



CITY OF CAPE TOWN
STAD KAAPSTAD

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A PROPOSED APPROACH TO THE PLANNING AND DEVELOPMENT OF GOVERNMENT OWNED LAND BY THE CITY OF CAPE TOWN

EXECUTIVE SUMMARY

The pattern of settlement of this country has led to the central and provincial governments owning large strategically located parcels of land and water in the cities and towns. The need to pay rates as required by the Rating of State Properties Act of 1984, and privatization, has led to the situation where the use of this government-owned land is no longer guided by the traditional need to maximize the public good, but by the new need to generate revenues; in fact to maximize profits.

It is argued that roles need to be devised and agreed-on between the government at national and provincial levels, local authorities, special purposes organisations (the Committee of Urban Transport Authorities is one such) and the public (at the very least in the form of the various Chambers and the South African Property Owners Association), that will govern the way in future by which government-owned urban land is planned, operated or developed for new commercial uses.

The City of Cape Town has, by virtue of the formation of the Victoria & Alfred Waterfront Company (Ltd) by SATS/TRANSNET, been forced to develop a new approach to the planning, development and management of state-owned land. This approach has been designed to ensure that development of State land, be it for either operational or commercial purposes, will be positively integrated into the structure and form of the adjacent city, and into its management. It seeks to serve and reconcile the "key" interests of each of the public and private sectors, (the landowner, the local authority, prospective investors and developers, and the public generally). As a result, it creates a set of tools by which land can be allocated, marketed, leased, sold and managed by government on the basis of previously agreed-on publicly derived objectives and policies; by which land can be integrated institutionally, legislatively and physically into adjoining or embracing municipalities; and by which the private sector's interest and involvement will be attracted, and creatively directed and focused.

Planning has been closely linked to servicing and financing. Indeed, agreement of the local authority to a change of use (as is required, for instance, by the Legal Succession to the South African Transport Services Act of 1989) has been interpreted as agreement not only to planning, but also to the provision of "hard" (i.e. transport

impacts on the physical form and transport network of the city which surrounds it.

1. BACKGROUND

A significant amount of land in all of the larger municipalities of South Africa is in state ownership, at either the central or provincial levels. Much of this land is strategically located for either transportation, defense, education, administration and other purposes. In the past, it has been primarily officials of the municipalities and private sector investors and developers who have looked covetously at this land, alive to the rates generation potentials, and the new investments opportunities. More recently the state itself has started to actively market its land commercially, looking for new sources of revenue.

By historical accident, one Government agency in particular has managed to acquire the most exciting real estate portfolio in the country; in the form of the most centrally located waterfronting land, as well as prime CBD land in the form of the main transportation termini. When one considers, that for reasons such as changing world markets and transportation technology, some of that land and water is rendered surplus, then redevelopment is an inevitability which no local authority can afford to ignore. That government agency is TRANSNET (previously the South African Transport Services). What makes TRANSNET'S position dramatic, is that for one department to control such extensive urban, strategically located land and water assets, is almost unique in the western world.

In September, 1988, the (then) SATS formed the Victoria & Alfred Waterfront Company (Pty) Ltd (the Company) to undertake the planning, development and management of the 82 ha. historical Victoria and Alfred harbours in Cape Town. SATS' need to generate revenue from the land and water areas, coupled with long gestated public expectations for change, brought real urgency to try to find a way by which the area could be rehabilitated and redeveloped as quickly as possible.

2. A NEW WAY FORWARD

In Cape Town over the past year, Council has been devising a way by which, in partnership with SATS and the Company, the potentials of this historical area might be realized. Council's pre-occupation with process ran parallel with that of SATS in the form of their Business Development Unit. The Unit has been preoccupied with reviewing SATS assets nationwide with the view to realizing the commercial development potentials of SATS land and water. Respective starting points differed. SATS represented the ownership group, with the V & AW Company being formed as a wholly owned subsidiary; a private, "for gain" company. As such, it was essentially a developer, similar in purpose to any other in the private sector. Cape Town, by contrast, was a local authority with a broader public interest, that wanted to see increased public use and enjoyment of its waterfronting areas and their integration with the adjacent Central City, while encouraging economic growth in its region. Council has long

change of use prior to development; secondly, the Provincial Administration would essentially only start to play a major role in the event of lack of agreement. (However, it should be noted that in the event of a conflict with a relevant Guide Plan, the approval of the Administrator would need to be sought in terms of Section 6A(12) of the Physical Planning Act). And thirdly, compliance with local authority zoning requirements in terms of Provincial planning ordinances as is normally required of developers, was not required of SATS by the 1981 Act.

