

# **A CONSERVATION FRAMEWORK FOR THE BUILT-FORM OF THE UNIVERSITY OF CAPE TOWN**

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THIS REPORT WAS COMMISSIONED BY THE UNIVERSITY OF CAPE TOWN AND IS  
SUBMITTED TO THE PROVINCIAL HERITAGE RESOURCES AUTHORITY, HERITAGE  
WESTERN CAPE, IN MOTIVATION OF ITS APPROVAL ON THE ACCOMPANYING INVENTORY  
AND HERITAGE AGREEMENT ITO S.30(6) AND S.42(1) OF THE NATIONAL HERITAGE  
RESOURCES ACT RESPECTIVELY

## EXECUTIVE SUMMARY

The University currently comprises a community of some 33 000 people – 28 600 students and 4540 staff. Under pressure to expand, the University's Council is committed to housing a third of its students in university residences and to exploring the possibilities of an expansion to 32 000 students by 2030 through the more efficient use of land including the densification of the Observatory, Mowbray and Rondebosch and Rosebank Upper, Middle and Lower Campuses. Adopting a growth management approach, the University has developed an ***Integrated Development Framework*** ("IDF") which is itself being integrated into the City Council's land-use planning framework. This IDF necessarily includes and integrates a wide range of disciplinary framework plans including the substance of this ***Conservation Framework*** which is a primary informant to and component of the IDF. This ***Conservation Framework*** is also, with its underpinning ***Survey/ Inventory***, the primary underpinning element of the ***Heritage Agreement*** being arranged with Heritage Western Cape.

The University is established on several campuses and precincts, each with its own distinctive character and own very special buildings and environments. The use and development of these properties has in recent decades become increasingly unpredictable as the planning, environmental and heritage authorities impose restrictions in the public interest. This ***Conservation Framework for the Built-Form of the University of Cape Town*** includes the following:

- it defines 'heritage resources' and 'conservation' in the University and South African contexts;
- it briefly outlines the legislative framework affecting the conservation and development of the University's holdings and how these affect each of the six campuses/precincts;
- it spells out seven principles of heritage protection which are to inform all future development and management on the campuses; and
- it articulates the significances of the built form of each of the six campuses warranting some protection; and
- it proposes a regulatory regime based on the significances of each campus which describes the responsibilities of the authorities and outlines the University's rights to use and develop its property holdings on the six campuses/precincts.

In conclusion, we recommend that this ***Conservation Framework for the Built-Form of the University of Cape Town*** be approved as a central component of the ***Heritage Agreement*** between the University and the provincial heritage resources authority, Heritage Western Cape.

All these conservation-related actions are being integrated into the processes of the University's Integrated Development Framework ("IDF") which is to be approved formally by the City Council through its Municipal Planning By-Law (and its package of plans process). Consistent with the IDF, we also recommend that certain changes to the zonings and the heritage protection overlay zones ("HPOZs") be initiated to synchronize the administration of the heritage law and the land-use planning regime.

An earlier draft of this report was adopted by the University and was circulated widely late last year, 2022, for comment from the City Council, interested parties and the public more generally and then, including responses to the comments received, developed into this, final, form.

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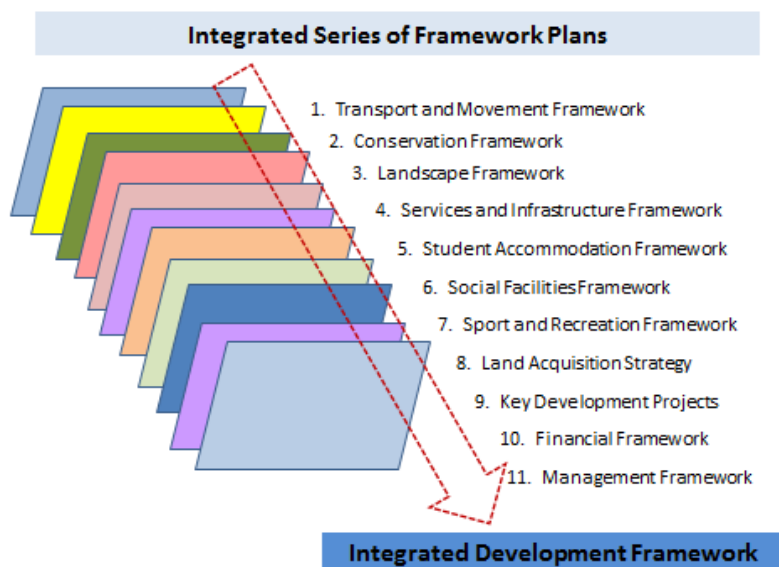
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# 1 INTRODUCTION

## 1.1 The Raison d’Être of This Conservation Framework:

The University currently comprises a community of some 33 000 people. Under pressure to expand, in December 2011 the University’s Council accepted the ‘*Size and Shape*’ report which contained several recommendations relevant here because of their direct impacts on the built-form of the University: these included striving to house a third of its students in university residences and to increase the student numbers to 28 000 by 2020. The January 2023 *Integrated Development Framework* report (IDF),<sup>1</sup> adopting the principle of “intensification and densification”,<sup>2</sup> accepted these intentions and explores the possibilities of “an expansion to 32 000 students by 2030 through more efficient use of land and other resources, including a densification (infill) strategy for the Upper, Middle and Lower Campuses” and other acquisitions.<sup>3</sup> The IDF necessarily includes and integrates a wide range of disciplinary framework plans including this Conservation Framework which must be a primary informant to and, in effect, a chapter of the IDF which is itself to be integrated into the City Council’s land-use planning framework via its planning by-law “package of plans” provisions.<sup>4</sup>



The University, established on several separate campuses and precincts, each with its own distinctive character, is the owner of a considerable number of very special buildings and environments. The University campuses all had earlier land-uses (pre-colonial and colonial agricultural, or suburban) before being occupied by the University and, as a consequence, include some very old and historically important and landmark buildings and components predating their use by the University. However, most of these have, over time, been transformed for university use and the campuses have each been iteratively reconfigured,

<sup>1</sup> *Integrated Development Framework (IDF) and Related Precinct Plans*, January 2023, by BlueGreen Planning +Design and MLH Architects & Planners in association with Stephen Townsend, etc. Prepared for and in association with Campus Planning & Design, Properties & Services, UCT. This version of the IDF includes responses to comments from the City’s departments and from I&APs and the public during late 2022.

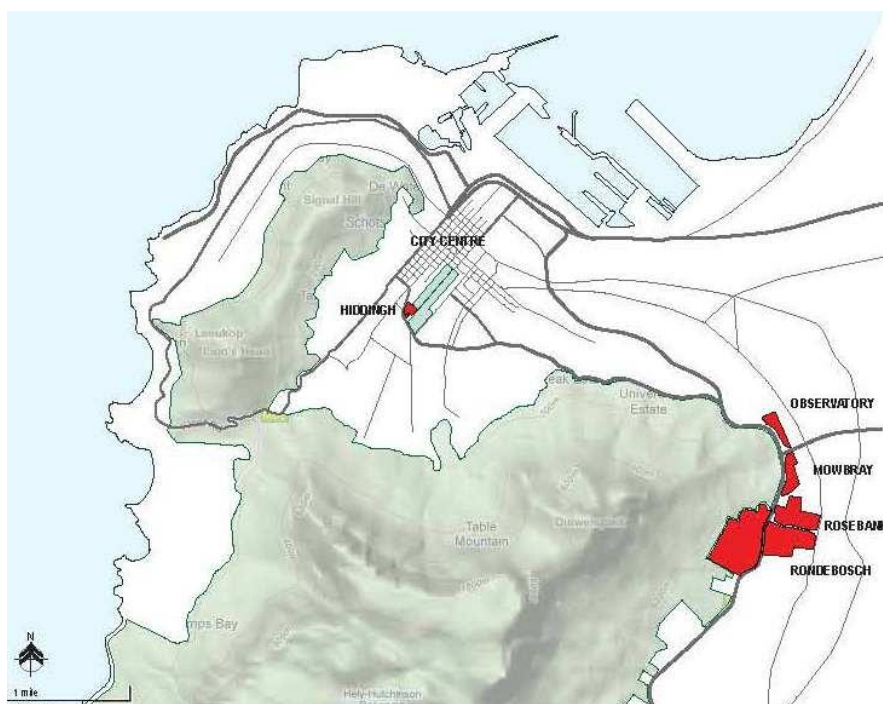
<sup>2</sup> Ibid, p1 and 11.

<sup>3</sup> Ibid. pp11.

<sup>4</sup> Ibid. pp13ff. This *UCT IDF* is necessarily adapted to satisfy the application process.

being gradually enriched and, at the same time, enriching their environs. This **Conservation Framework** encompasses six distinct assemblies<sup>5</sup> of land or campuses:

- the oldest and first campus, the Hiddingh Campus, on the edge of the city centre;<sup>6</sup>
- the Rondebosch Upper Campus;<sup>7</sup>
- the Rondebosch Middle and Lower Campus;<sup>8</sup>
- the Rosebank Middle and Lower Campus;<sup>9</sup>
- the Avenue Road/Mowbray Precinct;<sup>10</sup> and
- the Health Sciences Campus in Observatory.<sup>11</sup>



**Illustration 1: Location of the six campuses**

There are, however, differing, often conflicting, opinions and interests in the development and use of these property holdings: the University itself sees its property holdings both as a reflection and symbol of its history **and** as functional and economic resource; the University's built form is the backdrop to many alumni's richest memories; various interested parties outside the University see the built form as an important part of their environment or recognise it as a series of singularly beautifully formed townscapes; and the

<sup>5</sup> An earlier *Phase One Conservation Framework* dated June 2010 included a seventh campus, the GSB in the Waterfront but, because the University does not own the land, it is omitted here.

<sup>6</sup> The first building for the South African College, the Egyptian Building, was completed and occupied in 1841.

<sup>7</sup> This campus was part of Rhodes Estate granted to the University in 1917; and the first few buildings of the central core of the campus were completed and occupied in 1928.

<sup>8</sup> Part of this campus was on Rhodes Estate granted to the University in 1917; the first buildings to be used for university uses were existing buildings not on Rhodes Estate, two grand villas, *Stubenholm* and *Glenara*, which were occupied by the School of Music and the Principal respectively in 1925.

<sup>9</sup> Part of this campus was on Rhodes Estate granted to the University in 1917; the other parts comprising this campus were acquired in the 1950s and in 1989.

<sup>10</sup> Part of this campus was on Rhodes Estate granted to the University in 1917; the other parts were acquired in the 1990s.

<sup>11</sup> This campus was part of Rhodes Estate granted to the University in 1917; and the first medical school buildings were completed and occupied in 1928.

statutory authorities for heritage and planning have important and influential regulatory responsibilities. Also, in recent years the administration of heritage- and planning-related regulation has become increasingly complex and often controversial; and, given this, the University now identifies those components of its property holdings which are recognised as heritage resources by various interested parties so that there will be agreement as how they will be regulated by the authorities.

That said, we need to define the terms ‘heritage resource’ and ‘conservation’ as they are used here:

We are concerned here with the University’s built-form, the buildings, the spaces in between buildings (sometimes including trees and vegetation), their landscapes and settings, their enclosures and their environs as ‘**heritage resources**’. In other words, this Conservation Framework deals only with tangible visible built-form. The reasons that the built-form is regarded as heritage are varied and complex, reliant on known and recorded or remembered histories and associations; and it is the implied values associated with these memories and histories and the visual characteristics which determine the significance of the built-form as heritage.<sup>12</sup> This view of the environment as tangible heritage resource does not preclude the effects of events or historic processes and their significances which did or do not leave a now visible imprint on the physical; indeed, it welcomes new and/or lost significances which give additional meaning to the place.

By ‘**conservation**’, we mean all of the actions and processes aimed at articulating the significance of the built form or site, identifying the heritage resource(s), and protecting and/or enhancing the cultural significance of the heritage resource(s) in question. In this particular case, in the case of the University’s several campuses, given the relative significances of these places and given the significance and identity of the University of Cape Town as a leading centre of higher education and research within the African continent and beyond, ‘conservation’ is a way of looking at or intervening in the built environment, a method in which the articulation of the type and degree of significances and meanings to all potentially interested parties must precede and determine the scale, nature and effects of intervening and which **favours** additions to, improvements to, enhancements of **and** transformations **of significance** and of the environs themselves.

## 1.2 Developing This Conservation Framework:

Given the pressure to intensify and densify spelled out in the *Integrated Development Framework*, the University has developed this **Conservation Framework** which sets out the role of conservation and heritage resource management in the shaping and management of change: how expansion is to be accommodated appropriately and efficiently while ensuring the appropriate use, adaption and protection of the University’s most significant buildings, spaces, places and environments with a minimum of conflict and uncertainty.

