOCOL

JUNE 2004

**(Adopted by Executive Mayor and Mayoral Committee, 9 June 2004.
MC 05/06/04)**

**CITY OF CAPE TOWN FILM POLICY AND PROTOCOL
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EXECUTIVE SUMMARY

Film production in Cape Town is now big business and is an industry in its own right, with significant benefits for the City. This simultaneously also increases its potential impacts on communities and the City in general, thereby raising the possibility of conflict if filming is not conducted in a responsible manner. Hence, the necessity for the formulation of a policy to govern filming-related activities in Cape Town. Such a policy aims to ensure film-friendly regulatory practices and that the impact of filming is positive.

The preparation of this overall policy document is primarily intended to provide a framework to assist Council in carrying out its statutory duties to protect the environment and represent the interests of local communities, while also realising the economic benefits of filming.

The City of Cape Town's Economic Development and Tourism Directorate (ED&T) prepared an initial draft of this policy, entitled "Draft Commercial Film and Photographic Location Policy" (henceforward referred to as the Phase 1 Draft Policy). This Phase 1 Draft Policy was advertised for public comment in June 2003. 41 written comments were received.

However, the Manager responsible for the formulation of this policy left Council's employ at the end of September 2003. With a growing imperative to complete the Policy, ED&T appointed an independent consultant, to assist with the process and completion of the product.

In the preparation of the brief however, a number of significant weaknesses in the Phase 1 Draft Policy were identified, including ambiguities, fundamental conflicts between the proposals and the comments submitted, and conflation with existing procedures for film permitting.

It was therefore proposed and approved by the Mayoral Councillor and the Economic, Social Development and Tourism Section 80 Committee on 6 February 2004, that the Phase 1 Draft Policy be reformulated (entirely) as a policy statement and protocol. The policy title has consequently been revised to accurately reflect this focus – to "City of Cape Town Film Policy and Protocol".

In terms of this revised brief, a draft Film Policy and Protocol was prepared for the purpose of public comment. This report, entitled "Draft City of Cape Town Film Policy and Protocol: April 2004" is henceforward referred to as the Phase 2 Draft Policy. The Phase 2 Draft Policy was circulated for public comment in April 2004. 26 comments were collated in an Issues Trail Report and the proposals contained in the Phase 2 Draft Policy were revised on the basis of these comments.

This report, entitled "City of Cape Town Film Policy and Protocol: May 2004" thus represents the third and final phase of Policy formulation for submission and approval to Council's Committee structures, and is henceforward referred to as the Phase 3 Draft Policy.

Key findings of the report include:

- The economic benefits of filming activities to the local economy should not be understated or under-estimated. It is a dynamic, high growth industry impacting on Cape Town in ways that few other industries can match.
- Public authorities, community and filmmakers will inevitably have fundamentally different perspectives as to the approach and effect of activities relating to filmmaking on the environment and community. There has been a degree of hostility and intolerance from all parties concerned in

Cape Town and this has contributed to an unhealthy relationship between stakeholders. In the interests of achieving a “film-friendly” environment, it is vital to achieve a balance between the interests of all stakeholders.

- Location filming cannot be easily characterised. The requirements of each film shoot will vary in many ways. Any attempt to manage the activities of the industry must accommodate this diversity. Critical aspects of the film making process include the need for flexibility; fast turn around times; and 24-hour, seven-day week filming opportunities. Thus a large component of being film-friendly involves efficiency and timeliness.
- Most of the negative impacts of filming activities are short term in nature. However, some negative impacts, particularly environmental, have the potential to have long-term implications.
- The lack of integration, (largely due to placement not yet taking place) of all aspects of the City of Cape Town (CoCT) management of the film industry (with the exception of tariffs) has limited the extent to which an efficient, uniform, streamlined service can be provided.

The Report then goes on to recommend that a film friendly Policy Statement be adopted. In line with this Policy, certain recommendations are made with respect to organisational structure and process. Finally a series of Protocols or principles pertaining to 8 areas of concern are elaborated. The Protocols are to guide the development of more detailed operational systems and decision-making. They include, *inter alia*, impact criteria, procedural matters, including service delivery objectives, consultation and notification, monitoring, tariffs and codes of conduct.

RECOMMENDATIONS:

In summary, it is recommended that:

1. **The City of Cape Town commits itself to working within the guidelines of this Policy and Protocol document.**
2. **Council adopt the following Policy Statement:**
“The City of Cape Town recognises the valuable contribution of filming to the economic and cultural environment of Cape Town and aims to facilitate a sustainable, film-friendly environment in all interactions with the industry.

However, such an approach is mindful of our obligation to balance the film industry requirements against community and environmental considerations. The City commits itself to ensuring the responsible use of public resources and the maintenance of community amenity in this respect.

The City of Cape Town aims to encourage more and better collaboration between all role-players, to promote partnerships and to facilitate an appreciation of the requirements and expectations of all concerned. In this way, mutually beneficial outcomes are achieved. Regular monitoring and feedback is considered an essential component of this collaboration.

The City of Cape Town commits itself to continual striving for best practice, international standards and competitive pricing in the promotion and regulation of the film industry, and to transparency of operation. We subscribe to an approach that regards filming as ‘everyone’s business’ ”.

3. **The City of Cape Town focuses its attention primarily on setting in place the policies and procedures required to ensure that the regulatory approvals necessary for location-filming activities are provided in an efficient and timely manner, in consultation with and to the**

general satisfaction of all role-players. The CoCT will also facilitate the process to ensure that a positive enabling environment is provided for the film sector; that the sector is supported in line with Council's sector support strategy and that key cross-sector linkages are made (especially to Tourism).

4. The mandate of the Cape Film Commission (CFC) to promote Cape Town and the Western Cape as a premier film destination be re-affirmed and that it be resourced and supported to effectively undertake such a mandate. More specifically, the CFC should be relieved of its care-taking responsibility for the Cape Town Film Permit Office (CTFPO) as soon as possible.
5. The CFC be required to initiate regular discussions with all permitting authorities or their agents, the industry and community in order to develop and monitor a coherent strategy, protocols and a uniform approach to location film permitting in Cape Town. Issues of empowerment and employment equity in the film industry require on-going attention.
6. The City of Cape Town initiate processes to consolidate all film permit activities, across all Administrations into one management roof. On the assumption that many of the strategic functions in relation to the promotion of a film-friendly Cape Town are delegated to the CFC, it is suggested a "one-stop-shop" film permitting function is best placed so as to be independent of the sectoral interests of Departments. As film location permitting is primarily an administrative function (albeit one that requires staff trained in the specifics of the film industry), and is allied to other permitting activities – it would ideally be placed in a "single entry point", customer focused, Council permitting unit.
7. The regulation of events and of location filming be linked through organisational structure and procedure and that current corporate restructuring processes incorporate such investigations.
8. Subject to the corporate restructuring processes, Council appoint a Film Permitting Co-ordinator whose sole responsibility is the management of the filming approvals process and all related activity City-wide.
9. The Film Permitting Co-ordinator be tasked with developing a Resource Strategy for the film permitting function within the CoCT, to feed in to current corporate restructuring processes. A Resource Strategy should include proposals for systems of monitoring and accreditation, and the resourcing thereof. It should be directed by appropriate Service Delivery Objectives, designed in accordance with the proposed film-friendly policy of facilitation.
10. Service delivery objectives should include 24-hour, seven-day week availability; face-to-face contact; reasonable turn-around times for processing permits; and staff who have a good understanding of the issues involved and the most commonly used locations.
11. For the purposes of this Policy, filming can be defined as the recording of images, moving or still, whether on film or video tape, or electronically, or by other means for exhibition or broadcast purposes, such as by cinema, television, the Internet or other means. It does not include the video recording of a wedding ceremony or other private celebration or event for the purpose of making a record thereof for its participants, or the recording of current affairs or news for immediate release. For the purposes of the issuing of permits, it does include student projects.
12. In drafting the Zoning by-law, the CoCT consult timeously with relevant interested and affected parties regarding making provision for film activities.

