

Title of meeting: Cabinet

Date of meeting: 5 February 2019

Subject: Local Plan Update

Report by: Assistant Director of City Development

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 The purpose of this report is to update Members on progress in preparing the Local Plan and specifically on work to promote a development option for Tipner. Approval is sought to (i) a publish consultation document with regards to the wider Local Plan work, supported by a range of technical documents (ii) to publish consultation document on the Tipner work, and (iii) to make a provisional revision to the Local Plan timetable set out in the Local Development Scheme.

2. Recommendations

- 2.1 Cabinet is recommended to:

- 1. Approve the Portsmouth Local Plan consultation document, and supporting evidence base documents for 6 weeks of public consultation.**
- 2. Approve the Tipner Strategic Development Area consultation document for 6 weeks of public consultation.**
- 3. To delegate authority to the Assistant Director City Development to modify and make editorial changes to the all consultation documents and supporting documents in consultation with the Cabinet Member for PRED (if required)**
- 4. To adopt the revised Local Development Scheme.**

3. Background

- 3.1 The Local Planning Authority is preparing a new Local Plan for Portsmouth. The Plan will set out a planning strategy to meet future development needs in the city for the period to 2036. The Plan will set out details on the level of development

which will take place in the city and where it will be located and identify the infrastructure needed to support this growth. It will contain planning policies that will inform and influence the quality of development delivered in the city. These will be used to guide decision making on planning applications. Critical to this will be evidence to assess the impacts, viability and deliverability of development.

- 3.2 A report was considered at the Cabinet meeting in July 2018 which set out changes in the National Planning Policy Framework (NPPF) and proposals for taking the Local Plan forward. That report stated that Members would be advised of progress through future updates to PRED and Cabinet. Because of the importance of the issues raised, the fact that this work crosses member portfolios and recommendation to undertake public consultation at this stage of the Plan preparation, Cabinet is the preferred decision-taking body.

National Planning Policy

- 3.3 The Government is currently implementing the changes to the National Planning Policy Framework and planning guidance which were previously outlined in the report of July 2018.
- 3.4 In October 2018 the Government published proposed revisions to the NPPF and guidance which confirmed their view that Local Planning Authorities should use older, higher household projections previously published by MHCLG as the starting point for calculating housing need. This has been an ongoing issue which has affected all planning authorities, and the impact this uncertainty has had on the production of plans across the country has been widely reported in the professional press. However, at this time of writing it is anticipated that the Government will confirm the proposed changes, which will bring certainty to this issue. The Council has written to the government on the grounds that the Standard Methodology would result in housing number that are too high and cannot be accommodated within the city.
- 3.5 Some of the further changes to the NPPF include the introduction of a Housing Delivery Test. This will measure the number of actual homes built against the number of homes required within a local planning authority. The aim of the test is to ensure that local planning authorities meet their housing requirement by planning for and building new homes over a rolling 3 year period. The Government has delayed publication of the first Delivery Test outcomes but this is expected imminently.
- 3.6 The result of the expected changes are that the government's standard method of assessing need gives a housing need figure of 863 homes per annum, equal to 17,260 homes over the plan period 2016-2036. The standard method requires regular updating, but overall this figure is not anticipated to change significantly for the purposes of plan-making over the next year or more. Whilst national policy allows for alternative methods of calculating this need in "exceptional circumstances", it is clear that the use of alternative methods are not encouraged, and in any event it is extremely likely that the outcomes of the

standard method would always be of relevance for any future examination of the emerging Local Plan. Therefore it is proposed that, barring any significant change in national policy or planning practise, this will be the starting point for the emerging local plan.

- 3.7 Another outcome of the expected changes is likely to be that, because the initial target by which the delivery of housing is assessed will have been raised, the council will no longer be able demonstrate a five year supply of housing land. Members will be kept informed of the position once the changes are confirmed.
- 3.8 As discussed in the July Cabinet paper, this represents a new approach by the Government - replacing the previous locally produced assessment of housing needs with a "top-down" figure produced from nationally produced official projections (and one which was objected to by this Council and others). The following table sets out a comparison of the existing adopted plan target, the level of housing need using the Government's standard method and recent delivery, including a significant element for student housing, to be discussed in more detail later in this report).