Any planning approach had to recognise each of these legal considerations. However, provision also had to be made for the somewhat differing requirements of the forthcoming Legal Succession to the SA Transport Services Act of 1989 which was due to replace Act No. This new Act was due to become law in April, 1990 (which has subsequently happened) and while essentially similar to what is quoted above, would require in the event of a local authority agreement to a proposed change of use, for the local authority to record a zoning within three years of the new Act becoming law.

That the planning in terms of Act No. 65 of 1981 would have to take place outside of the ambit of normal development control was seen by Council as a challenge to develop a new, more facilitative way of guiding and controlling development than would be possible if the normal zoning controls had to be applied. There was also the knowledge that the Company, notwithstanding its "for gain" status, would find itself in an analogous position to a local authority in that it would be leasing land for private sector development and, hence, would also have to guide and control development. In other words, development control should nor be seen as simply a local authority concern. It had equally to concern the Company, and had, therefore, to be designed to serve the respective management needs of both the Company and the Council.

The planning approach had also to recognise that development would likely take place over a decade or two. The Company would need flexibility to deal with changing market circumstances. At the same time, the City and its publics have a right to some predictability as to how the Company and TRANSNET would address concerns of public interest. These concerns would focus on the relation of the waterfront area to its context, attitudes to historicism and conservation, provisions for public access and use, the nature and scale of proposed development, and the provision and maintenance of services.

The private sector's needs, in the form of investors and developers, also revolve around predictability. Predictability of land availability (and the leasehold or freehold conditions pertaining), the performance requirements (financial, urban design, etc) to be met in competing for the lease or purchase of the land, the development control and plan approval process, and availability of services (i.e. road access, sewerage capacity, water supply, etc). The other key private sector needs are for speed of decision-making on the part of the controlling authorities, and for administrative simplicity in development control, (i.e. a minimum of regulation and red tape).

- **Building Plans**

The responsibility for producing the various plans would fall wholly on either the Council or the Company or be shared, depending on the level of plan. Figure 1 is a diagram which depicts the "package". The plans encompass very broad planning considerations at the Contextual Framework level, becoming more and more specific as plans move from context to building plans.

The following text elaborates this concept in terms of the role each level of planning is intended to play, an outline of their content, and the allocation of responsibility for production.

4. **THE LEVELS OF PLAN**

Contextual Framework

No piece of land in a city is an island unto itself. It must relate to its context in terms of access, services connections, and its role in the general cityscape. Somebody, in other words, has to define a context within which a particular piece of land may be planned and developed. Logically, that should be for the local authority.

The Council's primary responsibility, hence, was to provide a broad planning and engineering overview and policy framework for those areas on or adjacent to the shoreline in Central Cape Town, including the Company's area. This was produced by Council in the form of a Contextual Framework. This consisted of two main components - one a Policy Framework, and the other, a Land Use/Transportation Context. Both addressed a geographical area far larger than the Victoria and Alfred Waterfront area, described in the report as the Central Waterfront, (the area fronting onto the sea extending from just west of the Green Point Stadium to just east of the Royal Cape Yacht Club). The Policy Framework is a series of written statements: goals, objectives and policies which spell out the Council's planning intentions for the land-owners (the Company, TRANSNET), developers, investors and publics to understand, react to and follow.

The policies are intended to provide a basis for guiding and coordinating the nature of public and private land development in such a way that the character of each investment in development reinforces the amenity and economic value of previous investments and enhances the climate for future investments.

The other component of the Contextual Framework is the Land Use - Transportation Context. This defines present and possible future contexts in terms of land use/transport, environment, conservation, landscape, major services and other related considerations. The Contextual Framework should derive from structure or local area planning, and special studies on transportation and other infrastructural concerns. The Contextual Framework is essentially strategic in nature, and other than on key infrastructural matters

further study until consensus was reached. It should be noted that Council's studies led to the halving of the floor area originally proposed.

The Development Framework needs, therefore, to be both action-orientated and strategic, capable of being updated periodically as warranted. The Council in its agreement to the V & AW Development Framework, made that agreement provisional on the formal revision and re-submission of the Development Framework by the Company every five years.

From the private sector's point of view, the Development Framework is an important document. It provides an overview of the land-owners intentions for their area, an indication of the process to follow, and predictability from the knowledge that the local authority has agreed to the document. Figures 2 and 3 show the Table of Contents of the V & AW Development Framework and the Physical Structure Diagram. The local authority will need to ensure that the Development Framework results from a process of public participation at least analogous to that which would be used to produce a district plan. The onus should fall on whoever has the responsibility to produce the Development Framework, with the local authority defining its requirements and monitoring and assisting the actual process.

Precinct Plans

The Development Framework foresaw the need for more detailed planning dividing the Company's area into 14 sub-areas or precincts. Precinct plans would have to be prepared for each of these and agreed to by the local authority. The precinct plan was not seen as merely the extension of the general intentions of the Development Framework, but rather the basis for determining spatial responsibilities, limitations and rights among the local authority, the land-owners (TRANSNET, the Company), and future lessees, tenants, investors and developers; it would also form the basis for determining more detailed zoning provisions.