So, this **Conservation Framework** and the accompanying **Survey/Inventory** together articulate the significances of the University’s built form, identify the buildings, landscapes and townscapes which warrant some kind of protection, outline the protective mechanisms which will be brought to bear by the authorities, and outline the University’s rights to use

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<sup>12</sup> The National Heritage Resources Act defines a “heritage resource” simply as “a place or object of cultural significance” (Section 2(xvi)).



and develop its property holdings. This **Conservation Framework** is, with the **Survey/Inventory**, the central component of a **Heritage Agreement** between the University and the provincial heritage resources authority, Heritage Western Cape enabling the University to be confident of the degree and nature of scrutiny to which its proposals would be subject; and to be confident of the processes (time) and of the outcomes (approval or refusal) of development applications. This **Heritage Agreement** outlines of the procedures to be followed when making development applications, more detailed precinct plans, and inventories of heritage resources. This **Conservation Framework** is an important component and informant of the **Integrated Development Framework** which will itself be formalised as a component of the City of Cape Town's Municipal Planning By-Law 'Package of Plans' process.<sup>13</sup>

This **Conservation Framework** has four distinct differences from or advances over the studies that preceded it.<sup>14</sup>

### 1.2.1 The Campuses as Places:

First, this **Conservation Framework**, although much reliant on the previous heritage, urban design and planning studies carried out by other consultants to the University during the last twenty-odd years and interviews with many of them (see the lists of the Studies Consulted and of Interviewees attached to this report), includes rather more focussed analysis and articulation of significance of the heritage resources, that is, the buildings, landscapes and, in particular, *the campuses as places*. Indeed, we note that while most of these studies include very detailed histories and descriptions of what the authors argue or assume to be heritage resources and are, therefore, to be protected, very few of these studies seem to recognise the necessary transformation of place wrought by the change of function from 'parkland'<sup>15</sup> or managed landscape to university campus or the consequences of such a transformation for these places and of any heritage resources (the Hiddingh Campus apart, this applies to all of the campuses).

Indeed, while the urban design studies by Dewar/Louw/Southworth (2005) and Comrie/Wilkinson (2008) (both shown below) do endeavour to introduce a unifying spatial element in the middle and lower Rondebosch campuses, none of the post-2000 heritage-oriented studies explicitly acknowledge the necessity for their study area in each case to be transformed into a university campus with an identifiable character or sense of place or into a component-part of a greater spatial concept/experience. Given the long stewardship by Julian Elliott as head of the University's Planning Unit for nearly thirty years from 1969<sup>16</sup> and the Unit's<sup>17</sup> endeavours to give the Rondebosch Middle and Lower Campus a unified sense of place most clearly demonstrated in the 1974 and 1976 plans,<sup>18</sup> and award-winning

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<sup>13</sup> Footnote 4 above.

<sup>14</sup> This Conservation Framework, the third in a process, was preceded by the **Conservation Policy Framework** of December 2010 drawn-up by a team consisting of Laura Robinson, Nicolas Baumann, Sarah Winter and Claire Abrahamse (the date of the final version of that report is December 2012), the **Phase One Conservation Framework** dated 1 Oct 2013 and the **Phase Two Conservation Framework** dated 1 September 2015 both by Stephen Townsend.

<sup>15</sup> Todeschini, 1992, describes Rhodes' and Baker's intentions as such.

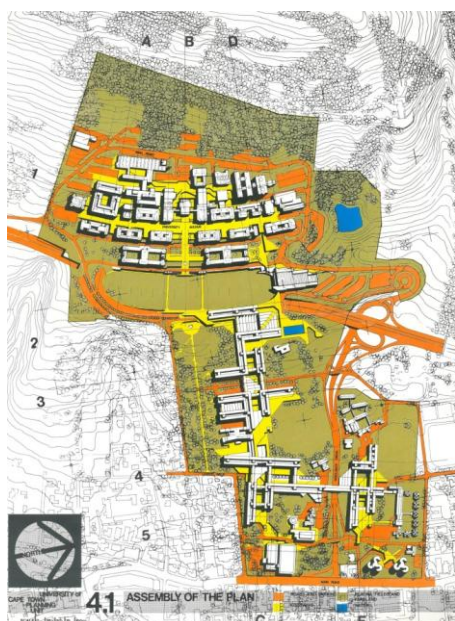
<sup>16</sup> Julian Elliott was engaged by the University in 1969 and retired in 1995 but retained to assist the new head of the Planning Unit, Geoff de Wet, until 1997. De Wet was employed in the Planning unit from 1991 till 2010.

<sup>17</sup> Planning of the Rondebosch Middle and Lower Campus at that time was led by a sub-committee of Elliott, Ivor Prinsloo and Roelof Uytenbogaardt, professors of architecture and of planning and urban design respectively.

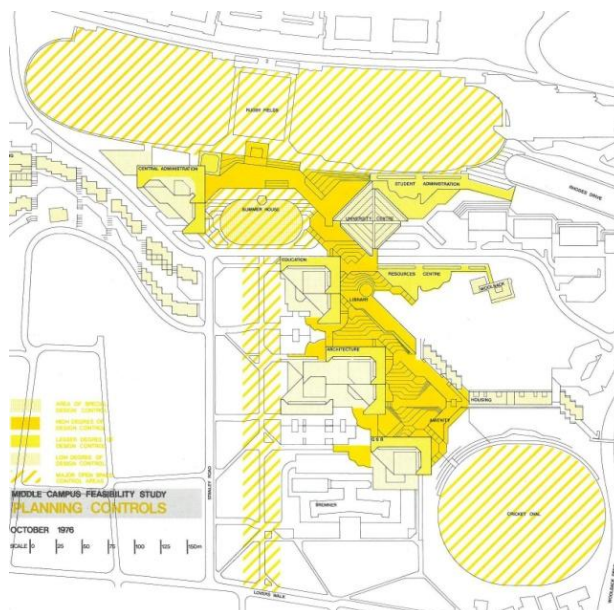
<sup>18</sup> The Planning Unit's 1974 *Report No. 2, Planning Studies*, which proposed a rectilinear pattern down the full length of the Rondebosch Middle and Lower Campus, and its sequel, the 1976 *Report No. 3.2, Middle Campus Design*



urban design framework implemented in the 1980s and 90s (and the argument implied in Elliott's later PhD),<sup>19</sup> this is surprising.<sup>20</sup>



**Illustration 2: The Planning Unit's 1974<sup>21</sup> framework for the Upper, Middle and Lower campuses showing a network of buildings across the Middle and Lower Campuses**



**Illustration 3: The Planning Unit's 1976<sup>22</sup> framework for the Middle Campus only and showing the diagonal spine**



**Illustration 4: Dewar/Louw/Southworth's 2005<sup>23</sup> "high streets" across the Middle Campus**



**Illustration 5: Comrie's 2008<sup>24</sup> "pedestrian ordering device" across Middle Campus**

*Studies*, which included a diagonal across the top of the Middle Campus, were clear responses to growth and explicit continuations of the Upper Campus design concept.

<sup>19</sup> Elliott, 2004.

<sup>20</sup> We will deal with the over-riding of the urban design concept and works implemented on the Rondebosch Middle Campus under Elliott's aegis in 2009 for the construction of two large new buildings constructed in 2010-2012 in the sections dealing specifically with that campus.

<sup>21</sup> Planning Unit, 1974, figure 6.2.

<sup>22</sup> Planning Unit, 1976, figure 4.1.

Given this, while accepting the very detailed historical research conducted by our predecessors, we endeavour in this report to introduce an explicit corrective at each of the six campuses discussed: an argument about the sense of place of each of the campuses **as university campus**. This is necessary, we think, because heritage resource- and land use-management cannot rationally or cogently regulate without a clear idea of what it is dealing with and what it is aiming at.

We cite, as an object-lesson in this regard, the instance of the Avenue Road Precinct in Mowbray: although the uppermost part with the 1945 barrack-residences was part of Rhodes Estate acquired by the University in 1921, the balance of the precinct was assembled by the University in the 1990s; was the subject of the first impact assessment carried out in the Western Cape in 2000 (the new heritage law came into effect in April 2000) by a team of four heritage practitioners;<sup>25</sup> was negotiated with these practitioners for a year; then faced lengthy and demanding requirements from City Council heritage officials; and was approved by SAHRA but only in principle; was then delayed by the University; and was then negotiated again between the University's architects and new heritage practitioners; was finally approved by HWC in early 2015; and was ultimately approved by the City Council in February 2016.<sup>26</sup> This development has a bulk factor of only 0.5 (the CO2 zone has a permitted factor of 2.0); and Elliott shows in his PhD that a bulk factor of 1,0 is an appropriate density for campuses. The reasons for the sixteen year process are, we believe, fourfold: first, the University seems to have recognised in the 1970s that a university campus is a particular type of place with a particular townscape but then not accepted the consequences of such realisation; second, the heritage consultants have from the outset<sup>27</sup> made very detailed and overly cautious assessments of significance; third, the heritage and land-use authorities, following this lead, have both insisted on very low-bulk built-form; and, four, the University seems not to have adequately resisted or tested these views about heritage (although it did reject the recommendations of the heritage consultants, Pistorius *et al*, 2006 report on the Rondebosch Middle Campus).<sup>28</sup>

And we argue that the six UCT campuses, all at least in part on Rhodes' estate (Hiddingh excepted), should be recognised to be of the American university-type campus, perhaps implying Jefferson's University of Virginia, and described by Le Corbusier in the 1930s as follows: "each college or university is an urban unit in itself, a small or large city. But a green city... a world in itself";<sup>29</sup> and by Turner as "(t)he romantic notion of a college in nature, removed from the corrupting forces of the city, (which) became an American ideal"<sup>30</sup>

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<sup>23</sup> Dewar et al, figure 32.

<sup>24</sup> Comrie, p16.

<sup>25</sup> CDC, 2000.

<sup>26</sup> MLH et al, 2015.

<sup>27</sup> By "outset", we mean from 2000 when the new National Heritage Resources Act came into effect giving the heritage authorities new responsibilities and powers and enabling heritage practitioners to play more influential roles than previously.

<sup>28</sup> This 2006 report includes, for example, in its conclusions: "Any development here must be informed by, and should contribute towards restoring the damage already done to, the essential historical character and characteristics of this space, including: Its role as an informal, sylvan "green" foreground which contrasts with, and should not compete with, the formal, neo-classical Upper Campus composition, etc", p20, and recommending that "this site be developed as an integrating *open space and landscape*, and that any buildings must be *of the landscape* and their placement, scale and grain should respect and enhance the open spaces to which they relate" (emphasis in the original), p21. The University (in our view, rationally) did not accept these recommendations.

<sup>29</sup> Quoted in Turner, p4.

<sup>30</sup> Turner, p4.

echoed by Rhodes', Baker's and Solomon's ideas of the main Upper Campus. Elliott adds that such campuses "can be seen as micro urban units which were assemblies of buildings on large sites, under single land ownership, unconstrained by the myriad regulations affecting urban development".<sup>31</sup>

In other words, the main Rondebosch campus is, like the American campuses which were a primary generator of Solomon's design,<sup>32</sup> an urban unit of low-rise but large buildings interconnected and dominated by open space but set in an *encircling* 'parkland'. This and the other campuses are, however, not and cannot be the parkland itself even if dominated by green; indeed, the Rondebosch, Rosebank, Mowbray and Observatory campuses cannot ever be the "sylvan" or "Arcadian landscape" so frequently (and wrongly) referred to; and we contend, their rational transformation into authentic university campuses has been impeded by an elision of these ideas. Indeed, in our view, the omission of what we will call an '*urban design plan*' for each of the campuses, is a singular omission and this contributes iteratively to ill-or inadequately-contextualised new buildings being designed and built; and we argue that an essential step in the rational planning of the intensification and densification of each of the campuses must be preceded by the articulation of an *urban design plan* that incorporates landscape-, heritage-, pedestrian and vehicular movement-related concepts and, of course, the 'edges' or 'faces' of the volumes established in the University's IDF.

We note that none of the parties commenting on this **Conservation Framework** disagreed with the views outlined here (although some did argue that certain buildings should be regarded to be more significant than we had initially determined; each of these differences are outlined and discussed in the **Inventory Report**).

### **1.2.2 The Underpinning Intention of the Framework: The Regulatory Regimes:**

The second difference from the earlier conservation studies is that this **Conservation Framework** proposes both fairly detailed protective measures in respect of the most significant heritage resources and it details exclusions and limits to the restrictions to be administered/regulated by both heritage and local planning authorities, thus outlining a detailed rational regulatory regime where the responsibilities of heritage and land-use authorities are neatly separated reducing confusion and conflict. This is the primary underpinning reason for the **Heritage Agreement** and the arrangements proposed here.

### **1.2.3 An Inventory of Heritage Resources on the University Campuses:**

Third, not attached to this report but an accompanying element to this **Conservation Framework** is an independent document, the **Inventory of All Buildings, Spaces and Landscape Elements** in the six campuses and the explanatory **Report Accompanying a Survey and Inventory of the Heritage Resources** of the University that is to satisfy both the Heritage Western Cape and City Council policy and guidelines for surveys and inventories.

### **1.2.4 Distribution of the Draft Conservation Framework Report for Comment:**

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<sup>31</sup> Elliott, 2004, p79.

<sup>32</sup> Solomon referred to three American campuses which he had visited, the Universities of Columbia, Cornell and California; see the untitled 1919 article by Solomon quoted at length in Thornton White *et al*, 1964, p6. And the very urban concepts of the Universities of both Columbia and, in particular, California and the elevated position of the University of Cornell all clearly made central contributions to Solomon's thinking about the new campus on Rhodes Estate.