13. A Film by-law be formulated and promulgated. Such a by-law should make provision for the following:
- The issuing of permits for all film related activity which falls within the definition outlined in this policy
 - The authority to set permit conditions and to enforce compliance therewith
 - Linking to other by-laws in order to obviate the need to comply independently with the provisions of these other by-laws
 - The issuing of delegations
 - The levels of service expected of Council in the issuing of permits
 - Zoning Scheme provision for film activities (in consultation with key interested and affected parties)
14. Provision be made in the proposed Film by-law to promulgate Zoning Scheme provisions in respect of film activities, providing such provisions are in accordance with the intentions of the Draft Zoning by-law.
15. The CoCT prepare an Operations Manual, generally in accordance with the principles and protocols outlined in this Policy, that should include, at a minimum:
- A statement clarifying the types of filming for which approvals are required.
 - Clarification of the range of approvals which may be required for film activities and which are part of the Council film location permit process.
 - A list of the range of approvals that may be required from other Government Departments or Authorities.
 - A list of 'hotspot' locations that are potentially sensitive from an environmental, cultural or historical perspective and which may require conditional filming and monitoring.
 - Impact Assessment Criteria, to be used in the determination of delegations, processing times, tariffs, community notification or consultation, standard conditions of approval and monitoring.
 - A framework for the processing of film location permits, and service delivery commitments in this respect. This should include an indication of when Departmental circulation is required, and whether such circulation is for information or consultation.
 - A schedule of generic conditions of approval and the requirement for site specific conditions of approval.
 - A consultation protocol, determined by the impact of the proposed shoot, and to reflect the principle of the more significant the impact, the greater the extent of consultation.
 - Any 'rules of the game' which can be established upfront.
 - A tariff schedule and application thereof.

16. Once a draft Operations Manual has been prepared, relevant interested and affected parties will be consulted. The Manual be reviewed and updated on a regular basis.

17. The CoCT adopt the 8 Protocols outlined in this report as the basis to guide the day-to-day operations of film permitting.

THE WAY FORWARD

Assuming the recommendations, policies and protocols outlined in this report are acceptable, it is recognised that considerable effort and resources are required to implement them. Prioritisation of key catalytic actions is necessary in order to affect an implementation strategy. The following prioritisation is suggested as a guide to direct activity in the short term:

1. Preparation and promulgation of a Film by-law and the simultaneous preparation of Zoning Scheme provisions for film activities, to be incorporated into the Film by-law and the Draft Zoning by-law.
(Who: Legal Services, ED&T and P&E
Target date: Draft – August 2004)
2. Preparation of the Operations Manual to improve decision-making and ensure consistent application of the Film Policy and Protocol across the administration. This is likely to be a significant undertaking, as it will, in essence provide the basis for a consolidation of all film related activity and decision-making in the CoCT even prior to any restructuring, as well as significantly improve process and decision-making.
(Who: ED&T with other CoCT Directorates, plus CFC and Film Industry
Target date: December 2004 for initial draft)
3. Subject to the corporate restructuring process, appointment of a Film Permitting Co-ordinator whose sole responsibility is the management of the film approvals process and all related activity.
(Who: Pending
Target date: to align with Corporate restructuring process)
4. Tasking the Film Permitting Co-ordinator with the responsibility for developing and negotiating detailed proposals for a consolidated “single entry point” permitting unit for the management of film activities and the concomitant development of service delivery objectives and a Resource Strategy (including the transfer of the CTFPO function back into the City).
(Who: Manager of Council’s “single entry point” for all permits
Target date: to align with Corporate restructuring process)
5. Council must take such steps as are reasonably practical to bring the Film Policy and Protocol and the existence of any relevant regulations to the notice of any person who lodges or whom the Council knows to be intending to lodge a film permit application. It is imperative that the film industry understands the information needs of Council so that proper and timely consideration can be given to permit applications.
(Who: ED&T and other Directorates; Communications Directorate
Target date: Aligned with policy approval process; September 2004 and ongoing)

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APPENDICES

Appendix 1: Cape Town Film Policy and Protocol Issues Trail (Phase 2)

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1. REPORT CONTEXT

The City of Cape Town's Economic Development and Tourism Directorate (ED&T) prepared an initial draft of this policy, entitled "Draft Commercial Film and Photographic Location Policy" (henceforward referred to as the Phase 1 Draft Policy). This Phase 1 Draft Policy was advertised for public comment in June 2003. 30 written comments were received from the industry, the community and Councillors. 11 Comments were also received from various Council Departments.

However, the Manager responsible for the formulation of this policy left Council's employ at the end of September 2003. With a growing imperative to complete the Policy, ED&T appointed an independent consultant to assist with the process and completion of the product.

In the preparation of the brief however, a number of significant weaknesses in the Phase 1 Draft Policy were identified, including ambiguities, fundamental conflicts between the proposals and the comments submitted, and conflation with existing procedures for film permitting.

It was therefore proposed, and approved by the Mayoral Councillor and the Economic, Social Development and Tourism Section 80 Committee in February 2004, that the Phase 1 Draft Policy be reformulated (entirely) as a policy statement and protocol. The policy title has consequently been revised to accurately reflect this focus – to "City of Cape Town Film Policy and Protocol".

In terms of this revised brief, a draft Film Policy and Protocol was prepared for the purpose of public comment. This report, entitled "Draft City of Cape Town Film Policy and Protocol: April 2004" is henceforward referred to as the Phase 2 Draft Policy.

The Phase 2 Draft Policy was circulated for public comment in April 2004. Comments have been collated in an Issues Trail report (discussed further in section 3 below) and the proposals contained in the Phase 2 Draft Policy have been revised on the basis of these comments.

This report, entitled "City of Cape Town Film Policy and Protocol: May 2004" thus represents the third and final phase of Policy formulation for submission and approval to Council's Committee structures, and is henceforward referred to as the Phase 3 Draft Policy.

2. BRIEF SUMMARY OF PHASE 2 DRAFT POLICY

The final City of Cape Town Film Policy and Protocol (Phase 3 Draft Policy) is intended to be read as a stand-alone document. However, important background information and the development of the argument for the proposals contained in this report are, to a large extent contained within the Phase 2 Draft Policy. For ease of reference, the critical aspects of the Phase 2 Draft Policy are summarised below.

2.1 Objectives

Film production in Cape Town is now big business and is an industry in its own right, with significant benefits for the City. It no longer functions as an occasional event. This simultaneously also increases its potential impacts on communities and the City in general, thereby raising the possibility of conflict if filming is not conducted in a responsible manner. Hence, the necessity for the formulation of a policy to govern filming-related activities in Cape Town. Such a policy aims to ensure film-friendly regulatory practices and that the impact of filming is positive.

The preparation of this overall policy document is intended to perform the following main functions:

1. To act as a framework to assist Council in carrying out its statutory duties to protect the environment and represent the interests of local communities, while also realising the economic benefits of filming.
2. To clearly establish the roles and responsibilities of the City of Cape Town (CoCT), the Cape Film Commission (CFC), the film industry and associated role-players, and the general public.
3. To disseminate information to the industry and the general public on the proposed types of approvals required for location filming, the approval process(es) and requirements.

While it may mention approvals required from Provincial authorities and other bodies, this policy does not cover these processes. It also does not deal with actions required to market and promote the attractions of the City to the industry for this is considered to be the role of the Cape Film Commission.