The precinct plan is, therefore, a critical level of plan for the land-owner on the one hand, and for the private sector on the other. While its contents will vary somewhat according to whether land-owner is the "developer" (as is the case in the V & AW where the Company is developing the Pier Head Precinct) or is the "manager", guiding and controlling private sector development. In the latter case, development parcels will have to be differentiated in order for tenders or proposal calls to be offered to the private sector, for detailed planning and design to be undertaken, for sub-lease or sale agreements to be concluded, for development and management agreements on services and infrastructure to be reached with the local authority, and in order for the local authority to be able to safeguard the public interest in access, conservation, etc.

As was the case with the contents and structure of the Development Framework, notice was served to the Company of Council's concerns as to the

the Precinct Plan provides a clear guide to the form, size and shape of future development parcels and the urban design and other "controls" that apply to them. For the local authority, the Precinct Plan starts to pin down a number of concerns, most notably that of securing public access and public space. Figure 5 is a copy of Diagram 4.5 of the Pierhead Precinct Plan. It defines a hierarchy of public access: from unrestricted, to limited and restricted. Other diagrams in the report elaborate the hierarchy by describing open space as "linear park", "traffic square", "open square", "gateway", "boulevard", "canopied square", "water edge promenade", and provide key dimensions of these. The net result is a rich language of publicness, which can easily be translated into design and agreement/development control.

Precinct plans are the level of plan which will most directly affect adjoining communities (as they deal with local or sub-areas). The local authority again will have to negotiate to ensure that adequate public participation is undertaken to gain public acceptability of and support for each of the precinct plans.

Inevitably, the question of what should constitute the public interest is one to which considerable care will need to be devoted. The following is the outline which was provided by Council to the Company as a guide and which was used as the basis for Council's review of the Pierhead Precinct Plan:

Conservation:

Provisions for the conservation of the natural and built environments, and for the obverse, proposed demolition. It should be noted that conservation of the built environment embraces both the cultural and physical dimensions.

Public Environment:

Provision of access (private, public, goods, etc) and parking, public transport stops and termini. Provision of pedestrian ways, squares, parks, water edge walks, etc; landscaping - hard and soft; signage information/directional. Opportunities for public activities, markets, events, etc; provisions for the disabled.

Built form:

Securing of views from ground level and upper levels; building scale, massing and character; the relation of buildings to the ground (provision of weather protection for pedestrians, minimising of "dead" frontage); the nature of proposed activities and approximate floor areas in m², and how these will be provided for, i.e. by rehabilitation or alteration, by infill, or by totally new development.

Infrastructure:

Provisions for public roads and public transport rights of way, entrances and connections to the main transport network, provisions for hard services such as sewerage, stormwater, water supply, electricity, cleansing etc., and for soft services such as health, fire, traffic, etc.

It will be necessary for the local authority at an early stage to be explicit about

On first studying of the "Package of Plans" approach, the reader might fear that it is unduly complex, that it flies in the face of the Government's concepts of privatization and de-regulation, and that it will result in inordinate delays for both the land-owner and other developers in obtaining agreements to the various plan levels and to building plans.

Experience has proved that these fears have been groundless. In fact, comparison with similar waterfronts overseas in Europe and North America has shown that so far, in the case of the V & AW, both the effort required and time taken to produce the various plan levels, and to obtain Council agreement to them, compares more than favourably.

The V & AW Company is proceeding with detailed planning for its area as a whole on the basis of Council's agreement to its Development Framework obtained by end December, 1989 and with development of its first precinct - the Pierhead Precinct - following on Council agreement obtained at the beginning of April, 1990. Given that serious discussion on the Package of Plans approach only started in April, 1989 and that both the Company and its consultants were faced with novel requirements which required a lot of innovation, negotiation and refinement. This, it is argued, is fast moving.

With the view to reducing delays it was recommended to Council that it delegate responsibility for agreement to the Precinct and lower level plans to its Committees and officials. As a result, the Package of Plans approach only required Council's agreement to the Development Framework. Agreement to the fourteen Precinct Plans has been delegated to the Town Planning Committee, to the as yet unknown number of Site Development Plans to the City Planner, while individual building plan submissions will be processed in the normal manner. Where a Precinct Plan is seriously inconsistent with the Development Framework, it will need referral to Council. Similarly, when a Site Development Plan is inconsistent with its parent Precinct Plan, it will be referred to the Town Planning Committee. As a result of these delegations, the normal Council review/approval cycle has been considerably attenuated and simplified.