The fourth difference between this Report and all of the previous studies referred to is the circulation of the ***Draft Conservation Framework*** dated October 2019 during the period 23 June to 23 August 2022 (although we did, on request, agree to some parties commenting significantly later):

In order to provide for as comprehensive public consultation as possible and to ensure that students, staff, special interest groups and the greater community were given notice of the proposals of the IDF (with its land-use planning applications to the City Council) and of this Conservation Framework, its Survey/Inventory, and the Heritage Agreement (and its heritage-related applications to HWC), an unusually wide advertising and notice-giving exercise was designed and carried out. The two sets of requirements were carried out simultaneously and included the following:

- Adverts were placed in the *Cape Argus*, *Die Burger* and the *Southern Suburbs Tatler*;
- Large on-site notices, in Afrikaans and English, were displayed at 18 sites on the six campuses;
- Official notices were sent out by registered mail to 672 residents within the neighbourhoods surrounding UCT;
- Ward councillors, ratepayers' associations and registered conservation bodies were notified by e-mail;
- The application was circulated to 22 City of Cape Town departments;
- A dedicated page on the UCT website, with the land use and heritage documents for download was created for this process and the URL link to this website was provided in the heritage adverts in the press and the heritage on-site notices;
- A press release ('From the VC's Desk') was issued by UCT's Communications Department to all UCT students and staff with a link to the above-mentioned UCT website;
- The land use application report was available to the public for download on the City of Cape Town's 'Have your say' website, with the URL link to the website provided in the official notices;
- Presentations were made to the Cape Institute for Architecture (on 16 August 2022), as well as the heritage resources management department of the City of Cape Town (on 13 October 2022);
- Instead of the standard 30 days, the public comment period was 60 days, in order to obtain as many comments as possible.

Given this unusually wide advertising of the proposals and applications, it is surprising that very few comments were received. Indeed, the only comments received that referred to the character or significance of the campuses as heritage (be it as landscape or as built-form) and, in some cases, only impliedly, were from the City Council's heritage officials, the Cape Institute for Architecture and the special interest group, DoCoMoMo.

We refer or respond to these various comments (which we attach to this **Conservation Framework Report** as **Appendix 1**) in the apposite places in this Conservation Framework and/or in the Inventory and/or the Inventory Report; but it is true that most of the comments on the IDP and the Conservation Framework and its components are restatements of the necessity of an **urban design plan** being articulated for each of the campuses.

#### **1.2.5 Conclusion to This Introduction:**

The intention of this Introduction has been to clarify the University's responsibilities towards its property holdings *as heritage* and, as importantly, to clarify the protections and restrictive controls to be imposed by the heritage and planning authorities in the future as the planned intensification of use and densification of the campuses proceeds as outlined in the IDF.

This **Conservation Framework** and the accompanying **Survey/Inventory** form the basis of the **Heritage Agreement** between the University and Heritage Western Cape and satisfy Section 42 of the National Heritage Resources Act which will give the University confidence in all related processes. Such an **Agreement** will, by including identification and assessments of all heritage resources owned by the University,<sup>33</sup> also enable exemptions from Sections 34 and Section 38 of the NHR Act and ensure clear processes where these and other sections of the NHR Act (and heritage-related sections of the Municipal Planning by-Law) are or could be applicable.<sup>34</sup> The **Conservation Framework** is also a component of the University's IDF which is being integrated into the City Council's land-use planning framework via the planning by-law's "package of plans" provisions.

### **1.3 The Structure of This Conservation Framework:**

This **Conservation Framework** is structured as follows:<sup>35</sup>

- Section 2 describes the provisions of the heritage- and planning-related laws which most frequently determine the processing of development applications of University-owned holdings. It also discusses briefly the effects of the provisions of a notarial servitude (established by the Rhodes Trust) affecting parts of the campuses.
- Section 3 spells out seven heritage-related principles which are to guide development of the University property holdings.
- Section 4 briefly describes the significances considered and ascribed to the University and to its buildings, the townscapes/landscapes, and the campuses as entities.
- Reliant on the regulatory provisions described in Section 2, the heritage principles outlined in Section 3, and the significances outlined in Section 4, Section 5 spells out appropriate procedural regimes for each of the campuses and for their component parts. **This section is the core of the Conservation Framework.**

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<sup>33</sup> Inventories approved by the provincial heritage resources authorities are the corner-stone of the NHR Act; see Section 30(5).

<sup>34</sup> We should note that the City of Cape Town is currently seeking the authority to administer certain NHR Act powers in respect of local or Grade III heritage resources. This will make the matters under discussion here even more complex than they are at present. This emphasises the need for such an Agreement.

<sup>35</sup> As this Framework deals with six separate geographical areas, each with a rather different history, varying significances and, therefore, with different regulatory regimes its structure is repetitive but, given the circumstances, this is unavoidable.

- Section 6 concludes with recommendations regarding the steps to be taken once the ***Heritage Agreement***, the Inventory and this ***Conservation Framework*** have been advertised for public comment and approved.

#### 1.4 Limitations of the Conservation Framework:

First, this ***Conservation Framework*** relies in large part on the several very detailed conservation surveys and urban design studies carried out during the past twenty-odd years,<sup>36</sup> although considerable additional research and assessment has been carried out by the authors deepening and enriching the architectural, historical and significance assessments made, the assessments of significance do still rely at least in part on that research.

Second, this research has not included a detailed analysis of the landscape features, planting and historical trees, which are so important to all of the campuses and, in particular, to these campuses, the remnants of Rhodes' 'parklands'. This requires the input of landscape and horticultural experts and will be included in due course when the Landscape Policy currently being developed by Properties and Services is approved by the University; and we note that, while a draft Landscape Framework (dated June 2015) has been prepared by the University's Properties & Services department, it does not include sufficient detail to have had an impact on the assessments of character and heritage articulated in this Conservation Framework or in the Inventory. We should, also, note our concern regarding some of the recommendations of Marlene Laros's 2012 report which dealt with the "UCT forest area" which implies significant changes in the framing effect of the tree-canopied area surrounding the Upper Campus although the devastating fire on 18 April 2021 introduces a new set of factors (and urgency) in addressing these questions.

Third, it is presumed too that detailed urban design and or architectural studies regarding prospective sites will be commissioned by the University as the Package of Plans process unfolds on each campus.

Fourth, we have given an account of our understanding of the import and impact of Rhodes' 1899 will and subsequent related law, we do this because these provisions are often referred to.

Fifth, the University does also own many properties, large and small, not included in the six campuses described here. Such properties, notwithstanding their number, size and significance as heritage resources (like the very many mostly residential properties purchased by the University outside the recognised campuses in Rondebosch, Rosebank or Mowbray or in the leased V&A campus) are not listed or discussed in this Conservation Framework.

Finally, there is, of course, controversy regarding the symbolism and meanings attached to or associated with built-form; and this has focussed in the past several years on Rhodes, colonialism and the slowness of transformation within the University and of South Africa at large. We do not, in this ***Conservation Framework***, attempt to develop a view regarding these associations or the meanings argued in this controversy. Nor do we try to argue that our position is neutral or value-free. Rather, we contend that the experience of space and place can be coloured by relatively ephemeral factors like names and art objects within

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<sup>36</sup> This list of studies is attached to the Bibliography.

them; and, in cases where such “troublesome inheritances”<sup>37</sup> suggest a resistance to the necessary transformation of the associated institutions, we point out that public statues (and other art works) have throughout history been moved or removed for many reasons; and, as argued in a different context:

“(W)e need to recognise that monuments, memorials and statues placed in the public realm are always deliberate and self-conscious socio-political statements with, initially at least, clear socio-political intentions and meanings underpinned by interpretations of the past in the present (often, though not always, a relatively short time after the event or death of the personage being memorialised); and we need to recognise that these actions of memorialisation are, at least in part, how national identities are negotiated and created.

“Over time, these meanings fade into the background of public consciousness and the monuments, memorials and statues themselves become simply physical relics of the past. In many cases, their meanings are forgotten and/or these relics assume new meaning, sometimes even generating affection as familiar figures or elements in the landscape.

“Also, over time, the nature of the places where these relics are positioned changes and the memorial or statue must be moved, sometimes to a less important place, sometimes to one giving greater visual presence and greater historical (and political) significance.”<sup>38</sup>

[...]

“So, it seems self-evident that memorials and statues must move about the world as the ordinary and continual process of interpreting the past in the present (history) unfolds, underpinned by new interests, values and knowledge, and as the places that harbour them are transformed. None of this seems new or even unusual, even if many such a repositioning or displacement is contested and raises greater or lesser controversy.

“What is different in these times is the wide range of the controversies being raised in many parts of the world, not all of which have gone through the kinds of political changes experienced in South Africa since 1990. Indeed, it is surprising that these contestations and controversies did not arise here sooner...”<sup>39</sup>

We take the view, however, that built-form *per se*, regardless of the intentions and values of the designers/builders, can, when carried out with invention and understanding, result in architecture that is benign and accommodating and has a value beyond its associations and mutable meanings. By way of example, the capital buildings of both India (by Lutyens and Baker) and of South Africa itself (by Baker) are, by definition, ‘colonial’ but now, in both cases, symbolise democratic government. Also, it is a fact that the Upper Campus is built on land owned by Rhodes and that he intended that it be an Elysian, even Arcadian, parkland for the recreational enjoyment of the citizenry and including a university, but the occupation of much of the estate by the University and its use and development for university uses has transformed both the place and its meaning regardless of the lingering associations; and we insist that its meanings and associations will continue to be transformed. In other words, we hope that our work, recognising architectural and

<sup>37</sup> Schahmann, Brenda, 2011, ‘Bringing Cecil out of the closet: Negotiating portraits of Rhodes at two South African universities’, in *De Arte*, no84, p26

<sup>38</sup> Townsend, Stephen, 21 July 2020, ‘Opinion: Statues of limitation: The impact of history on memorials’, *News*

24.

<sup>39</sup> Ibid.



townscape excellence and a rich sense of place, will encourage and contribute to both social transformation and to the continued development of a benign and continually enriched physical place welcoming to and enjoyed by all.

In this respect, we note that, while the Cape Institute for Architecture has complained that the Conservation Framework has “side-stepped the current debates of decolonisation, gender, etc” and has not “attempted to reconcile these debates with heritage”, it has not itself made any argument or suggestions in this respect;<sup>40</sup> and, despite the very wide advertising of the IDF and this Framework, nor has any other commentator made any comment on the ‘colonial’ (or other) architectural style or character of the buildings on any of the six campuses.

## 2 THE LAWS REGULATING DEVELOPMENT ON THE CAMPUSES

The National Building Regulations and Building Standards Act (NBR&BS Act) is always applicable to development proposed on the University’s properties; the Municipal Planning By-Law (previously known as the ‘zoning scheme’) applies in all campuses dealt with here; the National Heritage Resources Act (NHR Act) is applicable in many circumstances, many of which are not clear or always easily recognised; and a notarial servitude gives the Rhodes Trust a say in the process of approval in respect of certain campuses.

Given this, it is not wrong to describe the legislative framework regulating development as a ‘labyrinth’. Describing this labyrinth is, however, rather more easily done than predicting the processes and outcomes of the administrative ‘minefield’ that must be traversed. This is the essential underlying reason for the development of this **Conservation Framework** and its adoption, ultimately, as a component of a **Heritage Agreement**.<sup>41</sup> that is, to ensure a greater degree of predictability in process and outcome for any development proposed by the University.

We describe this legislative labyrinth as briefly as possible without elaborating on the details; but we use footnotes to indicate the sections of the NHR Act and the new 2015 Municipal Planning By-Law in which the provisions referred to appear.

### 2.1 National Building Regulations and Building Standards Act:

The National Building Regulations and Building Standards Act requires that the local authority must approve any proposed building work before that work may be carried out.<sup>42</sup> However, the local authority may not approve any application unless/until all other “applicable law” is complied with;<sup>43</sup> and “applicable law” usually means law pertaining to the geographical location in question and to the proposed building work in question.<sup>44</sup> In these circumstances, this means the the City Council’s Municipal Planning By-Law and, in long-developed environs or townscapes like the University’s holdings, it also almost invariably

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<sup>40</sup> Cape Institute for Architecture in its belated comment of 2 March 2023.

<sup>41</sup> Enabled by Section 42 of the NHR Act.

<sup>42</sup> NBR&BS Act, Section 4.

<sup>43</sup> NBR&BS Act, Section 7.

<sup>44</sup> The NBR&BS Act, a very old law (of 1977), is primarily concerned with health and safety; and, as a consequence, it determines requirements in respect of structural stability, fire protection and escape and, more recently, pollution and energy consumption, etc. These are, essentially, internal to buildings and are not dealt with in this Framework.

means the National Heritage Resources Act.

## 2.2 National Heritage Resources Act:

The National Heritage Resources Act (NHR Act) is a comprehensive and far-reaching law and, because it has a considerable impact on the administration of the University's property holdings, it is necessary to give an overview of its provisions insofar as they affect the University.<sup>45</sup>

First, the NHR Act relies on the idea of significance which it recognises to vary in type<sup>46</sup> and, more importantly from an administrative point of view, degree;<sup>47</sup> and it requires the authorities to identify and grade heritage resources as Grade I, II or III heritage resources<sup>48</sup> and to formally designate them under a variety of categories of *formal* protection. For example, Grade I and II buildings, places or environments are to be designated respectively as *national* and *provincial* heritage sites<sup>49</sup> and Grade III heritage resources must be listed on a *heritage register*.<sup>50</sup> We say a little more about grading in paragraph 3.2 below.