2.2 Summary of Key Issues

2.2.1 The role of filming in Cape Town

- The economic benefits of filming activities to the local economy should not be understated or under-estimated. It is a dynamic, high growth industry impacting on Cape Town in ways that few other industries can match.
- The highly competitive and global nature of the industry requires that every attempt should be made to maintain comparative advantage. The loss of business to other cities and countries impacts on Cape Town as a whole, not only the industry. As is the case with tourism, filming is (or should be) “everyone’s business”.
- It is essential that Cape Town remains competitive – it needs to demonstrate to prospective local and international filmmakers that the City is film-friendly. Although currently there are a number of strategies and statements with regard to support for the film industry, there is no formal, City-wide policy and protocol in this regard.

2.2.2 Relationships between role players

- Public authorities, community and filmmakers will inevitably have fundamentally different perspectives as to the approach and effect of activities relating to filmmaking on the environment and community. There has been a degree of hostility and intolerance from all parties concerned in Cape Town and this has contributed to an unhealthy relationship between stakeholders. In the interests of achieving a “film-friendly” environment, it is vital to achieve a balance between the interests of all stakeholders.
- There are many government and other authorities involved in film permitting, with a high degree of variability in permitting processes, tariffs, conditions of approval and monitoring of shoots. This has resulted in a certain level of confusion as to from whom authorisations are required. Where a variety of authorities are involved, this can result in extremely costly shoots. At present, there appear to be no structures co-ordinating discussions to streamline overall operations.

2.2.3 Management of the film industry

- Location filming cannot be easily characterised. The requirements of each film shoot will vary in many ways. Any attempt to manage the activities of the industry must accommodate this diversity.

- Critical aspects of the film making process include the need for flexibility; fast turn around times; and 24-hour, seven-day week filming opportunities. Thus a large component of being film-friendly involves efficiency and timeliness. Other factors include consistent standards and requirements and access to experienced staff in the film permitting process.
- The international nature of the industry means it is aware of international norms and practices and Cape Town (and its authorities) are constantly being compared to other competitor locations. It is vital therefore that management of the industry is guided by international best practice, and that permitting authorities and individuals involved in promoting or managing the industry are thoroughly versed in the film industry.
- Most of the negative impacts of filming activities are short term in nature. However, some negative impacts, particularly environmental, have the potential to have long-term implications. Management of these impacts is critical, as is monitoring of these impacts, especially in those filming "hot spots" where cumulative impact is greatest.
- There is a need for the industry to put in place their own standards, training programmes and practices for location filming to help ensure good environmental stewardship and positive community relationships (although sections within the industry do already put effort into these aspects).
- Accurate and up-to-date statistics on the industry are not compiled on a regular basis. If Cape Town is to understand and monitor the economic and other impacts on the City, it requires a more consistent data-base for decision-making.

2.2.4 City of Cape Town Film Permitting: Organisational Structure

- The lack of integration of all aspects of the management of the film industry (with the exception of tariffs) has limited the extent to which an efficient, uniform, streamlined service can be provided. Additionally there is no common "home" Department responsible for the management of Council's operation with respect to managing the film industry. This hampers attempts to co-ordinate activities, limits "bottom-line" responsibility and makes the tracking of income, expenditure and statistics very difficult.
- The management of the Cape Town Film Permit Office (CTFPO) by the CFC, albeit temporary, has limited the extent to which the CFC can fulfil its mandate and has led to perceptions that the CFC is too closely aligned to the issuing of film permits in the (central) City.
- The extent to which strategic aspects of promoting and facilitating the film industry can be developed within the CoCT is significantly hampered by lack of resources.
- The lack of delegations and consolidated authority to approve permits, and the need to notify and consult a variety of Departments, which have other priorities, hampers the provision of a service that can adequately meet the demands of the film industry.

2.2.5 City of Cape Town Film Permitting processes and requirements

- The lack of commonly accepted criteria for the consideration and approval of permits both lengthens the time taken to issue approvals and the extent to which film activities can be efficiently monitored.
- The lack of integrated procedures leads to confusion and limited ability to meet the specific requirements of the industry. The lack of consistently applied distinctions to the industry in the permit process exaggerates the problem.

- The systems of monitoring, particularly in the use of Film Unit Liaison Officers, Environmental Conservation Officers (ECO's) and Traffic Officers are inconsistent, costly to the industry and tend to inefficient use of Council resources best deployed elsewhere.
- Inconsistent application of consultation and notification requirements leads to suspicion and conflict between the community, the film industry and Council.
- Inconsistent application of the Land Use requirements pertaining to filming activities leads to confusion and potential abuse of the fundamental objectives of land use regulation.

2.2.6 Phase 2 in the development of the City of Cape Town Film Policy and Protocol

It is clear that the development of consistent and co-ordinated policy, protocol and procedure would improve Council's ability to both facilitate and manage the industry, and has the greater potential to align with the requirements of both the community and the film industry.

The Phase 2 Draft Policy proposes a Film Policy Statement, to be adopted to guide the CoCT in its approach to all matters pertaining to filming in Cape Town. This policy is then developed in two respects. Firstly, a number of proposals are made with respect to organisational structure and work place practices that are intended to address the structural problems identified in analysis. Secondly, a number of protocols (or principles) are suggested, which are intended to provide the basis for decision-making and the development of more detailed, operational systems and procedures. These proposals have all been developed with reference to an international precedent study, some of the main findings of which are included as an Appendix to the Phase 2 Draft Policy.

The recommendations are revised in this, the Phase 3 Draft Policy, on the basis of comments arising from the advertising of the Phase 2 Draft Policy.

3. PUBLIC PARTICIPATION PROCESS

3.1 Phase 1 Draft Policy

On 19 March 2003, the Executive Committee of the CoCT recommended that the Phase 1 Draft Policy be made available for public comment. The report was advertised for public comment in June 2003. Advertisements and articles appeared in the Argus, the Cape Times, Die Burger and all the community newspapers. The draft policy was placed on the CoCT website, copies of the policy were posted to all 200 Councillors, to over 100 registered Ratepayer and Civic Associations and were placed in the municipal libraries. Four public meetings were also held in Cape Town CBD, Bellville, Muizenberg and Milnerton. The initial closing date for comments (25 July) was extended to 10 August 2003.

41 written comments were received in all - 30 were received from the industry, the community and Councillors. 11 comments from 8 Directorates within the CoCT were also received.

Since the comments illustrated, in the main, the need to fundamentally review the product, there was no review of the Phase 1 Draft Policy in accordance with the comments. Instead, the comments were summarised in an Issues Trail Report, attached as an Appendix to the Phase 2 Draft Policy. Those comments made in respect of 'operational-level' or day-to-day issues were identified and referred to a CoCT Inter-departmental Film Co-ordination Team in order that issues can be prioritised and short-term solutions negotiated (with a view to ultimate consistency with the Film Policy and Protocol where possible). Issues raised with respect to matters of principle were considered in the development of the Phase 2 Draft Policy.

3.2 Phase 2 Draft Policy

The Phase 2 Draft Policy was advertised extensively for public comment in the month of April 2004. Advertisements appeared in the Week-end Argus, the Cape Times, Die Burger and all the community newspapers. The report was placed on the CoCT website, and full copies of the report were posted or e-mailed to: 200 Councillors; 29 CoCT ED&T and P&E Section 80 Committee members; 653 CoCT officials; all (37) who commented on the Phase 1 Draft Policy; the Cape Film Commission; 762 film industry representatives; 5 National and Provincial Departments (including Table Mountain National Park); 89 members of public and community organisations; and 6 'other'. Three stakeholder meetings were held to discuss comments. These included a meeting with the film industry on the 22 April, at which 24 people attended; a meeting with the general public on 22 April, at which 4 people attended; and a meeting with CoCT Service Directorates on 21 April, at which 18 people attended. The closing date for written comments was 30 April 2004.