**Comparison of housing numbers,
dwellings per annum and equivalent twenty year targets**

	Dwellings per annum	Twenty years (2016-2036)
Existing adopted Local Plan	584	11,680
Previous PUSH statement of need	740	14,800
Government Standard Method	863	17,260
Recent delivery (2012-2018)	543	10,860

Tipner

- 3.9 Members will be aware that the regeneration of Tipner has been a long-held aspiration of this council. A significant amount of technical work has been undertaken and previous Local Plans have allocated this land for development with land at Tipner East and part of the land at Tipner West having been allocated for development in a series of Local Plans. The adopted Portsmouth Core Strategy established a position where, subject to the provision of infrastructure, Tipner, Horsea and Port Solent were proposed for a series of linked developments.
- 3.10 In 2013 the Council signed the Southampton/Portsmouth City Deal with central government which saw funding and the transfer of Horsea Island and the Tipner Firing Range to the Council.
- 3.11 Since then work has been underway investigating the potential for development at Tipner and Horsea. Planning permission was granted for housing schemes

on Tipner East and Homes England has since indicated it is seeking to dispose of its holdings for development.

3.12 In addition the *Issues and Options* Local Plan consultation document published in the summer of 2017 identified Tipner as a potential strategic site, and described the characteristics, opportunities and potential of the area on pages 48-50. The consultation document highlighted the following issues to be addressed -

- *The capacity of infrastructure, including roads, utilities, and community infrastructure such as schools, to support development in this location;*
- *The impact and mitigation of noise, primarily from the M275;*
- *Public open space and access to the waterfront;*
- *Potential relocation of the existing Harbour School;*
- *The need for improved flood defences, and any opportunities arising from their delivery;*
- *The delivery of key identified infrastructure, including a new sewer, water supply; electricity substation, flood defences and highways infrastructure linking to the M275 and the relationship between Tipner East to Tipner West;*
- *The need for new walking and cycling links throughout the area and to the surrounding areas and key destinations;*
- *Impact upon on Portsmouth Harbour SSSI; and*
- *Links to new country park at Horsea*

3.13 The accompanying *Interim Sustainability Appraisal* document considered the potential allocation on pages 64-66 and the *Issues and Options Habitats Regulations Assessment* considered the implications of the potential strategic allocation, as well as relevant policy options, which resulted in both the site and relevant policy options being "screened in" for further assessment due to their potential for impact on European-designated sites for nature conservation.

3.14 The above documents were published for public consultation in August and September 2017. Following the consultation the results were summarised in the *Local Plan Way Forward* report considered by Cabinet in December 2017. The associated Portsmouth Local Plan *Issues and Opportunities Consultation Summary of Responses* document of November 2017 summarised the responses regarding the Tipner strategic site and gave the following initial council response -

Since the preparation of the adopted Portsmouth Plan in 2012 proposals for this area have developed, with the signing of the City Deal with government, the delivery of the M275 junction and the park and ride facility. Planning applications have been received for residential development of part of the site. However, given the significant potential of this area, the presence of sensitive ecological assets and other considerations including flood defences, the presence of Harbour School and listed structures, and the potential for a bridge to Horsea, further work needs to be undertaken to

determine appropriate proposals and a way forward for the area as the project moves towards further delivery.