Second, it establishes a tiered administrative system reliant on degrees of significance requiring the national heritage resources authority, the South African Heritage Resources Agency (SAHRA), to protect formally identified national heritage resources (which will have been graded Grade I), provincial heritage resources authorities to protect formally designated provincial heritage resources (which should have been graded Grade II) and local planning authorities to protect formally designated local heritage resources (which must be graded Grade III) and heritage areas.<sup>51</sup> The national heritage authority (SAHRA) must also monitor the activities of the provincial heritage resource authorities (PHRAs);<sup>52</sup> and the PHRAs (the PHRA in the Western Cape is Heritage Western Cape) must monitor the heritage-related activities of local authorities.<sup>53</sup> However, although there is much informal reference to gradings in current heritage resource management practice, the formal grading and identification of national, provincial and local heritage resources is not very advanced; as a consequence, the relationships between and responsibilities of SAHRA, Heritage Western Cape (HWC) and the local authorities currently have often not been well defined.

Third, the NHR Act also creates a number of what it calls 'general protections' which give these three sets of authorities responsibilities and powers in respect of buildings, sites and environments which have **not** been assessed for significance or formally identified and protected.<sup>54</sup> The most frequently triggered of these general protections are those in respect

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<sup>45</sup> This is a "broad brush" description. It does also include an account of the new procedures that will result from the approval of an inventory of the University's heritage resources **and** as a consequence of the City Council being deemed competent to deal with Grade III heritage resources. In other words, this is an account of the future ideal bureaucratic arrangements as we understand them.

<sup>46</sup> See NHR Act, Sections 2(vi) and 3(3).

<sup>47</sup> See NHR Act, Section 7.

<sup>48</sup> See NHR Act, Section 8(2), (3) and (4).

<sup>49</sup> See NHR Act, Section 27(1) and (2).

<sup>50</sup> See NHR Act, Section 30(1).

<sup>51</sup> See NHR Act, Section 7(1).

<sup>52</sup> See NHR Act, Section 8(2).

<sup>53</sup> See NHR Act, Section 8(3).

<sup>54</sup> See NHR Act, Sections 34 (buildings more than sixty years old), Section 35 (archaeology, palaeontology and meteorites), Section 36 (burial grounds and graves), Section 37 (public monuments and memorials) and Section 38 (various categories of development).

of sixty year-old buildings, of archaeology and the impact assessments which may be required in certain circumstances.<sup>55</sup> Because the general protections refer to development which *may* affect the significance of buildings, sites and environs whose significance has not yet been assessed, the applicability of the laws and the imposition of restrictive controls or limitations is often, if not usually, difficult to predict.

Fourth, an underpinning idea of the NHR Act is that interested groups and communities should identify their heritage resources<sup>56</sup> and that they should be consulted by the authorities in the management of and decision-making in respect of their heritage.<sup>57</sup> Indeed, the Act requires the authorities to formally register groups/bodies as *registered conservation bodies*;<sup>58</sup> but this too has not proceeded very far and bodies not formally registered often claim an interest in heritage resources and in their management. This adds to the unpredictability of scrutiny processes, of decision-making and of appeal processes.

It should be clear from the above that the administration of the NHR Act and its decision-making is unpredictable in process and outcome. This is primarily because heritage resources, agreed or potential, are ill-defined, ungraded and seldom formally identified. This applies throughout the province but it is particularly problematic for the University because so much of the University's property holdings are recognised as or are likely to be regarded as heritage resources.

There is, however, another complication: as described above, the provincial heritage resources authority, Heritage Western Cape (HWC), is responsible for monitoring the local authorities' heritage resource-related activities<sup>59</sup> and this includes determining the competence<sup>60</sup> of local authorities to assume functions and powers under the NHR Act: HWC is currently in the process of deeming the City of Cape Town, the local planning authority, to be competent to take on most of the regulatory functions in respect of Grade III heritage resources and heritage areas. While it is the intention of the NHR Act that Grade III heritage resources be administered by local authorities, this can, logically, only be done effectively once all heritage resources are identified and graded formally through the approval by regional PHRA of an inventory. We trust that it is self-evident, if, for example, there is a difference of opinion about whether a building or site should be deemed to be a Grade II or III, that that uncertainty will lead to administrative uncertainty, indecision and dispute over every/any such process and decision. Indeed, this uncertainty will, we hope, be removed or, at very least, very considerably diminished by this Conservation Framework.

### **2.3 Municipal Planning By-Law:**

The City of Cape Town's Municipal Planning By-Law (its procedures, regulations and associated maps)<sup>61</sup> is the physical planning or land-use management law; and it is established in accordance with the national Spatial Planning and Land Use Management

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<sup>55</sup> NHR Act, Sections 34, 35 and 38 respectively.

<sup>56</sup> See NHR Act, Sections 3(3), 25(1) and 30(6).

<sup>57</sup> See NHR Act, Sections 25(1), 27(8), 38(3) and 49(2).

<sup>58</sup> NHR Act, Section 25(1)(b).

<sup>59</sup> See NHR Act, Section 8(3).

<sup>60</sup> NHR Act, Section 8(6)(a)(ii).

<sup>61</sup> The City of Cape Town's new Municipal Planning By-Law, effective from 1 July 2015, replaced the previous Zoning Scheme almost word for word in respect of the substantive restrictions. However, the then 'Integrated Zoning Scheme had been in effect only since 1 March 2013 when it replaced the old Cape Town Zoning Scheme of 1990. In

Act (SPLUMA) and provincial Land Use Planning Act (LUPA) and their regulations.<sup>62</sup>

The most significant provisions of the new Municipal Planning By-Law of which the University has become increasingly aware are the following:

- The parking provisions recently changed radically and all development will henceforth require very detailed accounting of the existing parking provisions and, most probably, departures in respect of new development;<sup>63</sup>
- The City Council can require a “site development plan” for *any* development which it regards as a “major development where there are concerns relating to urban form, heritage, traffic or planning”;<sup>64</sup>
- The Planning By-Law also includes controls ensuring that the significances of heritage resources in Heritage Protection Overlay Zones are protected including comprehensive discretionary controls.<sup>65</sup> Several of the campuses are entirely or partly within such areas.<sup>66</sup>
- Many, though not all, of the powers to deal with local (Grade III) heritage resources are established in the Planning By-Law or are to be delegated<sup>67</sup> to the City Council by HWC; and, once HWC has deemed the City Council to be competent to deal with Grade III heritage resources, these matters will not be referred to HWC and will be the sole responsibility of the City Council. If the City Council is efficient and rational<sup>68</sup> in its administration of these matters, this must result in an improvement in administration; if, however, the administration is inefficient or indecisive, not reliant on explicit assessments of significance or is inconsistent in its decision-making, this new regime will exacerbate the unpredictability already experienced. Most importantly, however, if the assessments of the significances of the University’s property holdings are not clearly articulated and agreed to by the authorities, HWC and City Council, controversy will arise every time any participant or observer thinks that a proposal could impact on the significance of what they think is or should be deemed to be a Grade II heritage resource.

In other words, it is essential that the University develop this **Conservation Framework** with its inventory of significances and have it approved.<sup>69</sup>

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other words, the Development Management Scheme contained within the current planning by-law was not very different from its predecessor, the Zoning Scheme implemented in March 2013, but it is very different in many ways from the old Zoning Scheme in place until March 2013.

<sup>62</sup> This regime of national SPLUMA, provincial LUPA and municipal planning by-laws is very new, having been implemented on 1 July 2015.

<sup>63</sup> CoCT, Chapter 15, S.138.

<sup>64</sup> CoCT, S.123. This will also apply to the development of any heritage resource; see Section 17.1.4.

<sup>65</sup> CoCT, S.159-162. The HPOZs are listed in an Appendix.

<sup>66</sup> These controls are not new as the Zoning Scheme included what were until March 2013 called “Urban Conservation Area” controls for more than three decades.

<sup>67</sup> The differences between powers which are **assumed** once competence is determined and those which are **delegated** is very complex and must be comprehensively detailed in agreements between the provincial heritage resources authority and each local authority.

<sup>68</sup> By “rational”, in this context, we mean the adherence to the principle of limiting policing action to the protection of significance. This requires that significance must always first be described by type and degree (grading) first and then, having articulated the significance, that any requirement is scrupulously limited to the protection of that significance; see the Heritage Principles articulated in Section 3 of this **Conservation Framework**.

<sup>69</sup> Both as a component of a Heritage Agreement under Section 42 of the NHR Act and as an inventory under Section 30 of the NHR Act.

That said, we must emphasise the fact that not all of the campuses are zoned in the same way, some of the zones are inappropriate for land being used for university uses, and many of these zones were erroneously designated when they were re-assigned in the revision and consolidation of the old zoning schemes implemented in March 2013:<sup>70</sup>

### 2.3.1 Hiddingh Campus, Gardens:

Most of the Hiddingh Campus is zoned as General Residential GR4 with a small part as Community Zone CO1. In the GR4 zone, university-uses are a secondary or consent use and are only permitted with the City Council's consent; in other words, the City Council must use its discretion when approving any development. However, as this Campus is already densely developed with university buildings (effectively since 1841) and as there are no neighbours who could claim to be adversely affected by university-uses, it is reasonable to expect that the land-use-related discretion referred to would not be invoked to refuse any application; nor should this discretion be invoked to impose conditions unrelated to the land-use consent being sought. In other words, we presume that traffic, access, egress and parking-related impacts would be the primary subjects of scrutiny. This campus is, however, not part of the IDF study area; and this 'correction', changing the zoning to Community Zone CO2 throughout this campus, should be undertaken in the future.



**Illustration 6: Planning by-law zones of the Hiddingh Campus and its surrounds**

### 2.3.2 Upper Campus, Groote Schuur, Rondebosch:

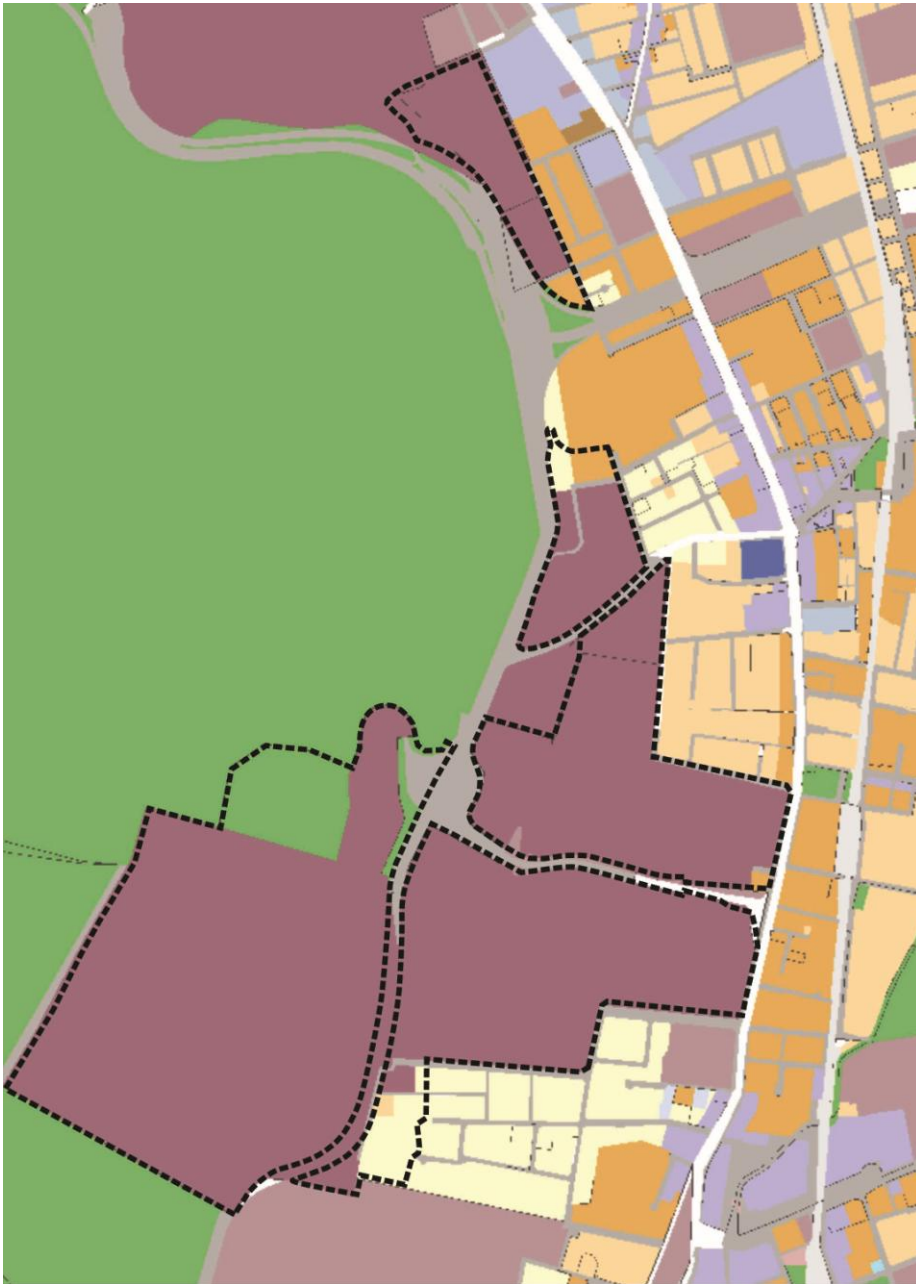
Much of the Upper Campus is zoned Community Zone CO2; and all university-uses including teaching, residences, sports, etc are permitted as a primary right;<sup>71</sup> and it appears that, traffic, access, egress and parking-related impacts excepted, there could be no land-use-related reason to refuse or restrict any development application.