26 written comments were received in all: 11 comments from interested and affected parties, (4 from the film industry, 1 from other permitting authorities, 6 from the community); and 15 from CoCT Service Directorates.

4. DISCUSSION OF COMMENTS

The comments submitted to the advertising of the Phase 2 Draft Policy are summarised and responded to in detail in Appendix 1. Some of the comments (corrections) have been incorporated directly into a revised Phase 2 Draft Policy report or into the final recommendations of this, the Phase 3 Draft Policy, outlined in Section 5 below. However, a number of the common concerns raised require a more consolidated response.

1.0 Formulation of a By-Law

The Phase 2 Draft Policy recommended that no additional legislative mandate (i.e. no film by-law) be sought by the CoCT to manage film activities. However a number of comments were made to the contrary. Community organisations were concerned that Council has no basis to enforce permit conditions. Advice from the City's legal office indicates that permits cannot be issued unless Council adopts a by-law to authorise the issue of permits. Moreover, in order to fulfil the recommendations made in respect of delegations to facilitate decision-making, a by-law is necessary to provide legal authority for that which must be delegated. Finally, at present Council has very little power to enforce the conditions of approval. A by-law would make provision for compliance and penalties in this respect.

It is therefore proposed that the development and adoption of a by-law that authorises Council to issue film permits, impose whatever conditions are deemed appropriate, provides for conditions relating to compliance and enables delegations, is necessary. It is understood that this is not a lengthy process and could be expected before the start of the next film season.

A Film by-law can also be formulated so as to include service delivery objectives binding the administration in the issuing of permits. In other words, both those seeking film permits, and those issuing film permits can be tied to the delivery of specified levels of service. A Film by-law is thus able to achieve a number of the objectives established in this Policy. Recommendations will be made to this effect.

It should be noted that such a by-law would apply to film activities on all properties, whether public or private. This would enable the City to manage any negative impacts on the environment and surrounding property, regardless of where the shoot is held.

2.0 Land Use Zoning

The issue of film activities on land not zoned for commercial purposes remains a significant concern for all parties, and for opposing reasons. The film industry believes the CoCT's current approach that requires land use regularisation for these activities is onerous and extremely detrimental to the industry. Community response demands such regularisation on the basis that it is illegal and on the basis that such activities have a significant impact in residential areas.

The Phase 2 Draft Report took the approach that the provisions of the town planning legislation should preferably not be applicable in the case of commercial film shoots (including stills) where a residential or other property is utilised on a limited temporary basis with limited or no impact. However, where a property is used more regularly (or predominantly) for the purposes of commercial filming and where the impacts are regular and not transient, it was proposed that land use application would have to be made. Certain criteria were proposed to determine the point at which a film use would require authorisation in terms of the Zoning Scheme.

It remains an important objective of this Film Policy and Protocol that the proposals balance the film industry needs with community and environmental concerns. Although the South African Association of Stills Producers indicate that they have a legal opinion which argues that current Zoning regulations do not refer to filming activities and cannot be categorised as business or commercial due to the irregular nature thereof and does not alter the normal use of the property, this opinion is not made available. It is felt there is insufficient legal argument to suggest that a property not zoned for commercial purposes, and that is used regularly or continuously for film activities, is not in contravention of the Zoning Scheme. Moreover, property owners living in areas not zoned for commercial purposes have the right to expect protection from uses not considered legal and which impact on their level of amenity.

Further discussions with the City's Legal and Planning and Environment Services has revealed that a draft City of Cape Town Zoning by-law has already been prepared, with the objective of presenting it for public comment in June 2004. In terms of this by-law, a category entitled 'Occasional Uses' has been included. This category allows that Council may permit such uses (which are defined to include film shoots and other events) provided that, in Council's opinion:

- a) The occasional use will not have a significant negative impact on surrounding areas, or on the natural or cultural environment;
- b) The occasional use is genuinely of a temporary and short term nature, and it is not appropriate to process an application for the use as a departure application; and
- c) The occasional use conforms to the Council's policy if such a policy exists.

The draft by-law goes on to permit film shoots without the need to submit an application or obtain Council's written permission provided:

- a) In a residential, community, agricultural or rural zone no land unit may be used by film shoots for more than 8 calendar days per year;
- b) If in Council's opinion a public nuisance is created, including excessive noise generation, traffic generation, interference of the public's right of access, then the Council may require the film company to reduce the nuisance or cease operation on the property concerned.

In effect, filming activities of a genuinely temporary nature are proposed to be permitted as of right in terms of land use requirements (this does not obviate them from the need to comply with film permit requirements). This is in accordance with a policy that promotes a film-friendly city. Where however properties are used regularly for such activities and are not zoned accordingly, consent would have to be applied for by the landowner, and the local community would be consulted. It is important to clarify that consent uses would not be required for each film shoot. Once granted, the rights accrue to the property either in perpetuity or for an amount of time specified in the granting of such approval.

Consent use procedures require consultation but the decision-making process does not require concurrence of those consulted. The Council, as with all other land use applications, applies its mind to the validity of the comments and objectives, considers all other relevant matters and makes a decision accordingly. At present, the consent procedure is relatively lengthy (three months on average) and can be costly. However, the Administration has indicated its willingness to explore improved processes, and 'slipstreaming' consolidated film consent applications in order to facilitate a more rapid approvals process. There is also no reason why the tariffs for such applications could not be reviewed in accordance with the objectives of this policy.

It is understood (but not statistically verified) that there are only a few properties in Cape Town that are used to such an extent, and provided the Council (and Location Scouts and Companies) inform such property owners of the need to make timeous application, legislation of this sort should not have a significant impact on the industry. Moreover, it would be possible, before the start of the filming season, for the industry to identify properties which may require such consent and to submit multiple applications simultaneously in order to obtain approvals in time for the commencement of the season.

The community on the other hand would have some comfort that they enjoy some legal protection and will be consulted should their rights be substantially infringed. Moreover, there are further protections against nuisance if the Film by-law as proposed in this revised policy is promulgated.

Given that there are such opposing opinions on the matter, it is suggested that this Policy support the intent of the proposals currently drafted by the City in this respect, and that a consultative process be entered into with all interested and affected parties to ensure a reasonable balance of needs and concerns, together with a reasonable level of practicality in the application of these proposals.

However, although public participation on the draft Zoning by-law is imminent, it is likely to be another two years before final promulgation. In the interests of obtaining clarity on this matter for all, it is suggested this proposal be drafted directly into the proposed Film by-law, the time frame for which is anticipated to be much sooner. These provisions should be prepared in discussion with key interested and affected parties.

3.0 Consultation on detailed implementation of policy proposals

Both community and industry respondents expressed concerns regarding their input into the detailed implementation of the policy proposals – "the devil is in the detail" accurately captures the nature of the concern. The extent of discretion granted to officials is also of concern.

This concern is understandable. It is important that the principles established by the Phase 3 Draft Policy are accurately translated into operational details (and indeed that they occur at all). However, it is equally important that the City is able to pursue such implementation in an efficient and timely manner without have to consult on every detail, much of which will relate to internal procedure.

Moreover, the City will not be in a position to provide a service at the levels suggested in this policy, if there was not a reasonable degree of discretion to facilitate rapid decision-making. Thus, one of the important objectives in the development of Protocols was to define the key parameters for decision-making (at the level of principle). This improves transparency and provides a basis for performance monitoring (by all) without impacting negatively on ability to perform.

However, certain aspects of this implementation, such as the preparation of an Operations Manual, require input from the industry and community at a certain level of detail to ensure both compliance with the Policy and Protocols, and practicality. It is therefore suggested that provision be made for structured input by interested and affected parties, once the draft Operations Manual has been

prepared. Moreover, it is suggested that the CoCT host an annual review of performance and procedure, through the CFC, with all the role-players, whereby amendments to the Operations Manual, or any other pertinent aspect can be discussed.