SAPOA has previously, at the request of Central Government, made recommendations on procedures for the disposal of surplus state land. They favour simple auction whenever possible, rather than the proposal call type of approach. The process proposed by the City of Cape Town in this paper is not in conflict with this recommendation, rather it will ensure that the conditions of auction are conditions that have the prior approval of all the key stakeholders, particularly the institutional ones who control the use of land and its access and servicing.

One respects SAPOA's concern for expedition of process, while noting that unduly hasty planning usually leads to protracted approvals and re-planning. Following the process described here will avert that happening.

6. IN CONCLUSION

and agreed upon between the government at national and provincial levels, local authorities, and the public that will govern the way in which government land is either leased or sold for new uses.

The "package of plans" approach as developed and used by the City of Cape Town and outlined in this paper, represents a way forward which could be used universally throughout this country. It has been designed to serve and reconcile the key interests of each of the public and private sectors.

It recognises the need for planning to result in a set of tools by which land can be allocated, marketed, leased or sold by government on the basis of previously agreed-on publicly derived objectives and policies; by which land can be integrated institutionally, legislatively and physically into adjoining or embracing municipalities; and by which the private sector's interest and involvement will be attracted, and creatively directed and focused.

It is predicated on the belief that the process of plan preparation is as important as the product, and, therefore, that provision for meaningful public participation in plan preparation is essential.

Finally, the approach has been designed to be simple to understand, undertake and administer by all affected parties.

Properly undertaken the "Package of Plans" approach should provide both strategic direction and operational flexibility; and result in development of quality and appropriateness, which takes full account of its special location, conditions, environment and history, and which becomes integrated over time into its adjoining city.

**P DE TOLLY
DEPUTY CITY PLANNER
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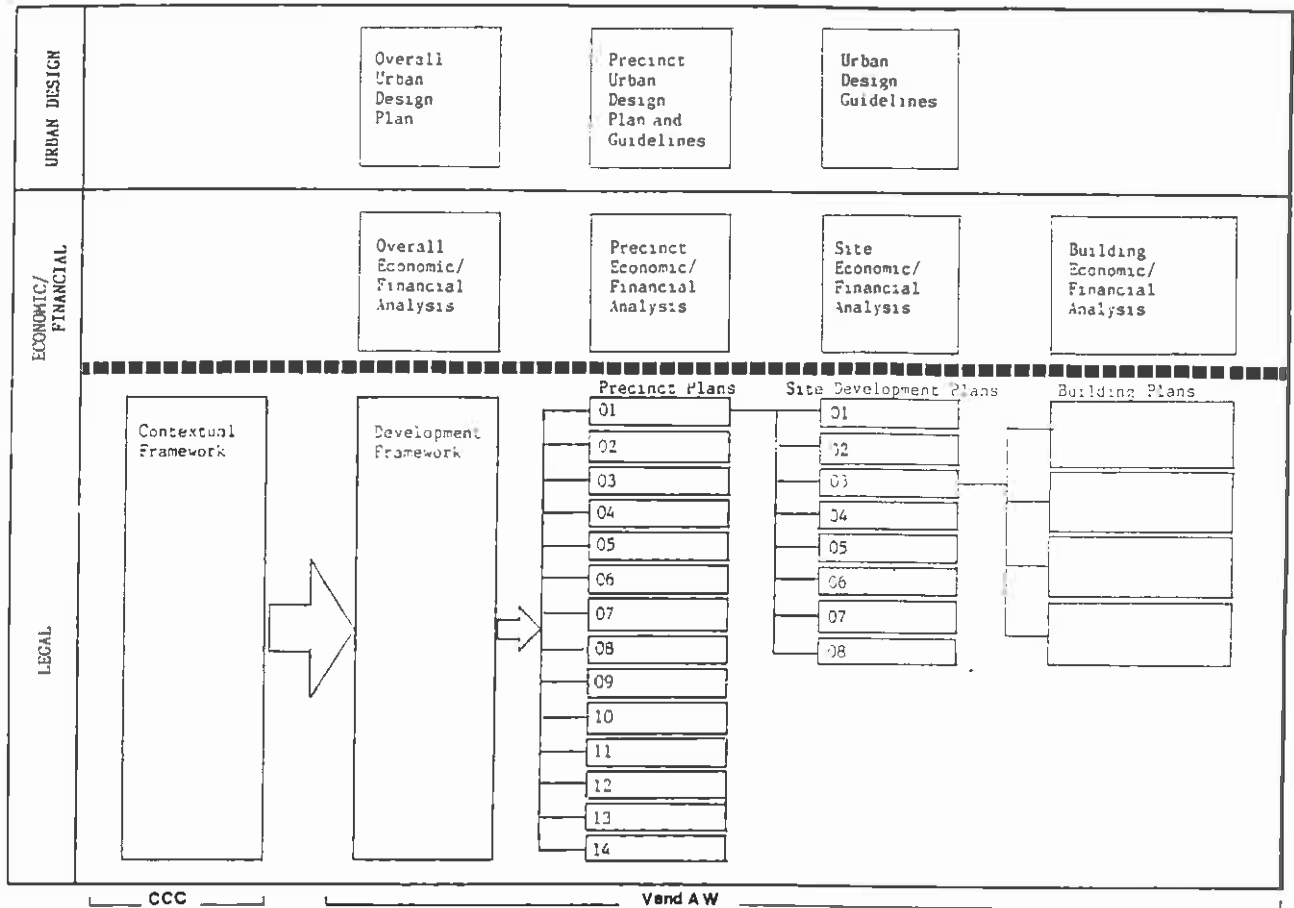