- 3.15 Since then further work under city development has progressed exploring the development potential of the area. The work has been informed by the key strategic issues that have been identified for the city as part of the local plan, not least of which is the range of competing needs - for housing, employment land, room for community infrastructure and other uses - and a limited amount of space to meet these needs. Tipner potentially offers the opportunity to deliver a new neighbourhood for the city which can accommodate a significant proportion of those needs, and it is important that this opportunity is fully explored.
- 3.16 Part of the exploratory work for Tipner has included the initial development of concepts to see what opportunities could be delivered. This has highlighted the potential for land reclamation with this option being named the "Super Peninsula" option. This option would entail a significant amount of land to be reclaimed from the harbour. The creation of additional land would create the potential for a significant number of additional homes to meet the city's needs and employment floorspace and create a deep water frontage to enable a focus for those sectors of the marine industries which depend on deep water access for testing and transporting vessels. Maximising this opportunity could also enable delivery of a complete community with more local facilities, creating a more sustainable neighbourhood to the west of the M275.
- 3.17 Clearly, there are a number of issues to be considered. In addition to the considerations set out in paragraph 3.9 of this report, key issues include (but are not limited to) the impacts upon the hydrology and operation of the harbour for existing users, ecosystem impacts, the deliverability of the scheme and the financial viability of the scheme. Arguably, the most significant issue from a planning perspective is the detrimental impact the proposal would have on the European designated harbour and whether there is a compelling case for the impact together with whether appropriate compensatory habitat can be provided elsewhere.
- 3.18 The significance of the impact land reclamation would have on the SPA should not be underestimated. Both European and domestic legislation afford the highest levels of protection to internationally designated sites, and the requirement to demonstrate "imperative reasons of overriding public importance" (which applies in any case where a proposal is likely to adversely affect the integrity of a site) is a high hurdle. Whilst there have been a number of positive discussions around the principle of land reclamation there is no known national precedent for anything of this scale.
- 3.19 Ultimately, the question whether the statutory tests can be met is one which it may only be possible to answer once full details of the proposal are known. However, legal counsel has advised the Council should look to bring proposals forward through the Local Plan process rather by means of a speculative planning application. It is therefore considered necessary to consider the matter through the Local Plan process.

Portsmouth Harbour Special Protection Area and SSSI

- 3.20 Given the impacts on the Special Protection Area the Super peninsula option would have, it will be necessary for the proposal to be supported by a detailed case to justify its approval under the European Union Habitats Directive, given effect under the UK Habitats Regulations 2017 (as amended).
- 3.21 Critical to Super Peninsula's deliverability is whether approval can be secured through a Habitat Regulations Assessment (HRA). This has 3 elements, first an Appropriate Assessment, followed by three sequential tests, (1) satisfying the 'Alternatives' test, (2) satisfying the 'Imperative Reasons of Overriding Public Importance' (IROPI) test, and (3) providing deliverable and effective environmental compensation to redress the impacts of the proposals.
- 3.22 To promote this the Local Planning Authority would need to have an appropriate framework within the context of the city-wide strategy in the new Local Plan. Significant further work is required to consider the likely impacts upon the SPA, the potential and ability to deliver measures to compensate harm or improve the ecological features, as well as assessing whether the overarching needs for development justify the impact and the compensatory measures. It is worth noting at this point that *any* comprehensive regeneration of Tipner will have to consider ecological impacts in an extremely sensitive locality, but the scale and nature of the Super Peninsula option adds significant further complexity.
- 3.23 Ultimately, assuming these issues can be appropriately deal with, the aim will be for the Plan to seek to establish an overall framework for the Tipner Strategic Development Area, potentially including options up to and including Super Peninsula, with the detail, including scale, shape, and form of the new neighbourhood to be developed as the work progresses.
- 3.24 In summary, in terms of the *Tipner scheme*, maximising the potential of this area, through the super peninsula option, increases the technical challenges of the project, though it may help with viability and ultimately deliverability - though that has yet to be established in formal technical work. In terms of the *Local Plan*, exploring all options for Tipner is essential to demonstrate the Council as Local Planning Authority is doing all it reasonably can to meet development needs.
- 3.25 The complexity and risks have been outlined in this report. While Tipner and Horsea were included in the *Issues and Options* consultation in the summer of 2017, the potential for land reclamation and associated expansion of west Tipner was not discussed and it is considered appropriate and necessary to publish and consult upon this option now, while options are being examined, to ensure there is an appropriate debate, and that views from key parties, including landowners, nature conservation interests, harbour users and local communities are taken into account and shape the work as it goes forward.