5. FINAL RECOMMENDATIONS: CITY OF CAPE TOWN FILM POLICY AND PROTOCOL

It is clear that the development of consistent and co-ordinated policy, protocol and procedure would improve Council's ability to both facilitate and manage the industry, and has the greater potential to align with the requirements of both the community and the film industry. It is not the role of this document to detail procedure or resolve day-to-day operational issues, but rather to make proposals at the level of principle. It is hoped however that this will guide attitudes and action, and the development of more effective systems and procedures to manage film activities.

Through establishing an overall City-wide framework that clearly sets the 'rules of the game' i.e. clear policy and protocols, location sensitivities identified, decision-making transparent and impacts effectively monitored, the City will be able to more effectively manage the activities of filming with due regard to local community concerns.

5.1 Location Filming in the City of Cape Town: A Policy Statement

"The City of Cape Town recognises the valuable contribution of filming to the economic and cultural environment of Cape Town and aims to facilitate a sustainable, film-friendly environment in all interactions with the industry.

However, such an approach is mindful of our obligation to balance the film industry requirements against community and environmental considerations. The City commits itself to ensuring the responsible use of public resources and the maintenance of community amenity in this respect.

The City of Cape Town aims to encourage more and better collaboration between all role-players, to promote partnerships and to facilitate an appreciation of the requirements and expectations of all concerned. In this way, mutually beneficial outcomes are achieved. Regular monitoring and feedback is considered an essential component of this collaboration.

The City of Cape Town commits itself to continual striving for best practice, international standards and competitive pricing in the promotion and regulation of the film industry, and to transparency of operation. We subscribe to an approach that regards filming as 'everyone's business'.

The City of Cape Town commits itself to working within the guidelines of this policy and protocol document".

5.2 Distinguishing between roles and responsibilities

There are numerous authorities involved in the regulation of filming throughout the City. The CoCT's adoption of a positive stance to the film industry will not necessarily result in a film-friendly Cape Town. There is a need for uniformity, communication and co-operation among jurisdictions. Whilst the local authority is considered an influential role-player given the extent of its jurisdiction, precedent studies indicate this responsibility more appropriately lies at Provincial level. However, the Western Cape Provincial government has mandated the Cape Film Commission to undertake promotional work on its behalf. Since the CFC also assumes responsibility for liaison between all role-players, it is proposed that the CFC be required to establish regular co-ordinating meetings between all permitting authorities or their agencies, industry representatives and community

representatives to begin the process of developing a coherent strategy toward the promotion and regulation of film activities in Cape Town.

A second aspect requiring attention is the extent to which the CoCT should involve itself actively in promotional activities (promoting Cape Town as a film-friendly environment). It has been stated that the local authorities have mandated responsibilities to community and environment (in all aspects). In a context of transition and re-structuring, it has been difficult for the CoCT to even resource and provide an efficient service in respect of its regulatory responsibilities.

Given that the CoCT is already co-funding the CFC, it is suggested the CoCT concentrate on the delivery of an efficient, streamlined and generally accepted regulatory service (albeit one that is facilitative in approach and practice) and that the CFC be freed up to undertake more general promotional activities. In addition, as the film industry is a key economic growth sector for the City and region, it is proposed that the CoCT through its facilitative approach and practice – ensure that an enabling environment is provided for the sector; that the sector is supported in line with the Council’s sector support strategy and approach and that the key cross-sector linkages are made (especially to Tourism).

It is therefore proposed that:

- **The City of Cape Town focuses its attention primarily on setting in place the policies and procedures required to ensure that the regulatory approvals necessary for location-filming activities are provided in an efficient and timely manner, in consultation with and to the general satisfaction of all role-players. The CoCT will also facilitate the process to ensure that a positive enabling environment is provided for the film sector; that the sector is supported in line with Council’s sector support strategy and that key cross-sector linkages are made (especially to Tourism).**
- **The mandate of the Cape Film Commission (CFC) to promote Cape Town and the Western Cape as a premier film destination be re-affirmed and that it be resourced and supported to effectively undertake such a mandate. More specifically, the CFC should be relieved of its care-taking responsibility for the Cape Town Film Permit Office (CTFPO) as soon as possible.**
- **The CFC be required to initiate regular discussions with all permitting authorities or their agents, the industry and community in order to develop and monitor a coherent strategy, protocols and a uniform approach to location film permitting in Cape Town. Issues of empowerment and employment equity in the film industry require on-going attention.**

5.3 Organisational structure

Analysis indicates that some of the impediments to delivering an efficient, film-friendly service in the permitting of location filming are structural or organisational. Filming proposals often require a significant use of Council resources and impact across a range of Council functions. Internal uniformity, communication and co-operation are necessary in the first instance before an effective service can be delivered.

5.3.1 Consolidation of film regulation activities

It is commonly accepted amongst most role-players (and supported by precedent) that all would benefit from a well-run “one-stop-shop” film permitting unit within the CoCT (and there have been partial attempts made in this regard with the establishment of the CTFPO). Given the range of Departments involved in permitting or servicing the industry, one point of contact with the industry

(and for the affected communities), with close working relationships between the Departments involved is a model that works well. *It is recommended that:*

- **The City of Cape Town initiate processes to consolidate all film permit activities, across all Administrations into one management roof. On the assumption that many of the strategic functions in relation to the promotion of a film-friendly Cape Town are delegated to the CFC, it is suggested a “one-stop-shop” film permitting function is best placed so as to be independent of the sectoral interests of Departments. As film location permitting is primarily an administrative function (albeit one that requires staff trained in the specifics of the film industry), and is allied to other permitting activities – it would ideally be placed in a “single entry point”, customer focused, Council permitting unit.**
- **The regulation of events and of location filming be linked through organisational structure and procedure and that current corporate restructuring processes incorporate such investigations.**

5.3.2 Appointment of a Film Permitting Co-ordinator

Precedent indicates the value of appointing a Film Permitting Co-ordinator who will be the Council official charged with particular (and sole) responsibility to manage filming approvals. Although such an official should manage the day-to-day operations of the permitting office, it is important that they are in a position to act as “product champion”. That is, the Film Permitting Co-ordinator should drive policy and procedure change initiatives, tariff reviews, communications and links with the CFC, and so on. Experience indicates that it is not possible to effectively manage Council’s interests in this regard unless there are no additional, unrelated responsibilities allocated to the post. Ideally, familiarity with the film process and internal and external role-players should be an important component of holding the post. *It is recommended that:*

- **Subject to the corporate restructuring processes, Council appoint a Film Permitting Co-ordinator whose sole responsibility is the management of the filming approvals process and all related activity City-wide.**

5.4 Service Delivery

Provided a Film Permitting Co-ordinator is appointed and operating effectively, many, if not all of the day-to-day operational functions of a Location Film Permitting Office can be outsourced. There is no indication that outsourcing the processing of permits and monitoring functions, in whole or in part, disadvantages the authorities, the industry or the community, provided that transparency and accountability are assured. International and national best practice indicate that an outsourced company, dedicated to the function is often better suited and equipped to provide the service. The advantage of outsourcing is essentially that it provides a solution to Council resource constraints (financial and human). It also falls well within Council’s job creation and skills development strategies.

The decision as to whether film permit activities are to be undertaken in-house, or wholly or partly outsourced should really be guided by the extent to which resources can be allocated (and systems and delegations set in place) to meet acceptable service delivery objectives, as well as the time taken to achieve this, as delays in finalising the organisational design and establishing new business processes will further undermine the effective operation of the Film Office. Service delivery objectives must be developed in accordance with the ‘film-friendly’ policy of facilitation. *It is therefore recommended that:*

- **The Film Permitting Co-ordinator be tasked with developing a Resource Strategy for the film permitting function within the CoCT, to feed in to current corporate restructuring processes. A Resource Strategy should include proposals for systems of monitoring**

and accreditation, and the resourcing thereof. It should be directed by appropriate Service Delivery Objectives, designed in accordance with the proposed film-friendly policy of facilitation.