FIGURE 1: 'THE PACKAGE OF PLANS'

The City of Cape Town has already traversed the entire process shown, from broad policy to specific projects. The City Planner's Department is presently scrutinizing Site Development Plans and building plans for the Waterfront project.

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FIGURE 2: THE DEVELOPMENT FRAMEWORK REPORT

This established the primary basis of town planning agreement between Transnet, via its Victoria and Alfred Waterfront Company and Cape Town City Council.

DEVELOPMENT FRAMEWORK

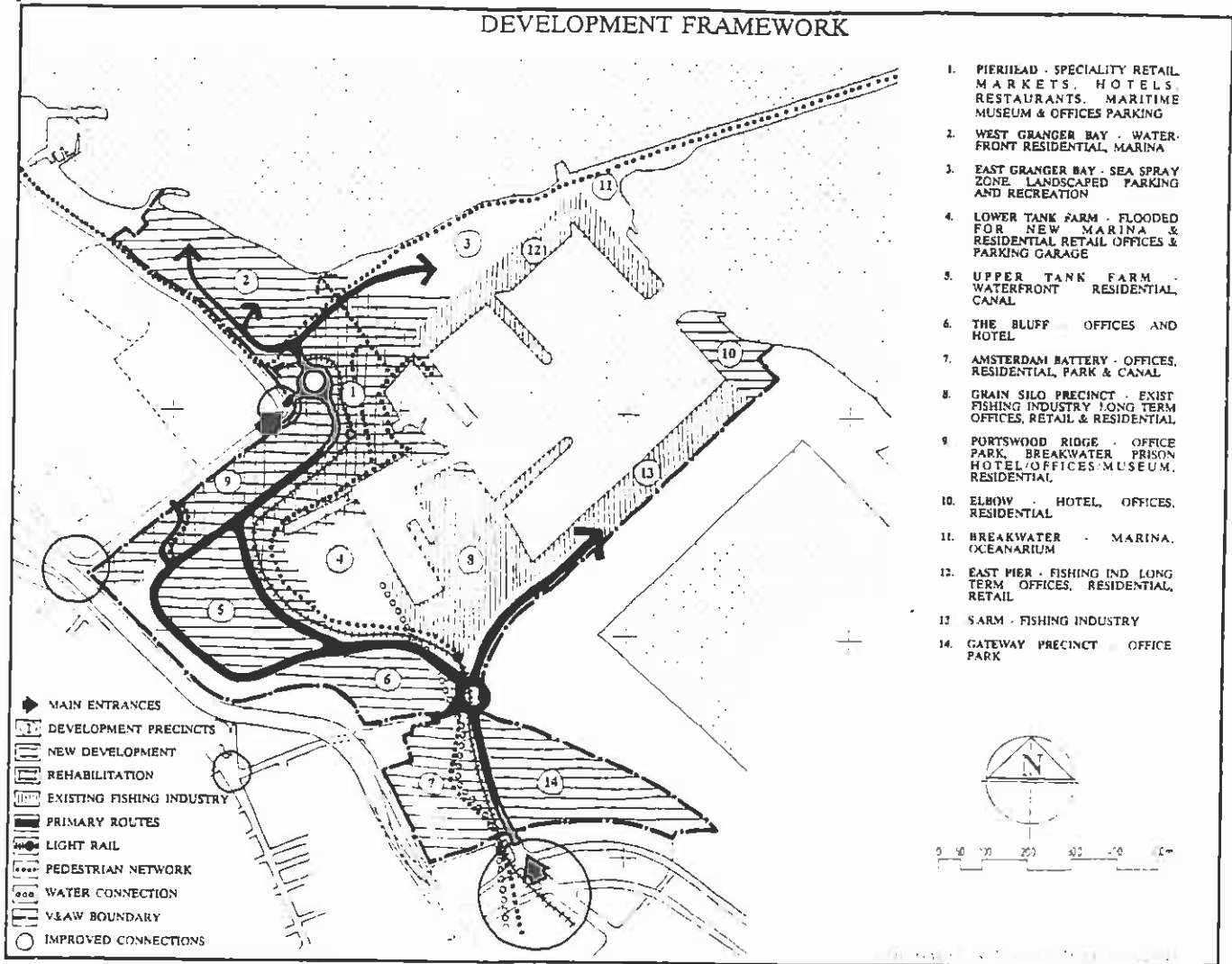


FIGURE 3: PHYSICAL STRUCTURE DIAGRAM

Prepared by the Victoria and Alfred Waterfront (Pty) Ltd, the diagram sets out the location of their 14 project precincts, and generalised proposals for each.