- 3.26 To enable an initial formal consultation to be undertaken, a short document has been prepared which outlines the proposals in broad terms to give all parties an understanding of the progress to date. An indicative masterplan has been prepared to show what broad distribution of uses could be delivered in a new neighbourhood. Together, the aim is for the consultation to build upon the initial gathering of views undertaken in the *Issues and Options* document, ensure we gather views on the total potential of the area including the Super Peninsula option, while making it clear that this is only one possible outcome, and that the ultimate shape, form and timing of the development of Tipner will evolve over time as the technical work progresses and the relative merits and deliverability of proposals are fully considered. At this point however it is important to stress that this work is an integral part of the Local Plan and needs to be tested as such. The draft consultation document follows as Appendix 1 to this report.
- 3.27 Previous reports to Cabinet have addressed consultation arrangements, outcomes and opportunities for improvement. Rather than duplicate the arrangements held for the *Issues and Options* consultation, the aim is for consultation events to be held near to the communities most likely to have a direct interest - at Tipner, and Port Solent. However, the consultation itself will be city-wide in nature, open to all parties and in line with the Statement of Community Involvement which sets out how the Local Planning Authority will undertake consultations.

Local Plan Evidence

- 3.28 There is also a need to update members on progress made on the Local Plan. Some work has been dependent upon the resolution of issues at national level (i.e. the government's change in approach to housing numbers outlined in the Cabinet report of July 2018. However, significant progress has been made in key areas. National planning guidance is that Local Planning Authorities should publish local plan evidence documents as they are completed, on their website in an accessible format, to keep communities informed and involved. Therefore the proposal is that a number of evidence studies are also published for consultation.

Housing And Economic Land Availability Assessment

- 3.29 Over the summer of 2018 city development officers prepared a Housing and Economic Land Availability Assessment, which is a comprehensive look at the capacity of the city to meet development needs. It has been prepared following two public "call for sites" and discussions with key landowners. It is a necessary technical stage in understanding what could be delivered in the city by 2036. It does not allocate land for development or set out formal policy on the use of any of the sites - the Local Plan will ultimately do that. However, it is an essential piece of evidence to ensure all sources of land have been considered in preparing the Local Plan.
- 3.30 When preparing the assessment officers have been mindful of the high levels of housing need which the plan is expected to do all it reasonably can to meet.

Therefore every effort has been made to identify sufficient capacity to meet the levels of need set out using the government's standard methodology.

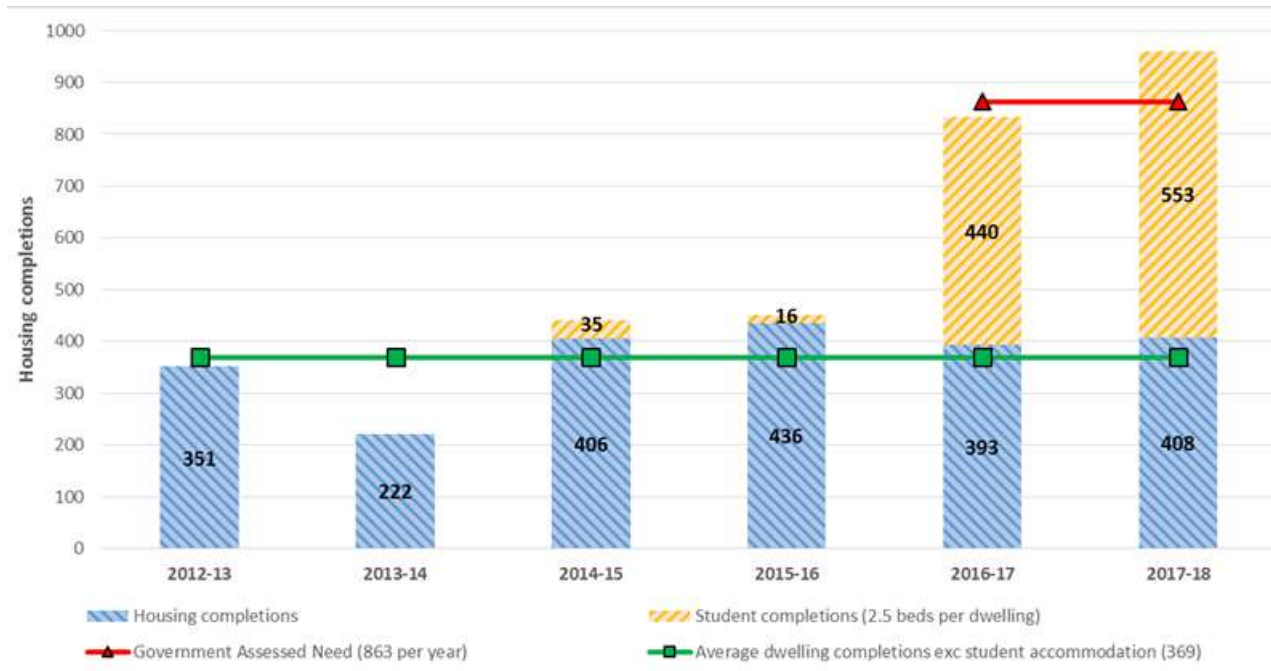
- 3.31 Another factor is the growth in bespoke student accommodation. While this only accommodates students, according to national planning guidance this can be included towards the housing requirement, based on the amount of accommodation it releases in the housing market. The Government's proposed delivery rulebook indicates that known student housing schemes over the period 2016-2036 may count for as much as 1,700 dwellings. Confirmation on this point has been sought from government and further clarity is expected in the forthcoming publication of the Housing Delivery Test (expected imminently). Although important in the short term, the current level of development of student accommodation is not anticipated to continue over the plan period.
- 3.32 The following table sets out the headline figures for housing need, delivery to date, and the identified capacity in the city.