<sup>70</sup> The town planners, MLH, did address these matters and they wrote to the City Council in December 2014 requesting that several of the zone-designations on each of the campuses be 'rectified'; these errors have been corrected and the maps included here are now correct.

<sup>71</sup> In other words, the Municipality does not have a discretionary power in this zone.

### 2.3.3 Rondebosch Middle and Lower Campus:

The Rondebosch Middle and Lower Campus is zoned Community Zone CO2; and all University functions are permitted as a primary right.



**Illustration 7: Planning by-law zones of the Upper Campus, Rondebosch Middle and Lower Campus, Rosebank Middle and Lower Campus, the Mowbray/Avenue Road Precinct and the Health Sciences Campus in Observatory**

### 2.3.4 Rosebank Middle and Lower Campus:

This Campus was in large part zoned Community Zone CO2 but with a small piece of General Residential and some undetermined land which is to be zoned as CO2 as well and is part of the IDF-related application currently being dealt with.<sup>72</sup>

<sup>72</sup> We note that the 'urban edge', an informal municipal policy, did previously (bizarrely) cross the motorway suggesting that the University-land around Welgelegen, the State-owned land surrounding De Meule, home of the Minister of Tourism and Mostert's Mill, and part of the University land which has accommodated the University House



### 2.3.5 Mowbray or Avenue Road Precinct:

This precinct is zoned<sup>73</sup> as Community Zone CO2. Much of the precinct is currently within the Mowbray Heritage Protection Overlay Zone (but which, we think, should in due course be excluded).

### 2.3.6 Health Sciences Campus, Observatory:

The Health Sciences or Medical School Campus is zoned Community Zone CO2, except for the Lung Institute which is zoned for General Residential GR4. The entire campus should be zoned CO2 and is part of the IDF-related application currently being dealt with.<sup>74</sup>

The changes to the zoning described here are all included in the package of plans land-use application dealing with the IDF.

## 2.4 Rhodes' Will:

The Deed of Grant of 1921 is confirmed by Notarial Servitude No.296/1956 making the entire Rondebosch Upper Campus, parts of the Rondebosch Middle and Lower Campus, of the Rosebank Middle and Lower Campus and of the Mowbray Avenue Road Precinct subject to a number of conditions established by the Rhodes Trustees to give effect to Rhodes' 1899 will.

One of these conditions required the establishment of the Rhodes Trustees Advisory Panel whose responsibilities have, since 1954, been delegated to the president of the then Cape Provincial Institute of Architects (now the Cape Institute for Architecture or ClfA). To give effect to this, the ClfA president must determine whether development proposals satisfy the following conditions: that "all plans for any buildings proposed on any part of the land above described shall first be submitted for approval to the Rhodes Trustees in their preliminary sketch stage with particular reference to elevational treatment and no such building shall be proceeded with until such approval has been given" and that "all buildings shall be of a public character and shall be used for the purpose of and associated with the development and extension of the life and work of the university; such buildings shall in architectural dignity preserve in every way possible, the spirit of the Rhodes Will".<sup>75</sup> Accordingly, any new building erected on parts of the campuses which were part of Rhodes Estate requires the approval of the president of ClfA. Such comment should be limited to the issues "public character", "the life and work of the University" and "architectural dignity" and not about siting, scale or heritage-related impact.

This is an interpretation, given the use of Rhodes' Estate for university uses, of the words (and intentions expressed) in Rhodes' will requiring that "any buildings which may be erected thereon shall be used exclusively for public purposes and shall be in a style of architecture similar to or in harmony with my said residence".<sup>76</sup>

This servitude applies to all of the land which was a part of the Rhodes' Estate.

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buildings since 1945 (in the Mowbray-Avenue Road Precinct), were all outside the urban edge. This was nonsensical; but this has been corrected in the recently approved district spatial development framework. We note this to obviate any argument in this regard.

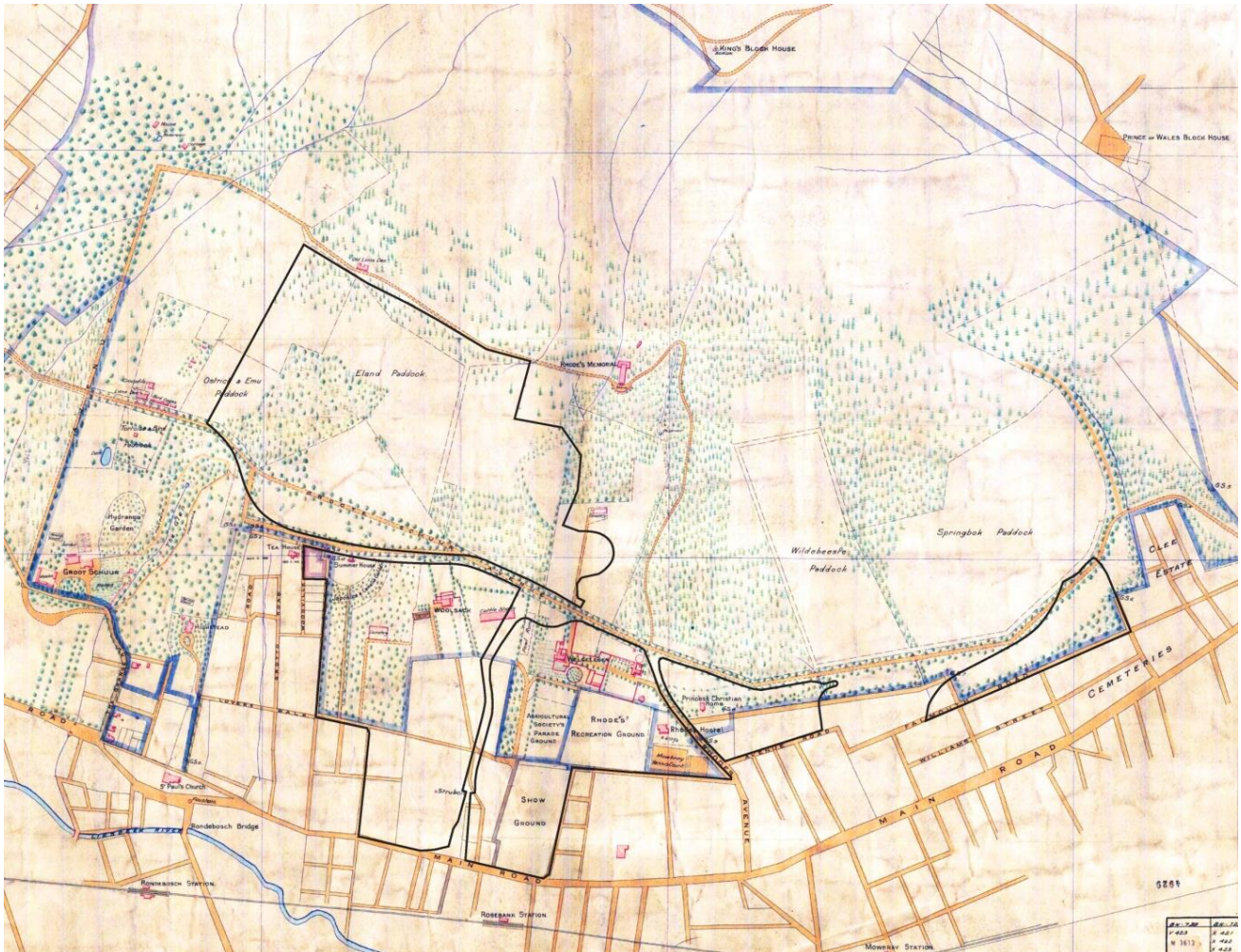
<sup>73</sup> The land was rezoned in 2010.

<sup>74</sup> This is one of the corrections MLH have requested. See Footnote #60.

<sup>75</sup> Rhodes' Will, Clause 13(4).

<sup>76</sup> Rhodes Will, 1899, para. 13(ii).





**Illustration 8: “Plan of Groote Schuur Estate, Situate at Rondebosch, framed from actual survey by BG Basset and CH van Breda, Government Land Surveyors, December 1911”; the purple-blue line shows the extent of Rhodes’ Estate while the black line shows the outlines of the Rondebosch, Rosebank, Mowbray and Observatory campuses**

However, while Rhodes intended that the Groote Schuur Estate be left as ‘parkland’ for the people of South Africa for their recreation and enjoyment, he did also intend that part of it accommodate a university campus (although it is certain that he imagined a rather smaller part of the estate being used for this purpose).<sup>77</sup> Indeed, it is self-evident that a very large part of the Estate is now being used for and developed for university purposes rather than as ‘parkland’. Also, it may not be of great significance today but it is certainly worth pointing out that “the style of architecture” of Rhodes’ “said residence” was/is an Arts and Crafts-Cape Dutch vernacular hybrid which Baker developed with Rhodes’ encouragement (which we now know as “Cape Dutch Revival”); and the architecture of the University, first proposed by Solomon following Baker and Lutyens (in Pretoria and New Delhi) and actually built in the 1920s by Walgate on the Upper Campus and by Clelland on the Health Sciences Campus is a neo-Renaissance architecture (often called ‘neo-classical’). In other words, Rhodes’ intentions were not adhered to in this respect or, perhaps, mutated under the guidance, if remote, of Baker.

<sup>77</sup> See, for example, the different opinions of Lutyens and Baker regarding the siting of the Upper Campus as described in Todeschini, pp35-36; although Elliott says that “it seems certain” that Lutyens and Baker agreed on the upper campus site when they visited site together in December 1910; Planning Unit, 1982, p1.



**Illustration 9: Rhodes' "said residence", Groote Schuur of 1900 (Proust, 1987)**



**Illustration 10: The 'great hall' on the Main Campus of 1930 (Townsend, 2015)**

## 2.5 Conclusions regarding the Legal Framework:

It should be clear from this brief account that it is in the University's interest to identify all of the heritage resources (recognised or potential), be they buildings, spaces or whole environments, to grade them and to have HWC approve such grading as an inventory under the Act. This would enable the authorities (HWC and the City Council) and the University to establish ***consistent procedures for dealing with all proposals and to agree on the criteria and principles for decision-making.***

As we have said, this is the essential reason for this ***Conservation Framework*** and for the proposed ***Heritage Agreement*** which is a legislated form of agreement which binds the parties.<sup>78</sup>

## 3 HERITAGE PRINCIPLES, SIGNIFICANCE AND GRADING

Given this very complex legal framework and given the intention to establish a Heritage Agreement binding on both the University and the authorities, we must be clear about the underpinning principles of such an agreement:

### 3.1 *Heritage Principles:*

There are several well-known international and national charters which posit conservation- and heritage-related principles. The best known and most frequently referred to are the 1964 ICATHM<sup>79</sup> Venice Charter, the 1994 World Heritage Convention's Nara Document on Authenticity and ICOMOS Australia's Burra Charter (which has been revised several times between 1979 and 1999 in endeavours to keep up with developing ideas about heritage and its management). However, these charters all implicitly promote the protection of building fabric, buildings and places irrespective of the ***relative*** significances (qualities and quantities) of these elements in or of the built environment. As a consequence, uncritical reference to principles posited in the charters is often vague or even meaningless, particularly in circumstances where the significances of the environs are complex or are contrasted with other reasons for development as, for example, in cases like these where the environment must necessarily be transformed for a higher order use.

The principles which are proposed here as principles to be adhered to when planning and approving development of the University campuses are adopted from the charters but they are adapted to suit the University's and South Africa's circumstances. These principles are

<sup>78</sup> See NHR Act, Section 42.

<sup>79</sup> IInd International Congress of Architects and Technicians of Historic Monuments, Venice, 1964.

as follows:

*First Principle: Significance Determines Everything*

Significance determines everything. The cultural or heritage significance of the site or place or building or environment determines the scrutiny and management regime and the type and extent of limits imposed by the authorities. No planning or design work can be initiated or considered before an assessment of the cultural significance of the building/site has been articulated and agreed to by the appropriate authority(s);<sup>80</sup> and such assessment is to articulate and evaluate both the types or qualities of the significances and the degrees or quantities of the significances.<sup>81</sup> It is to be emphasized that the National Heritage Resources Act relies on this principle both in its intentions<sup>82</sup> and in determining the identity of the responsible authority.<sup>83</sup> The approval of this **Conservation Framework** by Heritage Western Cape and the accompanying **Inventory**<sup>84</sup> shall be deemed to establish the significance of the buildings and sites in the campuses described.

*Second Principle: Significance Is Established through Research and through Consultation with Many Parties*

Cultural significance is established by compiling detailed histories and by consulting many parties, as many parties as have knowledge of and interest in the buildings/sites/places concerned.<sup>85</sup> In the case of the campuses discussed in this Framework, there are many parties both internal and external that we had hoped would contribute: the internal parties include the current structures of the University, the students, the academic and administrative staff, and, importantly, the alumni;<sup>86</sup> and the external parties include parties like the Cape Institute for Architecture (which regularly comment on University-related proposals)<sup>87</sup> and other public interest groups.<sup>88</sup> Curiously, despite the very wide advertising of the IDF and Conservation Framework, very few parties commented on the significances we have articulated; and so we must presume that either the issue is not as burning as we had assumed or that we have, in most cases, made persuasive argument regarding the significances of the campuses and their character.