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FIGURE 4: THE PIERHEAD PRECINCT PLAN

This set of policies operates at the local scale for the 14 ha of the Pierhead site, and will form the basis for the recording of zonings.

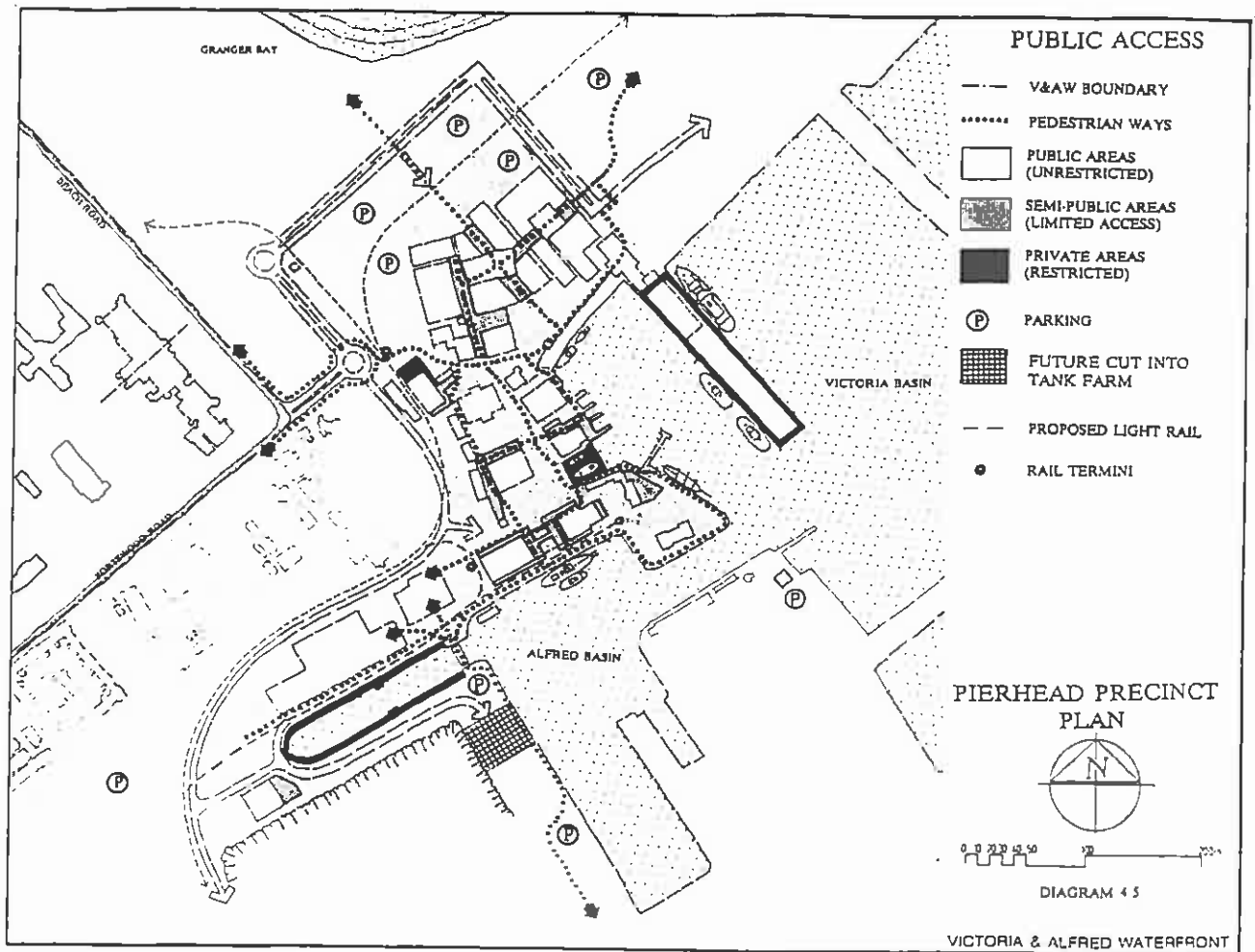


FIGURE 5: PIERHEAD PRECINCT PLAN: PUBLIC ACCESS DIAGRAM

This sets out an agreed hierarchy of public access: Unrestricted, Limited Access, Restricted.