- **Service delivery objectives should include 24-hour, seven-day week availability; face-to-face contact; reasonable turn-around times for processing permits; and staff who have a good understanding of the issues involved and the most commonly used locations.**

1.0 Approvals Required

5.5.1 Clarification of Types of Filming for which Council Approval is Required

In order to reduce ambiguity for filmmakers, communities and officials, a statement clarifying the types of filming for which approvals are required is necessary. *It is recommended that:*

- **For the purposes of this Policy, filming can be defined as the recording of images, moving or still, whether on film or video tape, or electronically, or by other means for exhibition or broadcast purposes, such as by cinema, television, the Internet or other means. It does not include the video recording of a wedding ceremony or other private celebration or event for the purpose of making a record thereof for its participants, or the recording of current affairs or news for immediate release. For the purposes of the issuing of permits, it does include student projects.**

5.5.2 Delegations

Appropriate delegations are important in order to achieve time and resource efficient service delivery. It has been noted that filming is a time-constrained activity often requiring very quick determinations of applications. Where filming activity is low impact and/or relatively straightforward to make a determination on, it should be possible, with delegations, to achieve very quick turn-around times.

At a minimum, officials responsible for public space and traffic management should have delegated authority to make decisions on the use of parks, beaches and roads (including temporary road closures) by filming activities. Ideally, additional delegation to the Film Permitting Co-ordinator to make such decisions should be given to reduce the extent of Inter-departmental approvals necessary for low impact film activities.

As an example, the New Zealand Film-Friendly Guide suggests delegations to Film Permitting Co-ordinators to approve filming applications relating to:

- the use of public places for short periods of time – say one day in length that do not involve exclusion of the public or the erection of structures other than small tents or marquees;
- temporary traffic control on minor roads and setting aside normal parking restrictions; and
- these powers could be extended to more complex applications once training and policy criteria are in place. However, notification procedures to Departments are critical. The criteria for approval also then become important to ensure transparency and accountability of decision-making. Delegation proposals must therefore be worked up in association with an Operations Manual which outlines commonly agreed distinctions between different types of filming activity (based on impact), timeframes for the processing of applications, application requirements, tariff schedules, generic approval conditions and procedural and consultation protocols, including when Departmental circulation and comment is required. Precedent indicates that it is

useful to establish certain rules of the game upfront e.g. no major roads or CBD roads to be closed off during rush hour; no filming in residential areas between sunrise and sunset, unless specific permission is sought and extensive consultation undertaken and so on.

5.5.3 Film by-law

In order to provide Council with the requisite legal basis to issue film permits, and ensure compliance, *it is recommended that:*

- **A Film by-law be formulated and promulgated. Such a by-law should make provision for the following:**
 - **The issuing of permits for all film related activity which falls within the definition outlined in this policy**
 - **The authority to set permit conditions and to enforce compliance therewith**
 - **Linking to other by-laws in order to obviate the need to comply independently with the provisions of these other by-laws**
 - **The issuing of delegations**
 - **The levels of service expected of Council in the issuing of permits**
 - **Zoning Scheme provision for film activities (in consultation with key interested and affected parties)**

5.5.4 Land Use Approval

It is accepted that the frequent utilisation of private property for film shoots does have land use implications and that application does need to be made for the necessary land use rights. However, in order to achieve the film-friendly stance that is proposed for the City, it is essential that a more progressive approach be taken than the position that currently prevails. To this end, it is proposed that consideration be given to only requiring a land use application when impacts of the shoot are regular, not transient. This relates primarily to the number of times that a property is used for filming over a certain period. Since the CoCT is currently in the process of drafting an integrated Zoning by-law, which makes provision for allowing filming activities as of right unless the extent of use can not be regarded as occasional or unless a public nuisance is created, *it is recommended that:*

- **In drafting the Zoning by-law, the CoCT consult timeously with relevant interested and affected parties regarding making provision for film activities.**
- **Provision be made in the proposed Film by-law to promulgate Zoning Scheme provisions in respect of film activities, providing such provisions are in accordance with the intentions of the Draft Zoning by-law.**

Private companies that manage film locations must bring the land use implications and requirements to the attention of the owners who make their properties available as film locations.

2.0 Assessment of Permit Applications

It is important that Council clarify the permissions required for the various common filming activities, and indicate which permissions can be granted through the film location permit system and which require additional applications (and to whom). These include, but are not limited to:

- Filming on a local public road where no stopping of traffic is required and with stopping of traffic
- Filming near high and low voltage power lines
- Filming on beach and dune areas (Regulations for controlling vehicles in a coastal zone)
- Filming on water (sea, rivers, harbours)
- Filming in a nature reserve
- Filming in a national park (including Kirstenbosch Botanical Gardens) or other areas outside the jurisdiction of the CoCT
- Filming in a museum
- Construction of sets/structures
- Use of fauna and flora
- Use of aircraft, including helicopters
- Use of firearms
- Fires, fireworks, pyrotechnics, smoke effects

The necessity for approvals from other organisations/bodies renders the application process cumbersome and expensive for the industry and it is hoped that the proposed CFC co-ordinated round-table discussions with all role-players will assist in minimising such negative impacts. In the short- to medium-term, however, Council should assist in identifying the approvals required and the responsible organisation, but it should be noted that Council will not be able to process or obtain such approvals as they fall outside of Council's jurisdiction. It is suggested that as comprehensive as guide as possible be provided in this respect and that such information be communicated to all relevant parties.

In this context, facilitating rapid approval of permit applications, in line with industry demands, without derogating from Council's responsibility to community and environment, makes it necessary to establish the parameters for decision-making and delegations. *It is recommended that:*

- **The CoCT prepare an Operations Manual, generally in accordance with the principles and protocols outlined in this Policy, that should include, at a minimum:**
 - **A statement clarifying the types of filming for which approvals are required.**
 - **Clarification of the range of approvals which may be required for film activities and which are part of the Council film location permit process.**
 - **A list of the range of approvals that may be required from other Government Departments or Authorities.**
 - **A list of 'hotspot' locations that are potentially sensitive from an environmental, cultural or historical perspective and which may require conditional filming and monitoring.**

- **Impact Assessment Criteria, to be used in the determination of delegations, processing times, tariffs, community notification or consultation, standard conditions of approval and monitoring.**
- **A framework for the processing of film location permits, and service delivery commitments in this respect. This should include an indication of when Departmental circulation is required, and whether such circulation is for information or consultation.**
- **A schedule of generic conditions of approval and the requirement for site specific conditions of approval.**
- **A consultation protocol, determined by the impact of the proposed shoot, and to reflect the principle of the more significant the impact, the greater the extent of consultation.**
- **Any 'rules of the game' which can be established upfront.**
- **A tariff schedule and application thereof.**
- **Once a draft Operations Manual has been prepared, the relevant interested and affected parties will be consulted. The Manual be reviewed and updated on a regular basis.**

3.0 Protocols

The 8 Protocols that follow below are to be adopted and read as a whole and are intended to provide the overall principles of best practice to guide the day-to-day operations of film permitting. It will be necessary to translate them into implementation tools in the Operations Manual and elsewhere. *It is therefore recommended that:*

- **The CoCT adopt the 8 Protocols outlined in this report as the basis to guide the day-to-day operations of film permitting.**

5.7.1 Impact Criteria

In assessing a permit application, Council must give proper and realistic consideration to the impact of the proposed shoot on the surrounding area and on the community use thereof. Precedent indicates that this can best be achieved through a system of assessing the overall impact of the proposed shoot, as determined by a number of commonly agreed, but not mutually exclusive indicators. These include:

a) Scale of Shoots

The impact of productions can in part be determined by the scale or size of the shoot. Generally this relates to the number of people (cast and crew) and/or vehicles involved. The following scale determinations are already applied in the City's tariff structure and conform to generally accepted impact indicators – the bigger the shoot, the larger the impact. It should be noted that the Gauteng Film Office uses similar distinctions.