*Third Principle: Protective Measures to Be Proportionate to Significance*

All protective measures and limitations imposed by the authorities shall be directly related and proportionate to the type and degree of significance.<sup>89</sup> In other words, state interference in private interest (and the rights of property ownership) shall be directly related to the degree of significance: heritage resources of high significance are expected to be limited by greater demands for care and protection while those of lesser significance may be expected to be enhanced or even transformed or, perhaps, even sacrificed to a greater good.

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<sup>80</sup> The Burra Charter, Articles 6.1 and 6.2, is crisp and clear in this regard.

<sup>81</sup> The Nara Document, para.s 11 and 12 emphasise the range of values and significances of heritage resources.

<sup>82</sup> NHR Act, Sections 3 and 7.

<sup>83</sup> Ibid. Section 8.

<sup>84</sup> Ibid. Section 30(6).

<sup>85</sup> The Burra Charter, Art. 5.1, emphasises “*all*” aspects of significance and the Nara Document, para.s 6, 9 and 13 emphasise the variety of sources of information and the range of values underpinning significance(s).

<sup>86</sup> I am surprised that the University has not endeavoured to consult the alumni on such matters although all known alumni are regularly approached by the University’s Heritage Society for funding.

<sup>87</sup> Such comments are distinct from the requirement that the president of the CIA confirm that proposals satisfy Rhodes’ will or not.

<sup>88</sup> Amongst which we include groups like Docomomo, ratepayer associations, etc.

<sup>89</sup> See the Burra Charter, Para. 5.2.



#### *Fourth Principle: Different Types of Significance Demand Different Protective Measures*

Different types of significance shall be protected by measures appropriate to the type or nature of significance. For example:

- many buildings and sites have considerable significance as **evidence** of particular historical events or periods or technologies;<sup>90</sup> the significance of such heritage resources, particularly if the significance as historical evidence is great, rely on the fabric being protected in order to sustain their **authenticity and provenance as evidence**<sup>91</sup> which should not be ‘falsified’;<sup>92</sup>
- many buildings and sites are characterised by **periodic change** whose ‘layers’ signify growth and change and whose (usually lesser) significance suggests/implies **ongoing/continual functional growth and change**,<sup>93</sup> and
- many buildings, complexes or ‘set-pieces’ are important architectural objects or places designed by renowned architects, having positions in the history of architecture (local, regional or national), whose significance relies on their **preservation, even restoration, as works of the art of architecture**.<sup>94</sup>

Given the damaging effects of the fire of 18 April 2021 on several of the buildings on the Upper Campus and in the Avenue Road Precinct, this principle is one that has and must necessarily be referred to in the repairs and restorations.

#### *Fifth Principle: Management of the Visual Setting/Frame*

In many cases, the significance of a heritage resource relies at least in part on its visual setting or frame;<sup>95</sup> and in such a case, as in the case of the Main Campus and the Middle and Lower Campuses of both Rondebosch and Rosebank, an iconic and particular visual image shall be protected by managing this frame or buffer. Again, given the effects of the April 2021 fire, the question of the treed frames of these campuses must be carefully considered in the next short while.

#### *Sixth Principle: The Consultation of Interested Parties regarding Impacts*

In cases where significance has been established to be considerable, where that significance is claimed by interested parties, and where proposed interventions may **impact on or affect that significance**, scrutiny and assessment processes shall **include interested party consultation** in respect of the proposed intervention.<sup>96</sup>

#### *Seventh Principle: Significance and Appropriate Skills*

The significances of the site and its surrounds and the potential for an intervention to have an impact on those significances shall determine the skills of the assessors, designers and other practitioners employed to be responsible for all phases and components of such intervention.<sup>97</sup> This principle shall apply equally to the composition of the authorities’ decision-making structures<sup>98</sup>

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<sup>90</sup> See the Venice Charter, Articles 1 and 3.

<sup>91</sup> Nara Document, para.s 10 and 13.

<sup>92</sup> Venice Charter, Art. 9.

<sup>93</sup> Venice Charter, Articles 11, 12 and 13; and Burra Charter, Art. 15.1.

<sup>94</sup> Venice Charter, Articles 3 and 7; and Nara Document, para. 13.

<sup>95</sup> Venice Charter, Articles 1 and 6; and Burra Charter, Art. 8.

<sup>96</sup> Burra Charter, Art. 12; and Nara Document, para. 11.

<sup>97</sup> The Cape Institute for Architecture suggested that this be ensured by appointing professionals with the appropriate experience and skills to assist professionals who do not have the necessary background.

<sup>98</sup> Burra Charter, Articles 4.1 and 30; also, Venice Charter, Art. 9.

These seven principles articulated here do not, of course, exhaust the range of principles developed in the international (or other national) charters; but they are well-established principles articulated in the charters which encourage clarity in decision-making in the context of the University's property holdings. They are also echoed in the structure and provisions of the NHR Act.

### 3.2 *The Gradings of Significance:*

While the importance and effects of grading have been outlined in paragraph 2.2 above, it is necessary also to outline the history of grading in Cape Town (and of University-owned property) to understand the variability of such assessments:

Briefly, this process began in the early 1990s when the first system was created by the City Council to establish consistency between the very different assessments of significance contained in surveys conducted in the 1970s, 80s and 90s.<sup>99</sup> That system was later adjusted after 2000 in an attempt to make it consistent with the then new National Heritage Resources Act. In other words, those gradings of University holdings, often reliant on very old assessments, were twice adjusted by being forced through a 'manifold'. Subsequently, as surveys were carried out by consultants to the University after 2000 (once the new Act came into effect), the criteria of significance were developed *ad hoc* by small teams of consultants but not confirmed via the formal process outlined in the Act.<sup>100</sup> As we have demonstrated, those assessments were extremely cautious and did not take account of the fact that the environs, once agricultural, then suburban, then transformed into 'parklands' by Rhodes, and then given over definitively to the University in 1917 or later are for university-use **as campuses**. Given this, as is most clearly demonstrated on the individual sheets of the building-by-building **Inventory**, the assessed gradings of many of the University's heritage buildings, sites and places have varied considerably over time.

Indeed, the gradings now proposed are often rather different from previous assessments: first, they now explicitly recognise the necessity for growth and change on the campuses; second, they take account of the necessity to have a rational and clear division of regulatory authority; third, they take account of what we have called "heritage curtilages";<sup>101</sup> fourth, in many cases the new gradings, taking the University's significance into account, are rather higher than previously assessed; and, finally, given our down-playing certain significances derived from pre-university uses, in many cases the new gradings are rather lower than previously assessed.

As referred to earlier in the section on the Distribution of the Draft Conservation Framework for Public Comment, some of the comments received have included argument for higher gradings but, in the main, the commentators have concurred, in only implicitly, with the argument that the change from Rhodes' Estate or from residential suburb to university campus necessarily requires an adjustment of perception regarding the past and the significances of the built forms of the past.

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<sup>99</sup> Townsend *et al*, 1996.

<sup>100</sup> NHR Act, Section 30.

<sup>101</sup> We use the neologism, "heritage curtilage", to mean the immediate surrounds of a heritage resource, site or structure which are dominated by that heritage resource or, should that space be developed in any way, would effect the appearance or significance of that heritage resource; and, as a consequence, should be regarded as part of the heritage resource.

#### 4 THE SIGNIFICANCES OF THE CAMPUSES AND OF UNIVERSITY-USE <sup>102</sup>

Cultural significance is defined in the National Heritage Resources Act as “aesthetic, architectural, historical, scientific, social, spiritual, linguistic or technological value or significance”.<sup>103</sup>

Clearly articulated statements of significance are essential for the care and management of buildings, places and precincts of cultural significance. Indeed, it should be self-evident that significance is unlikely to be protected unless it has been articulated in advance. The values that contribute to or determine cultural significance are not always readily apparent and are subject to a variety of interpretations and to change over time as new information is uncovered and as new associations develop. It is hoped that the statements of significance articulated in the **Conservation Framework** do, in the first instance, develop a consensus on significance enabling relatively straight-forward and sensible management and development.

The University (or, more correctly, its precursor, the South African College established in 1829) moved in 1841 to what is now known as the Hiddingh Campus and later expanded in the 1920s, moving to the Rondebosch Upper and Middle Campuses and the Health Science Campus in Observatory, and then gradually expanded to occupy more of the Rhodes Estate land granted to the University in 1917 and again in 1921 and later into abutting suburbs of Rondebosch, Rosebank, Mowbray and Observatory. Several of the current University campuses had earlier settled uses, agricultural and suburban, before being purchased by Rhodes and gradually ‘gardenised’ as ‘parkland’ and later occupied by the University; and, as a consequence, include some older, historically interesting and landmark buildings, many of them highly significant for a variety of reasons.

The significances articulated in the **Inventory** are, as we have said, reliant on the very detailed studies carried out during the past fifteen years (and listed in the Bibliography). However, as we have intimated earlier, many if not all of these studies have been excessively protection-oriented, assessing many very ordinary buildings and landscaping elements to be far more significant than can be rationally sustained in this context, that is, in the context of a 19<sup>th</sup> century agricultural landscape that was, over a relatively short period of ten years being transformed into a ‘parkland’ and then occupied and transformed for university- or campus-use since the 1920s. Also, we presume that detailed urban design studies will be commissioned for certain of the campuses so that significances are re-assessed in more detail before major proposals are designed or considered.

However, before discussing the significances of the built form of each of the campuses we should remind ourselves of the primary, usually unstated, significances of the University as an institution rather than a collection of campuses and buildings. These are:

##### *Academic significance:*

The primary significance and value of the University resides in its enduring role as the continent’s premier university and as a place of academic excellence, both in research and teaching, and in its internationally recognized legacy of academic achievement which it has developed over time.

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<sup>102</sup> Much of this section is identical to the similarly named section in the **Inventory Report**.

<sup>103</sup> NHR Act, Section 2(vi).

### *Historical and socio-political significances:*

The historical significance of the University relies on its founding in 1829, its development from 1841 on the Hiddingh Campus, its position as the oldest university in sub-Saharan Africa and the legacy of internationally acknowledged academic excellence that has been sustained from that time. The University also has a socio-political significance which it has achieved through its role in the fight for academic freedom during the apartheid era and the broader process of democratization and societal improvement in the years preceding and subsequent to 1994.

### *The University of Cape Town as an icon:*

The image of the Upper Rondebosch Campus, as a formal architectural set-piece located on the slopes of Table Mountain, is an internationally recognized icon and symbol of higher learning set within an Arcadian backdrop. The clarity of the urban design concept and the consistency of the architectural expression, set in a green frame above the city and yet part of it, is a symbol or icon of great numinousness. The context of the mountain and its dramatic topographical forms, ranging from the rugged mountain buttresses on the upper slopes down through the indigenous forests on the mid-slopes to the ornamental landscape of the Groote Schuur Estate contributes to a cultural landscape that is vivid and distinctive. Indeed, the Upper Rondebosch Campus is a very fine example of the American-type campus discussed earlier, a low-rise but relatively dense mini-city dominated by green and set in an Arcadian setting.

The Hiddingh Campus does not have the same visually memorable emblematic imagery as the Upper Rondebosch Campus has; but, as the oldest and earliest university campus in South Africa (since 1841), comprised as it is of a number of very well-made buildings, it does have a very high architectural, visual and historical significance.

Given these institutional, contextual and associational significances as components of the University, the assessments of significance of the individual buildings, spaces and landscape elements take their relationships with and as part of the greater whole into account. As a consequence the significances of many of the individual elements are greater than might otherwise have been expected; although, as we have pointed out earlier, in many instances the change of use from suburbia to university campus must reduce the meaning and significance of certain elements.

## **5 THE REGULATORY REGIMES PROPOSED TO PERTAIN TO EACH CAMPUS AND TO THE BUILDINGS WITHIN THEM**

***This section is the raison d'être and core of the Conservation Framework*** and describes the proposed regulatory regimes to pertain to each campus which are reliant on and are derived from the five grounds described above:

- the seven heritage principles;
- the significances and characteristics of the campuses, their characters and the heritage resources within them;
- heritage buildings/elements are inevitably affected by what happens in the space surrounding them and that those spaces, the "heritage curtilages", are part of the heritage resource;



- the rights derived from property ownership, the history of land-use, and the land-use planning regime; and
- the recognition that uncertainty regarding the identity of the responsible/relevant authority every time that development is proposed is confusing, inefficient and ineffective and should be obviated.

In other words, we argue that the significances of the buildings and campuses, the principles of heritage management and land-use planning, and the rationalities required for efficient administration and decision-making by the authorities, when taken together, suggest the regulatory regimes proposed here for each campus and/or precinct and to the individual heritage resources comprising and within them.

### 5.1 Hiddingh Campus, Gardens

The Hiddingh Campus is, in South African terms, an unusually fine assembly of buildings (many of them with important historical or architectural pedigrees), it is the first South African university campus, and it is set in an important urban environment. We argue that the entire campus should be a Grade II (even though not all of the buildings are equally important); that the entire Hiddingh Campus should in due course be designated as a provincial heritage site; and that its significance should be carefully protected by ensuring that all interventions respond appropriately to its architectural and urban qualities and significances by the **heritage** authority, Heritage Western Cape.