Housing Need, delivery to date and Identified Capacity

	Total 2016-2036
Housing Need	17,260
Delivered 2016-2018	1,794
Reminder 2018-2036	15,469
Total supply identified in HELAA	12,676
Shortfall	-2,793

- 3.33 This will be considered through further technical work to see if all of the capacity of the city has been assessed and if any constraints can be overcome. In addition, any change to the treatment of student housing would change the capacity figures identified above. Although the figures above show a shortfall, it is worth noting that the figures of need and identified capacity set out above are far in excess of housing delivery in recent years. The following chart shows the level of development in recent years, and the levels of need from 2016 using the government's methodology. -

Delivery of housing and student accommodation and housing need figure, 2012-2018



- 3.34 Given the step change required, delivery will be a key concern as this is a significant rise over previously achieved rates. The above chart includes an allowance for student housing which is not yet confirmed, and in any event the development of student accommodation is not anticipated to continue indefinitely. However, the current findings of Planning Inspectors undertaking Examinations of other Local Plans, indicates that this is not sufficient on its own to warrant setting a lower target in the new Local Plan - the Council may well be expected to improve these rates of development in its area.
- 3.35 Publication of the document enables all parties, including local communities and landowners to see what has been assessed and it enables comments to be made now by anyone on the current assessment of capacity of each site and potential deliverability. Those comments will then be considered as the Local Plan progresses. It also enables the Council to set out, in a public document, an assessment of the needs for housing and employment land and the total capacity of the city to accommodate those needs - critical to enable informed discussions with neighbouring authorities under the Duty to Cooperate. Duty to Cooperate is a statutory duty for the Council and others to cooperate on strategic planning matters. This is a key requirement under the National Planning Policy Framework and essential for addressing issues such as unmet housing need.
- 3.36 It is worth confirming that this is an assessment of capacity and developability. Before the Plan is finalised, further work will be undertaken to address the suitability, deliverability, and impacts of development. This includes a full review

of infrastructure requirements and funding, working with key partners including health providers, utility companies as well as the Council's own services such as education; and further work to investigate the environmental capacity of the city to accommodate development and its associated impacts, such as transport, biodiversity, and flooding. This further detailed work to understand the infrastructure needs will inform an Infrastructure Delivery Plan to be published when the draft plan is prepared.