Micro shoot	1 – 3 vehicles &/or 8 or less people
Small shoot	4 – 6 vehicles &/or 9 – 15 people
Medium shoot	7 – 15 vehicles &/or 16 – 30 people
Large shoot	16 – 30 vehicles &/or 31 – 60 people
Very large shoot	More than 31 vehicles &/or more than 60 people

b) Complexity of Shoots

Shoots that involve the following aspects can be expected to have a greater impact on the public use of the surrounding area and require more time to assess as specialist input from specific departments is required:

- Closure of a lane or the entire road; and
- Use of pyrotechnics, stunts and/or special effects

Thus, the amount of Council resources required to issue and manage any approvals granted and any Council services supplied as a function of granting that approval should be considered in the determination of impact.

c) Location

A number of particulars relating to location may influence impact.

- Environmental, historical and cultural sensitivities: the condition of the location concerned needs to be taken into consideration in the assessment of the permit application, with particular concern to be placed on environmentally sensitive areas such as beaches and dunes, as well as historically and culturally significant areas within the city, for example the BoKaap, Kalk Bay, Simon's Town and so on. Some of the City's more attractive locations are in high demand by filmmakers and here, even if productions are small in scale, the frequency of use means that the cumulative impact may be high. A comprehensive list of 'hotspot' areas, where it can be anticipated that filming will have adverse impacts, should be prepared. Permit applications for these areas will require more careful consideration with associated time implications.
- Community: community use of the location influences the extent to which impacts can be considered to occur. The number and extent of community in the immediate vicinity also influence the level of disruption.
- Proximity to residential areas, medical facilities, old age facilities and so on.

d) Time and duration

The time of the day during which filming activity is to take place also influences the extent of impact – in residential areas for example, early morning or night shoots will generally have a more significant impact than similar shoots in outdoor locations or business areas.

The duration of filming, often related to the scale of a shoot, also influences impact.

Utilising these criteria to form a framework of impact should provide the basis for streamlining the processing of simple straight-forward permit applications, while more complex shoots with a greater impact will be able to demand the time required for a full and proper assessment. Importantly, this system will also ensure that, firstly, the industry is aware beforehand of these requirements and the associated implications for timeframes, and, secondly, the public will also be better informed as to Council's position regarding different scales and types of shoots.

Apart from influencing processing timeframes, such a system can also be used to determine tariffs, the extent and nature of community consultation and the extent of monitoring required.

5.7.2 Application Process

While this policy is concerned more with establishing the overall 'rules of the game' with respect to filming and does not make proposals in respect of detailed operational aspects, it is important to establish an acceptable and appropriate framework for the permit approval process. Best practice suggests the following basic steps for issuing permits for filming at Council-owned or –managed locations.

Pre-Application Process

- Applicant to contact Council's film office with details regarding the scale, complexity and type of shoot and the proposed location, so that the overall impact thereof can be determined.
- Official to advise in principle:
 - whether the locations are available and if they are suitable (are they in sensitive/problem/hotspot areas);
 - if any other approval(s) from other agencies external to Council are required;
 - the degree of public notification or consultation to be undertaken;
 - approximate timeframes for processing the application;
 - tariffs.

Lodging the Application

- Standard application form to be completed by the production company for proposed location.
- Film office to check that:
 - the application is complete and sufficient information is provided. Additional information can be requested if required;
 - public liability insurance is in place;
 - public notification or consultation has been conducted as required.

Film office to process application and issue permit, including specification of conditions of approval.

Filming and Clean-up

- Production company should:
 - attend to all permit conditions and advise cast and crew thereof. It is imperative that a copy of the permit be available on location at all times;
 - pay all specified fees;
 - clean up the site and leave it as it was before the shoot or as agreed and arrange with Council for a site inspection if required.
- Council should:

- notify any relevant agencies of the shoot;
- check the site after filming.

As the permit allows for a particular filming activity to occur upon particular dates or within a particular timeframe, the permit should be valid for that time period only.

Filming is vulnerable to changes in weather or other circumstances. Council thus should ensure that management processes provide for some degree of flexibility in responding to requests to amend permit approvals as a result of such circumstances. A motivated application to amend a permit needs to be submitted for Council's consideration. Council must be satisfied that it is substantially the same as the original proposal and that appropriate additional consultation and/or notification has occurred with any person or authority.

5.7.3 Conditions of Approval

The assessment of applications must be linked to conditions of approval that manage the identified impacts. Precedent indicates that it is possible develop a schedule of generic conditions of approval that are applicable to all but the most complex or unusual applications. The development of these conditions should be negotiated with all Departments, but it will facilitate delegations and timeous delivery. Site-specific conditions can then obviously be applied as and when the application demands. The specification of the site for which the permit is granted is important to avoid misunderstandings and over-use of specific locations.

5.7.4 Application Timeframes

Filming is a particularly time-constrained activity. The time taken to process permit applications is critical and can be regarded as one of the most critical aspects of the approval process. Delays in the processing of permits can have very serious implications for the costs of the production. As Council may have to obtain inputs from various Departments on the proposed activity, it is vital for the production company to provide as much information as possible as early as possible, particularly for higher impact shoots.

It is suggested that, provided no additional approvals are required (such as approvals for filming on roads of Provincial or metropolitan significance, or exemption from regulations for controlling vehicles in a coastal zone, etc.) timeframes for the submission and processing of permit applications to the CoCT be determined on the basis of the type of shoot and impact:

- micro- & small-scale, straightforward shoots (do not involve road or lane closures or require public consultation) should be processed within 24 hours or less;
- medium- & large-scale straightforward shoots should be processed within 48 hours;
- complex shoots that will result in a higher level of community impact will require longer timeframes.

It is to be noted that these are broad timeframes applicable to most productions and that provision must be made for unexpected or unplanned events. Council thus must be able to exercise flexibility and adaptability in dealing with issues as they arise and make provision therefore in the permit approvals. The industry for their part must recognise these timeframes and submit their applications accordingly.

5.7.5 Consultation or Notification

It is essential that the film production company engage in proper and appropriate communication with the community likely to be affected by the proposed shoot as a means of ensuring effective management of the filming activity. There are two main means by which this can occur:

- Written notification of affected residents and businesses by means of a letter drop, advertisement in the local press or similar. The community is alerted to activities that may have an impact on them, so that they can make alternative arrangements if necessary, but does not of itself require feedback. There is minimal if any personal or verbal contact between the parties concerned.
- Consultation between the residents, businesses and the production company. This involves more than just notification of the proposed activity to the affected community as it provides for a dialogue between affected parties as a means of identifying and resolving any potential issues. However, given the potential for corrupt practice, it is proposed that there be no requirements as to the extent of community approval required in order to facilitate the approval of a permit. Council officials must use their discretion in assessing the validity of objections and comments.