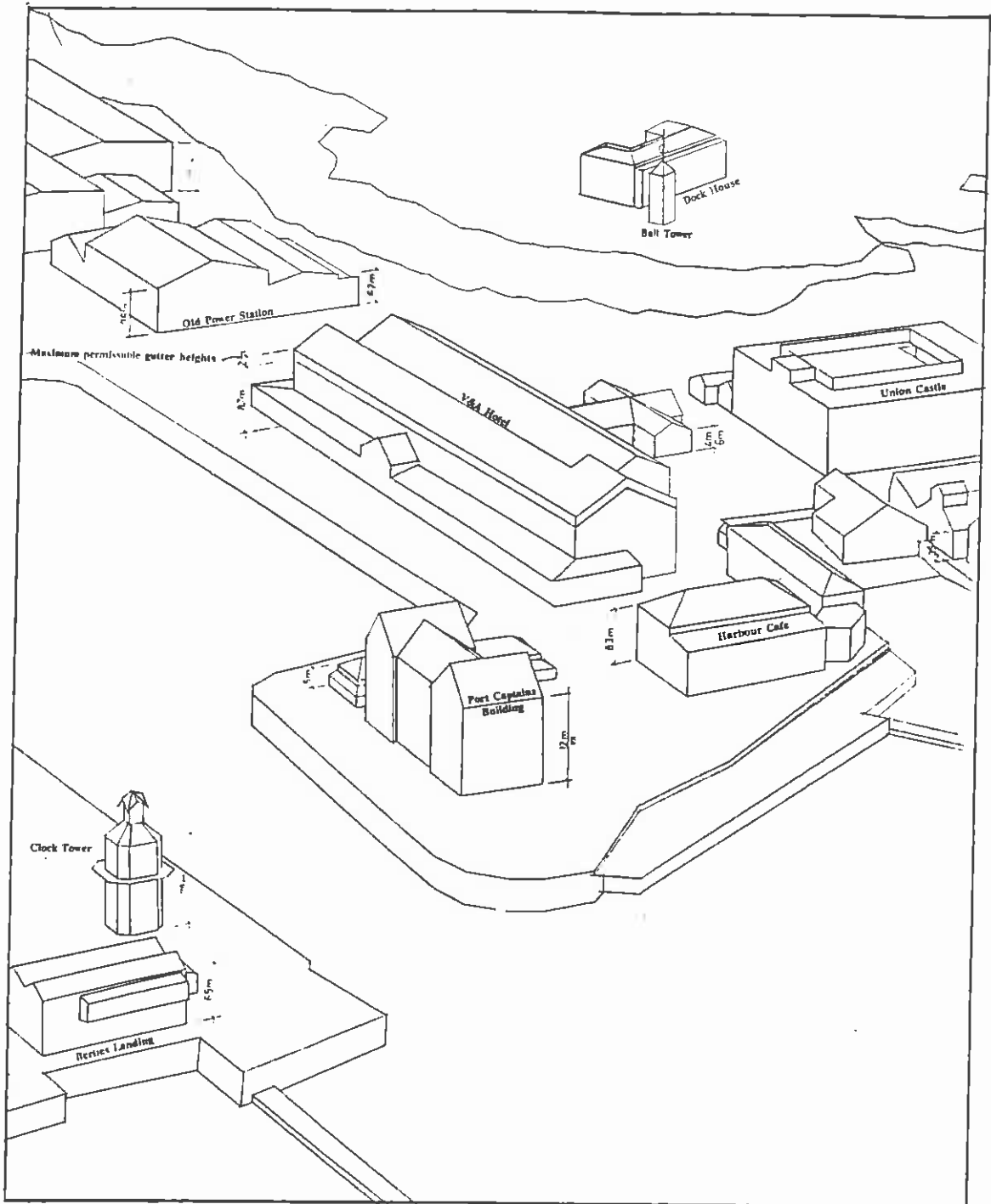


FIGURE 6: PIERHEAD SITE DEVELOPMENT PLAN

This three dimensional figure sets out the agreed massing for existing and infill structures.

APPENDIX A

POLICY FRAMEWORK FOR THE CENTRAL WATERFRONT OF CAPE TOWN

1. Introduction

Cape Town's Central Waterfront is one of the chief potential amenities and economic resources of the City and region. This potential is based on the opportunities the Waterfront Area offers for land- and water-based recreation and tourism, housing and commercial development. Cape Town's Waterfront Area benefits from its unique views, climate and environment, and from its location in the Central City, close to concentrations of population, employment and activity.