**Illustration 11: Hiddingh Campus regulatory regime map**

We note that although we have proposed that heritage-related regulation be limited in certain respects on the main Rondebosch Upper Campus, we do not recommend such exclusions on the Hiddingh Campus because the campus and its buildings are, individually and as a unit, much older and much more sensitive than the main Rondebosch Upper Campus.

This Campus is within the Central City Heritage Protection Overlay Zone.<sup>104</sup> In effect, this designation, as an area of Grade III significance, is at odds with the Grade II significance proposed here (and already associated with several of the buildings on this campus). The consequence of this is that both the City Council and HWC have heritage-related

<sup>104</sup>

In terms of the City Council's Planning By-Law.

responsibilities and decision-making authorities. This should, in due course, be corrected by excluding the Hiddingh Campus from the Municipal Planning By-Law's heritage protection overlay zone.<sup>105</sup>

Also, the Campus is zoned for General Residential use which gives the City Council discretion over what is permitted. In our view, this discretion is gratuitous and inappropriate. Accordingly, the campus should be rezoned to Community Zone 2. The primary consequence of such a regulatory regime is, traffic and transportation issues aside, that the only discretionary decision-making would be heritage-related, be reliant entirely on heritage- and urban design-related criteria and would be by HWC.

## 5.2 Upper Campus, Rondebosch

The main Rondebosch Campus is an iconic university campus comparable with any in the world. We have argued that the entire campus should be Grade II<sup>106</sup> because, although not all of the buildings or components of the campus are equally important, all components contribute to the whole. Also, a mixture of Grade II and III heritage resources in close proximity with uncertain boundaries must, inevitably, lead to differences of opinion about jurisdiction, to uncertainty and to delay.

In our view, the entire campus should be designated as a provincial heritage site and its significance should be carefully protected by ensuring that all interventions respond appropriately to its architectural and urban qualities and significances by the **heritage** authority, HWC.

The campus is not in a heritage protection overlay zone (of the Municipal Planning By-Law) and, given our proposal that the whole campus be designated as a Provincial Heritage Site, nor should it be.

This campus is zoned as Community Zone CO2 which gives a primary and unfettered right to the University to develop the campus for educational and related uses.

The primary consequence of such a regulatory regime is that the only discretionary decision-making would be heritage-related, be reliant entirely on heritage- and urban design-related criteria and would be by the heritage resources authority, HWC.

However, it is self-evident that not all of the buildings, spaces or parts of the campus are equally significant and not all parts warrant the same restrictive regulatory control; and we propose a three-zone regulatory regime as shown in Illustration 12 and as follows:

- **Zone A** comprises the core of the Upper Campus which includes the three great platforms (for learning, for living, for playing) with the raised central part containing the Great Hall designed by Solomon, the entire length of University Avenue, and the façades and envelopes of the buildings abutting this zone. It is these buildings and the spaces in between them that comprise the enduring image of the University; and it is these components which are most important to preserve and protect. However,

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<sup>105</sup> Although it could be argued to be unnecessary as the “higher level protection takes precedence over any ... protection at a local level” (NHR Act, Section 8(5)). Be that as it may, but in the interest of clarity, we recommend that the de-designation as HPOZ be done once the campus has been declared to be a PHS.

<sup>106</sup> There is, we think, good reason why the Upper Campus could be deemed to be a Grade I site but this would complicate the regulatory regime that we are trying to clarify and simplify.

notwithstanding this imperative, we also argue that the University should be able to make a limited range of changes/improvements within this environment and to the buildings within it without inappropriately limiting regulation by the heritage (or planning) authority. Accordingly, we propose the following:

- That the positions, widths, heights, eaves/roofs (type/shape/material), and all materials of all **façades and building envelopes** be subject to heritage authority control; but that the proportions of all fenestration, the positions of entrances, etc be excluded from such control.<sup>107</sup>
- That the **internal** structures, historical pre-1935 decoration and major spaces of the pre-1935 buildings be subject to heritage authority control; but partitioning, lecture theatres, seminar rooms, laboratories, bathrooms, kitchens, decoration, etc be excluded from such control.
- That the historical pre-1935 granite steps and major retaining walls, identified “historical” trees, road widths and shaping of the **landscaped open-spaces** and roads be subject to heritage authority control; but that all surfaces (roads, paths, pavings, grassed areas), incidental sculptures, landscape features, etc and not identified trees be excluded from such control.
- **Zone B** comprises the remainder of the Upper Campus contained within the circular ring-road comprising Rugby and Ring Roads. This zone, in three parts, includes parts of the lower two of the platforms designed by Solomon and shaped in the mid-1920s but not built upon until the 1950s and occupied by gardens to the two residences and much of the upper reaches of the campus which comprises several rather irregularly shaped platforms with most of the faculty buildings and much of the linear-library. Although these parts of the campus are close to and are the immediate context and backdrop to the, for lack of a better term, Solomon-core of the campus, the envelopes and, in particular, the roofs of these buildings are the only aspects of these environs that warrant close attention by the heritage (and planning) authority. Accordingly, we propose the following restrictions:
  - That the positions, widths, heights, eaves/roofs (type/shape/material), and all materials of all **façades and building envelopes** be subject to heritage authority control; but that the proportions of all fenestration, the positions of entrances, etc be excluded from such control.
  - That the **interiors** of all buildings be excluded from such control.
  - That the **landscaped open-spaces**, roads, paths, steps, sculptures, landscape features, etc be excluded from such control. However, given the relatively *ad hoc* nature of the vertical pedestrian paths, we recommend that the University devise a comprehensive pedestrian movement system.
- **Zone C** comprises the remainder of the Upper Campus beyond and surrounding the circular ring-road and the rugby fields. This zone includes parking areas to the north

<sup>107</sup>

In its comment of 2/3/2023 the Cape Institute for Architecture contends, but without giving reasons, that the entire Centlivres and Pearson buildings should be included in Zone A. We disagree with the bald contention but have amended the diagram to show more clearly that the facade and silhouette are within Zone A.

and south of the rugby fields, more parking and a dam to the north of the core of the campus and a large area to the west up-slope between the university and the road leading to the Rhodes Memorial on the Table Mountain National Park.<sup>108</sup> Much of these areas are relatively well treed and establish, visually at least, a green forested surround to the built 'ivory-towered' university. Despite Solomon's concept and the endeavours of the later architects, this idea has been considerably eroded during the past forty years by the cutting of numerous platforms most often for bus- and/or parking-related uses but also for other uses including the University's kindergarten and a number of tennis courts up-slope amidst the trees. These uses, the parking areas in particular, have had a debilitating effect on the intended encircling green sward of trees, but it is clear that such uses can be tolerated if care is taken with landscaping such uses to ensure that the visual impression is sustained. According we propose the following restrictions:

- That the existing parking areas be planted with appropriate species of trees to recover the visual effect of the original concept.
- That the existing trees be carefully husbanded to ensure, as they grow old and become senescent and/or, given their proximity to the Table Mountain National Park, are deemed to be inappropriate, that the treed canopies are improved rather than diminished<sup>109</sup> although the devastating fire on 18 April 2021 introduces a new set of factors (and urgency) in addressing these questions.



**Illustration 12: Rondebosch Upper Campus regulatory regime map**

<sup>108</sup> These upper two parts of this surrounding land abutting the TMNP has been called the UCT Forest Heritage Park.

<sup>109</sup> We note that a report by Marlene Laros dated October 2012 recommends large-scale felling of trees and their replacement with indigenous shrubs and trees. We do not know the status of her report or of these recommendations but regard them with concern.

### 5.3 Rondebosch Middle and Lower Campus

As argued earlier, many of the parts of the Rondebosch Middle and Lower Campus have considerable significance but the Campus as a whole does not at present have great coherence or significance as a place or as an environment. In our view, this should be remedied by the University by establishing an urban design framework for this campus that builds on the existing several most significant features and aims to establish a coherent sense of place over time.<sup>110</sup>

The Belvedere and Japonica Walk are significant in their own right and, with the band of treed space immediately below the motorway, are significant in particular and primarily as the frame of the iconic Main Campus. In our view, the Belvedere and Japonica Walk should be deemed to be Grade II heritage resource and remain a provincial heritage site and the balance of this complex of elements should be designated a protected area as a 'buffer' to the Main Campus. The intention of this buffer is to protect and ensure the treed and 'green' character of the 'frame' of the iconic appearance of the Main Campus above and behind it.

The late Victorian villas, the *Woolsack*, *Strubenholm* (even though both have been much spoiled by the 1985 and 1973 extensions respectively), and *Glenara* and their immediate surrounds, do also have considerable architectural significance as buildings and as relics of the area's late-19<sup>th</sup> century Arcadian/suburban character. Also, the Baxter Theatre is a much loved and architectural award-winning building. All of these buildings should, for these different reasons, be deemed to be Grade II and designated as PHSs with fairly limited clearly identified "heritage curtilages" beyond which the heritage authority's powers will not apply; although HWC's comment shall be sought in the event of any new building being proposed nearby.<sup>111 112</sup>

There are also several Grade III buildings also with limited heritage curtilages which would be regulated by the City Council.

This campus is not in a heritage overlay zone and, in our view, nor should it be.

Also, this campus is zoned as Community Zone CO1 and CO2 which give a primary and unfettered right to the University to develop the campus for educational and related uses. In our view, there are no reasons for this difference in subzone; and, accordingly, the entire Middle Campus should be rezoned to Community Zone 2. However, it is clear that the height and 'silhouette character' of all future development on the Middle Campus could affect the 'frame' of the Main Campus and its iconic appearance and, in the process of rezoning the CO1 part of the Campus, a condition determining maximum heights (and 'silhouette character') should be set; and such heights should be determined in the urban

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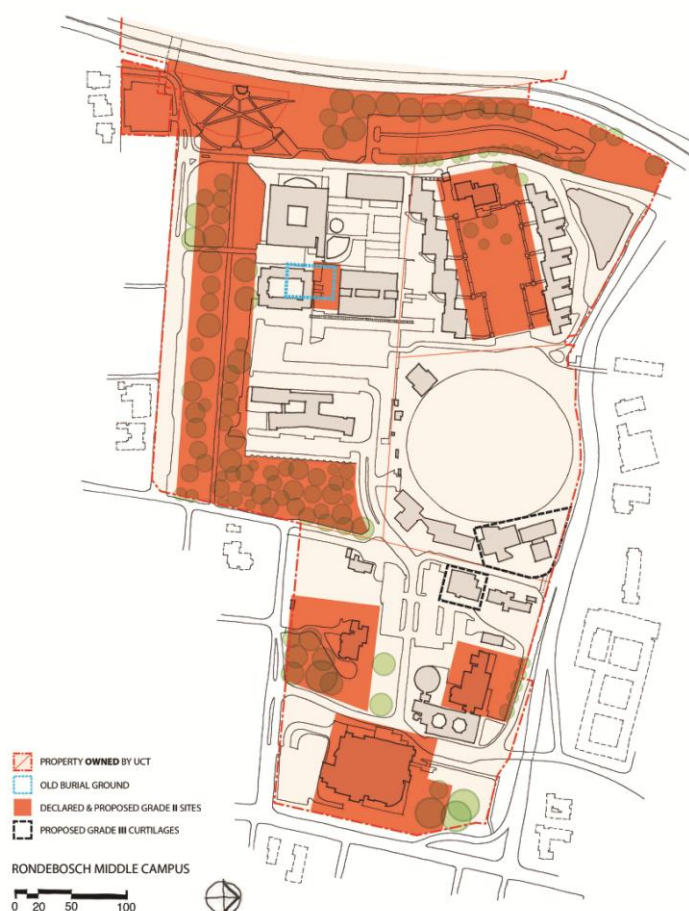
<sup>110</sup> Such an "urban design framework" is to be equivalent to a "Precinct Plan" in the Planning By-Law's Package of Plans process (Schedule 3, Item 136).

<sup>111</sup> The Cape Institute for Architecture, in its comments of 2 March 2023, argued that the Baxter Theatre's heritage curtilage should include more of the garden on its north and the current parking area to its south. DoCoMoMo's comment of 23/8/2022 implies similar views. However, we disagree on both counts and have not amended the Inventory.

<sup>112</sup> The Institute also contended, without reasons, that the cricket oval should be deemed to be a grade II site. We disagree and have not amended the Inventory.

design study referred to above.<sup>113</sup>

The consequence of such a regulatory regime is that, once the urban design framework is approved by HWC, its discretionary decision-making would be limited strictly to the designated PHSs and their limited curtilages; and that the City Council would be responsible for all other decision-making which, importantly, would be guided/constrained by an urban design framework/precinct plan which both establishes a coherent sense of place for this campus and limits the heights, silhouettes and roofing materials of all buildings obviating adverse visual impacts on the Upper Campus. The City Council would also be responsible for the regulation of the Grade III buildings and any works within their outlined heritage curtilages.