Precedent indicates that the degree of consultation or notification involved be determined by the impact of the proposed shoot and reflect the principle of: the more significant the impact of the filming activity, the greater the extent of consultation. The following principles are suggested to determine the extent of consultation with respect to film permit applications:

- Micro-scale, simple stills and filming shoots entirely confined to a particular locality (whether on public or private property) with no 'spill-over effects' (such as parking in the street, noise, lighting, etc.) and of limited duration should not require **any** form of public notification;
- For small- and medium-scale, simple or moderate impact shoots, abutting and affected residents and businesses must be notified in writing, the extent of which is to be determined by Council in relation to the anticipated impact of the shoot;
- For large- and very-large scale or high impact shoots and those involving road closures, pyrotechnics, stunts and/or special effects, consultation with surrounding residents and businesses, ratepayers/residents associations and the Ward Councillor must be undertaken. This should occur sufficiently well in advance of the shoot and can be informal and flexible, though some form of public meeting may be required for contentious or very large-scale productions. Depending on the specific impacts anticipated, Council should determine the extent of advertising or notification signs required.

The following actions should be undertaken by Council at an 'operational' level as a means of ensuring more effective communication:

- Prepare a contact list of all those who must be consulted and when.
- Develop pro forma notification letters in conjunction with the industry. These letters are to provide the necessary information regarding the proposed shoot and the production company.
- Provide for a system of directing and dealing with complaints.

It must be recognised that the provisions of the Promotion of Administrative Justice Act, 3 of 2000, must be borne in mind. In terms of the regulations published on 31 July 2002, if the rights of the community are affected by an administrative action (such as approval of a film permit), a notification procedure, allowing 30 days for comments and objections, is required. Community is defined as

“any group or class” – in other words it does not apply to an individual or even a number of individuals. However, there is as yet no case law precedent establishing how this is defined.

5.7.6 Monitoring & Accreditation

It is essential that an effective monitoring system be in place (*and is seen to be in place*) to ensure that there are no adverse environmental impacts as a result of the shoot and that permit conditions are adhered to. Public complaints or queries relating to the shoot can also be dealt with through systems developed in this regard. Precedent indicates that monitoring of film activity should be compulsory on medium to higher impact shoots, or for shoots in sensitive/‘hotspot’ areas or as otherwise determined by the City.

At present, monitoring of CoCT approved film activities is inconsistent, undertaken by internal film office staff, ECOs (in-house or outsourced), traffic officers and other law enforcement officers, and is dependent on resource availability. It is important that a system of monitoring is established which is resource efficient, appropriate to the nature of the impact and effective in ensuring compliance. To this end, the following suggestions are made:

- Assess the function of, and synergies between, the proposed Film Unit Liaison Officers and ECOs.
- This function can be handled in-house or outsourced to duly accredited and authorised companies or individuals. The latter could form an important component of Council’s BEE, job creation and skills development strategy. If outsourced, it is essential that the companies or individuals involved report directly to the City.
- These film monitoring officials could either be dedicated on an area basis or they could be roving – this is to be determined the City.
- Fees for this function could be charged on the basis of a percentage of the permit tariffs.
- Given the high tariffs associated with the necessity for traffic officers to monitor shoots, problems with availability and other priorities, it is suggested the CoCT consider alternative service delivery models with regard to this function. Council accredited training programmes in basic traffic management, and investment of accredited individuals with the requisite legal authority is a system that appears to work well elsewhere. The system has the additional advantage of an available pool of trained individuals who could be hired (by Council or other bodies) for other events such as significant sport events, festivals, music events and so on. A similar advantage would hold for the alternative service delivery provision of the environmental monitoring function, with even broader application.

5.7.7 Tariff Schedule Protocol

Council may charge filmmakers fees for processing permit applications, for services provided in support of location filming and for the use of Council property. Any such fees must however be fair and rationally based. They should also be competitive and attractive to production companies if Council is to pursue a ‘film-friendly’ policy of facilitation. While it is not the role of this policy to prescribe or set fees and charges, it is suggested that Council adopt a standard approach to determining tariffs that will result in a degree of clarity and predictability for the industry.

Council should consider the following in establishing a tariff schedule:

- whether Council wishes to promote filming and thus is prepared to set tariffs that cover only part of its costs;

- estimated staff costs;
- if additional inspection/monitoring fees are also required;
- discounts, for example, for applications involving multiple separate shoots;
- lower charges for renewal of or alteration to an existing approval;
- reduced or waiver of fees for productions that meet specified employment equity or empowerment targets, students, non-profit organisations, training and development projects;
- reduced or waiver of fees for international shoots and strategic Joint Marketing productions;
- late-filing fees (a penalty fee if applications are made at very short notice) as a means of encouraging early filing of applications;
- the distinction in the tariff of: a filming proposal lodgement fee; approval fees; and additional fees or charges for specific services to be provided by Council.

Tariff schedules should reflect the type of activity, its impact and whether it is in keeping with a particular theme that Council wishes to support, for example conservation of the natural environment. Annual changes to tariffs must be negotiated with the film industry well in advance.

The possibility of establishing and tracking income and expenditure in one cost centre should be investigated (which should be possible if operations are consolidated) so that even if allocating or 'ring fencing' of funding cannot be realised for operational or political reasons, the income derived from filming will still be transparent and more easily reported on. However, given the general support for the 'payback' principle, it is strongly urged that Council investigate opportunities in this regard.

5.7.8 Code of Conduct Protocol

In conducting their filming activities, filmmakers should understand that they are guests on the properties concerned and are expected to behave appropriately. The success of a film shoot is dependent on proper management of various issues, most important of which is any inconvenience caused to the community. A Code of Conduct governing the filmmaker's responsibilities and obligations is therefore necessary and should ideally be formulated in conjunction with the industry and community. A distinction however must be made between those aspects over which CoCT has jurisdiction and those that CFC wishes to develop in order to improve relationships and the operations of the industry as a whole. At present, the CFC developed Code of Conduct is attached to the CoCT film permits, thus conflating the two interests.

It is suggested that the generic permit approval conditions proposed above should cover all aspects of conduct over which the municipality has jurisdiction. More universally applicable Codes of Conduct should be a matter for discussion within the industry and between the industry and the CFC.

1. THE WAY FORWARD

Assuming the recommendations, policies and protocols outlined in this report are acceptable, it is recognised that considerable effort and resources are required to implement them. Prioritisation of key catalytic actions is necessary in order to affect an implementation strategy. The following prioritisation is suggested as a guide to direct activity in the short term:

1. Preparation and promulgation of a Film by-law and the simultaneous preparation of Zoning Scheme provisions for film activities, to be incorporated into the Film by-law and the Draft Zoning by-law.
(Who: Legal Services, ED&T and P&E
Target date: Draft – August 2004)

2. Preparation of the Operations Manual to improve decision-making and ensure consistent application of the Film Policy and Protocol across the administration. This is likely to be a significant undertaking, as it will, in essence provide the basis for a consolidation of all film related activity and decision-making in the CoCT even prior to any restructuring, as well as significantly improve process and decision-making.
(Who: ED&T with other CoCT Directorates, plus CFC and Film Industry
Target date: December 2004 for initial draft)

3. Subject to the corporate restructuring process, appointment of a Film Permitting Co-ordinator whose sole responsibility is the management of the film approvals process and all related activity.
(Who: Pending
Target date: to align with Corporate restructuring process)

4. Tasking the Film Permitting Co-ordinator with the responsibility for developing and negotiating detailed proposals for a consolidated “single entry point” permitting unit for the management of film activities and the concomitant development of service delivery objectives and a Resource Strategy (including the transfer of the CTFPO function back into the City).
(Who: Manager of Council’s “single entry point” for all permits
Target date: to align with Corporate restructuring process)

5. Council must take such steps as are reasonably practical to bring the Film Policy and Protocol and the existence of any relevant regulations to the notice of any person who lodges or whom the Council knows to be intending to lodge a film permit application. It is imperative that the film industry understands the information needs of Council so that proper and timely consideration can be given to permit applications.
(Who: ED&T and other Directorates; Communications Directorate
Target date: Aligned with policy approval process; September 2004 and ongoing)

APPENDICES

Appendix 1: Cape Town Film Policy and Protocol Issues Trail (Phase 2)