2. Primary Goals and Objectives

Council's overarching goals for the Central Waterfront are to promote increased public enjoyment and use of the area and to promote economic development and job creation by ensuring that future developments and activities will help achieve the following objectives:

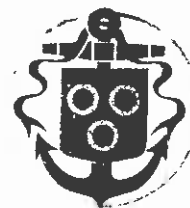
- 2.1 Increase the physical, perceptual, functional and jurisdictional integration of the Central Waterfront with the rest of the City, for all segments of society.
- 2.2 Increase public use and enjoyment of the Central Waterfront by extending the richness, diversity and activity of City life to that area, through new residential, institutional, recreational and commercial development.
- 2.3 Increase and improve public access and open space along the waters' edge and within the Central Waterfront.
- 2.4 Promote economic development and job creation in the Central Waterfront through development in the fields of tourism and recreation, financial services, commerce and light industry.
- 2.5 Protect the role of existing compatible land uses and public utilities in the Central Waterfront, as a source of industrial and commercial income and jobs.
- 2.6 Provide aesthetic, environmental and infrastructural improvements.
- 2.7 Promote public/private sector cooperation to achieve financial viability and development of underutilised assets.

3. General Policies (note: these are omitted from this Appendix)

4. Sub Area Policies: The Victoria and Alfred Waterfront

The Victoria and Alfred Waterfront Area which is comprised of Cape Town's historic docklands, including the Victoria Basin, the Alfred Basin, the Tank Farm and Granger Bay, is that part of the Central Waterfront closest to the Western Foreshore and Somerset Road Areas. It contains land suitable for planned rehabilitation and redevelopment for recreation, tourism, residential, commercial, institutional and compatible industrial and harbour uses. It is the policy of Council that the Victoria and Alfred Waterfront Area:

- a) should remain a working harbour which combines compatible commercial, industrial and harbour activities with recreational and residential activities to ensure a rich and diverse urban environment;
- b) achieves financial self-sufficiency and maximizes returns through proper organisation and good public management of the whole area, having regard for the Victoria and Alfred Waterfront Area as a public amenity and place, which is developed in ways which take full account of its special location, conditions, environment and history;
- c) is planned so as to ensure convenient and imageable links between the Waterfront and its adjacent City;
- d) is a year-round water oriented place with a character, scale and environmental quality designed to make people welcome and comfortable at all times;
- e) creates new residential and mixed commercial-residential neighbourhoods for a variety of household types;
- f) provides urban open spaces, especially in areas adjacent to water's edge lands;
- g) enhances and encourages the use of water's edge lands for public recreation and enjoyment;
- h) creates an attractive and interesting pedestrian environment;
- i) has a form, scale and configuration which ensures maintenance of views to the sea and harbour, particularly at the ends of major connector streets, enhances public places, and contributes to the creation of adequate environmental conditions;
- j) has regard to the continuance of existing and compatible industrial and harbour uses; and
- k) is planned and developed so as to become a part of the adjoining City of Cape Town, rather than a self-contained new-town-in-town.



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ROLE OF THE PRECINCT PLAN IN THE DEVELOPMENT CONTROL PROCESS FOR THE VICTORIA AND ALFRED WATERFRONT

Under the terms of the Package of Plans agreement between the City and V & AW Company, no development can take place in the V & AW Area unless it is in substantial conformity with an approved precinct plan.

An approved precinct plan is a plan for the development of an area of land within the V & AW Area which is consistent with the Company's Development Framework, and which has been approved by the Town Planning Committee in accordance with the terms and conditions of the V & AW "Master" Agreement.

The items which the precinct plan must address can be briefly summarized as follows:

- a description of how the Precinct Plan derives from and relates to the Development Framework. In particular, how the Framework's Goals, Objectives and Policies are translated into detail, including new precinct-level policies;
- a precinct-level Development Framework Diagram which will set out the basic determinants for development and act as the physical ordering or structuring framework for the Site Development Plans which will fall within each precinct;
- the boundaries of the precinct and an explanation of their appropriateness in regard to adjacent development, existing and/or proposed;
- the location and dimensions of existing and proposed public and private streets, and proposed development parcels;
- the location of existing and proposed services and utilities;
- environmental and conservation provisions;
- the location, dimensions and a design principles of public open space in the precinct;

- proposed uses and densities for each development parcel in the precinct;
- the amount and location of parking and loading facilities, and a description of the servicing system for development in the precinct;
- public transport provision for the precinct;
- proposed building heights, set backs and facing conditions;
- the pedestrian circulation system for the precinct, including delineation of proposed public as opposed to private areas;
- community services and facilities for the residents of the precinct;
- compatibility peak hour traffic to be generated by any large scale business, commercial, institutional, service or retail developments proposed for the precinct;
- gross floor area of any existing buildings to be retained, and other information respecting these buildings which will assist in establishing eventual zoning provisions for the V & AW Area; and
- proposed graphics and signage principles for the public environment and proposed controls for private development.