**Illustration 13: Rondebosch Middle and Lower Campus regulatory regime map**

#### **5.4 Rosebank Middle and Lower Campus**

As argued earlier, there are components of Rosebank Middle and Lower Campus that have considerable significance but the Campus as a whole does not at present have great coherence or significance as a place or as an environment. In our view, this should be

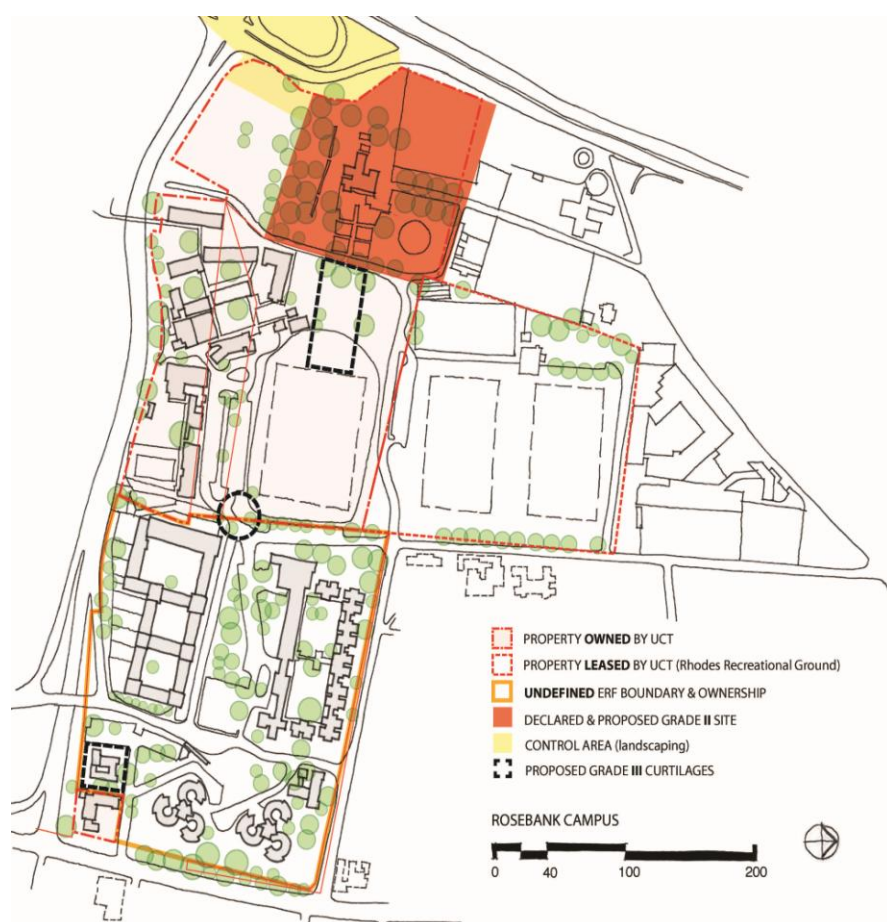
<sup>113</sup> It is disappointing that two large buildings have recently been built on the Middle Campus without the benefit of the guidance that a properly devised urban design framework would have given. As a consequence, neither building compliments or contributes to the campus and the incoherence of the campus is exacerbated.



remedied by the University by establishing an urban design framework for this campus that builds on the existing several most significant features and aims to establish a coherent sense of place over time.

This Precinct includes Community Zone CO1 with one erf zoned General Residential GR4. The strip of land running along the M3 occupied by the Welgelegen buildings and the spaces surrounding it should be deemed to be a Grade II heritage resource and should be designated as a provincial heritage site. It is distinct from its surrounds; and within this relatively isolated part of the precinct the only discretionary decision-making should be heritage-related, should be reliant entirely on heritage- and urban design-related criteria and should be by HWC.<sup>114</sup>

The consequence of such a regulatory regime is that the heritage authority's discretionary decision-making would be limited strictly to the designated PHS, the Welgelegen building and its associated gardens and surrounds; and that, once the urban design framework/precinct plan has been approved, the City Council would be responsible for all other decision-making which, importantly, would be guided/constrained by an urban design framework which both establishes a coherent sense of place for this campus and limits the heights, silhouettes and roofing materials of all buildings obviating adverse visual impacts on the Upper Campus. The City Council would also be responsible for the regulation of the Grade III buildings and any works within their outlined heritage curtilages.



**Illustration 14: Rosebank Middle and Lower Campus regulatory regime map**

<sup>114</sup> In its comment of 2/3/2023 the Cape Institute for Architecture implied, without giving reasons, that the heritage curtilage south of Weltevreden should be enlarged. We disagree and have not amended the Inventory.

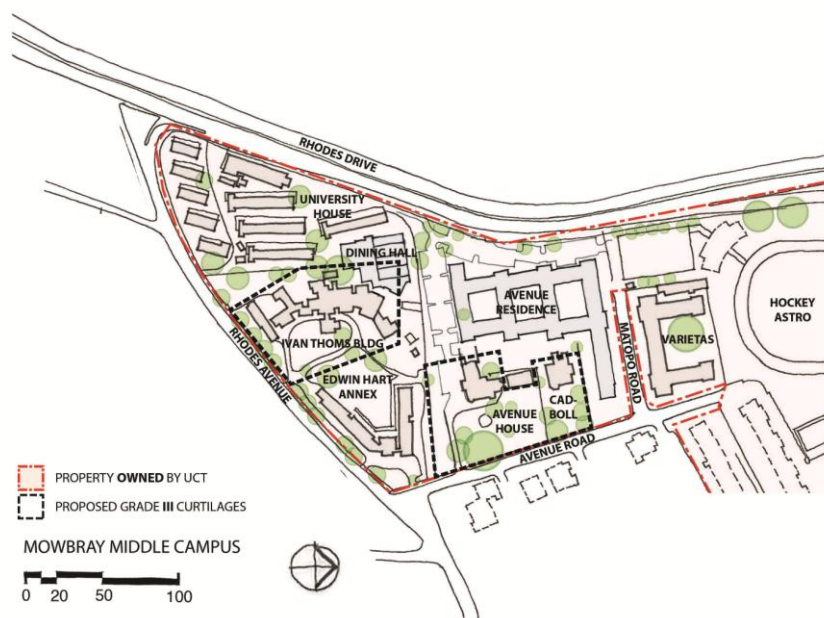


## 5.5 Mowbray/Avenue Road Precinct

The two grand suburban villas, *Avenue House* (circa 1895) and *Cadbol* (circa 1896, Parker) and the *Princess Christian Home* (circa 1907, by Baker and Masey), now *Ivan Toms House*, should be graded as Grade IIIA. Part of the precinct (the part including the buildings just mentioned) is in a heritage protection overlay zone. The boundaries of this heritage overlay zone were determined in the late 1980s before the University had purchased them and when they were still part of the abutting suburban townscape. The more recent occupation of this precinct by the University makes this status (within the heritage protection overlay zone) unnecessary and inappropriate; and we recommend that the boundary of the Upper Mowbray heritage overlay zone be redrawn to exclude the University's properties above Avenue Road. Although the City Council would, however, also be responsible for the regulation of the Grade III buildings and any works within their outlined heritage curtilages.

This Precinct includes Community Zones CO1 (Avenue Residence) and CO2, General Residential (Varietas Residence) and parts of this Precinct are within a Heritage Protection Overlay Zone.

However, as we have pointed out earlier, a comprehensive redevelopment of this precinct has already been designed,<sup>115</sup> approved by HWC and very recently by the City Council. Accordingly, it does not seem necessary to recommend a comprehensive regulatory regime for this precinct; and future development and additions will be regulated as amendments to this Site Development Plan and/or the heritage protection section of the Municipal Planning By-Law dealing with Grade III heritage resources by the City Council.



**Illustration 15: Mowbray Avenue Road Precinct regulatory regime map**

## 5.6 Health Sciences Campus, Observatory

The earliest components of the Health Sciences Campus in Observatory are significant both as architecture and for the history of their use. Indeed, the 1920s Wernher-Beit North

<sup>115</sup>

By the architects and town planners, MLH *et al.*

and South Blocks, the Mortuary, the 2005 IIDMM Building and the spaces in front of these buildings are significant as architecture and as components of the Medical School; and they should be deemed to be Grade II heritage resources and formally designated to be a provincial heritage site and managed by HWC. However, the remainder of this campus as a whole does not at present have great coherence or significance as a place or as an environment. In our view, this should be remedied by the University by establishing an urban design framework for this campus that builds on the existing several most significant features and aims to establish a coherent sense of place over time.

Also, the southern-most part accommodating the Lung Institute is zoned General Residential Zone GR4 which gives discretion to the City Council and in part as Community Zone 1. In our view, the discretion is gratuitous and inappropriate and the entire campus should be rezoned to Community Zone CO2.

The consequence of such a regulatory regime is that the heritage authority's discretionary decision-making would be limited strictly to the designated PHS, the 1928 Wernher-Beit complex and its surrounds; and that, once the urban design framework/precinct plan is approved, the City Council would be responsible for all other decision-making which, importantly, would be guided/ constrained by this precinct plan which both establishes a coherent sense of place for this campus and limits the heights, silhouettes and roofing materials of all buildings; and would regulate the Grade III buildings and any works within their outlined heritage curtilages.



**Illustration 16: Health Sciences Campus regulatory regime map**

## 6 CONCLUSIONS

First, this **Conservation Framework** is an important component and informant of the **Integrated Development Framework** which is being formalised as a component of the City of Cape Town's Municipal Planning By-Law through its 'package of plans' provisions. Indeed, we emphasize that certain of the implementing actions envisaged here are implemented by the City Council through the heritage-related provisions of the Municipal

Planning By-Law; and there are also certain adjustments to and approvals made in terms of the Municipal Planning By-Law which are currently under way.

More importantly though, given that this Framework Report is primarily addressed to Heritage Western Cape, this **Conservation Framework** and the accompanying **Survey/Inventory** (with its **Report**) articulate the significances of the University's built form, identify the buildings, landscapes and townscape which warrant some form of protection, outline the University's rights to use and develop its property holdings, and, most importantly, outline the protective mechanisms which will be brought to bear by the authorities, the provincial heritage resources authority, Heritage Western Cape, and the City Council, and outline the necessity for the University to develop an urban design framework (of varying focus) and a landscape framework for each of the campuses.

These two documents, this **Conservation Framework** and the **Survey/Inventory**, are the central components of the **Heritage Agreement** between the University and the provincial heritage resources authority, Heritage Western Cape, enabling the University to be confident of the degree and nature of scrutiny to which its proposals would be subject; and to be confident of the processes (time) and of the outcomes (approval or refusal) of development applications. The **Heritage Agreement** outlines of the responsibilities of the University and of Heritage Western Cape when making and considering development applications, and proposing more detailed precinct plans.

This **Conservation Framework** and the **Heritage Agreement** outlines and motivates certain protections to be formalised by HWC. These are as follows:

- Approval of the accompanying Heritage Agreement in terms of s.42 of the National Heritage Resources Act; and
- Approval of the accompanying Survey/Inventory and Report in terms of s.30(6) of the National Heritage Resources Act and approval of the Grade II, IIIA and IIIB buildings (and their curtilages) for inclusion in the provincial register of heritage resources.

17 April 2023

**Dr Stephen Townsend**  
**Claire Abrahamse**

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## **LIST OF UCT STUDY-AUTHORS INTERVIEWED**

Nicolas Baumann, Heritage practitioner in private practice; and author of/contributor to several conservation studies 3/8/2015

Chittenden, Derek, Town planner in private practice; and author of the 2014 *Integrated Development Framework* 22/7/2015

Comrie, Henri, Professor of urban design and architect; and author of an urban design study	28/5/2015
Dewar, David, Professor of Planning and author of/contributor to several urban design studies	12/5/2015
De Wet, Geoff, Architect and past Head of the Planning Unit	28/7/2015
Elliott, Julian, Architect and past Head of the Planning Unit	31/3/2015 3/7/2015
Hill, Richard, Environmental scientist and academic staff member; and long-time member and chair of the PPLC and member of the UB&DC	13/7/2015
Louw, Piet, Architect in private practice, and David Dewar, authors of/contributors to urban design studies	29/5/2015
Southworth, Barbara, Urban designer in private practice; and author of/contributor to urban design studies	26/6/2015
Thorold, Trevor, Architect in private practice; and author of/contributor to several conservation studies	22/5/2015
Todeschini, Fabio, Architect and urban designer and academic staff member; and long-time member of the UB&DC	17/7/2015
Vermeulen, Frik, Planner in private practice; and author of/contributor to several studies and applications	4/6/2015

All of these interviews were conducted by Stephen Townsend; and the purpose of the interviews (or conversations) was not to gather information or solicit opinions but to confirm our readings of the written reports and studies. Given this, the views enunciated during the interviews are not contained in or referred to in the report.<sup>116</sup> We did also send drafts of this **Conservation Framework** to all of the parties interviewed: only Geoff de Wet, Fabio Todeschini and Frik Vermeulen responded with commentary.

## LIST OF LETTERS OF COMMENT RECEIVED DURING CONSULTATION PERIOD

Cape Institute for Architecture, 17 Nov 2022, Comment on IDF

Cape Institute for Architecture, 2 March 2023, Comment on Conservation Framework

DoCoMoMo, 23 Aug 2022, Letter of Comment on IDF

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<sup>116</sup> We note that the use of interviews of role players to confirm the operations of a discourse without direct reference in research is a method used by Clarence Stone in his *Regime Politics: Governing Atlanta 1946-1988*, 1989.



City of Cape Town, Spatial Planning and Environment, Southern District, 24/10/2022,  
Internal Memorandum Comment on Land-Use Application

City of Cape Town, Spatial Planning and Environment, Table Bay District, 8/11/2022,  
Internal Memorandum Comment on Land-Use Application

We note that the City of Cape Town's (then) Energy, Environmental and Spatial Planning did also comment on earlier versions of the Framework and Agreement in 2015 and 2016. Those comments were, in large part, integrated into the proposals.