Other background papers

- 3.37 A range of additional evidence studies have been prepared, some in-house and some using external consultants. These include a first stage Transport Assessment, an assessment of open spaces and playing fields throughout the city, and an assessment of gypsy and traveller accommodation needs. Various background papers have also been prepared in-house. Some additional studies on air quality and water resources have been prepared on behalf of the Partnership for Urban South Hampshire. All set out the evidence gathered to date for the emerging Local Plan. Publishing them now will enable interested parties to comment on their contents at this stage, which will help to test their robustness before the Plan is finalised. It should be recognised that a number of significant areas of work, including an approach to the city centre, will need to be developed further before the Plan can be finalised.

Summary consultation document

- 3.38 Local Plans are necessarily based on a significant body of technical evidence. It is important that the full detail is available to interested parties, but making it accessible is a challenge. To enable the consultation to be undertaken, a short summary paper has been prepared which covers all the key points. The intention is for the summary document to provide a useful summary of the main issues, with greater detail set out in various supporting documents should people wish to access it. That document follows as Appendix 2 to this report
- 3.39 The outcomes of all the consultation will be summarised and reported back to Members at the earliest opportunity, expected to be start of the summer in 2019. This will include an assessment of the response on the Local Plan technical work and an review of the planning issues resulting from the consultation on the Tipner and Horsea options

Local Plan Timetable

- 3.40 The Council has an obligation to maintain a timetable for the production of the Local Plan in its Local Development Scheme. The published Local Development Scheme requires updating to take into account the current position. The proposed document is set out in Appendix 3 of this report. Key dates for this Local Plan are as follows -

February - March 2019	Local plan Evidence and Tipner consultations
Early Summer 2019	Report to Members on consultation responses and way forward
Winter 2019 (provisional)	Draft Plan policies consultation
Summer 2020 (provisional)	Final proposed Plan consultation

- 3.41 This Local Plan timetable has amended over time. Given the complexity of the process and the significant undertakings, including the work at Tipner, it is important to note that the timings of future consultations may be amended. The way forward report in early summer will provide an update on this point.

4. Equality impact assessment

- 4.1 A preliminary Equality Impact Assessment is recommended at this stage, with a full EIA to be completed once the consultation has finished and all results have been collected and analysed.

5. Legal implications

- 5.1 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), together with Part 2 of the Planning and Compulsory Purchase Act 2004 set out the principle, procedure and substantive obligations in relation to the preparation and adoption of the Local Plan. These steps are reflected in the narrative of this report.

- 5.2 The new Local Plan document may not be submitted to the Secretary of State for independent examination unless it, and the procedural steps taken, complies with any relevant legal obligations, and the submitting authority thinks that the document is ready. On examination, the independent Inspector appointed by the Secretary of State, hearing representations and inquiring into the document, will consider the soundness of the document. As set out in the NPPF, this will involve considering whether the Local Plan is :

a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs¹⁹; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework.

- 5.3 In preparing this report and the Local Plan, regard must be had to the public sector equality duty. This requires the Council in carrying out its functions, to have due regard to the need to achieve the objectives set out under s149 of the Equality Act 2010 to:
- i. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - ii. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - iii. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 5.4 An important consideration for a Local Plan is Habitats Regulation Assessment under the Conservation of Habitats and Species Regulations 2017 (SI 2017/1012 as amended) (where there is a likely significant effect on a European wildlife site located in the LPA's area or in its vicinity). The proposals for the Tipner project in isolation would almost certainly be construed as having a likely significant effect on a European wildlife site. Even without the Tipner proposals, the Conservation of Habitats and Species Regulations 2017 would be engaged when drafting a Local Plan for Portsmouth. As outlined in the main body of this report, the conclusions of relevant Habitats Regulations Assessments will be a cornerstone to the formulation of planning policy in accordance with the law.

6. Director of Finance's comments

- 6.1 The recommendations within this report to publish the consultation documents and adopt the revised Local Development Scheme do not directly have an adverse impact on Council resources. It is anticipated that the cost including the external technical work required to inform the final production of the Local Plan, as presented within this report will be met from the existing cash limited budget.

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Signed by:

Appendices:

- Appendix 1 Draft Tipner consultation document
- Appendix 2 Draft Local Plan Update document
- Appendix 3 Draft Local Development Scheme
- Appendix 4 Preliminary Equality Impact Assessment on Local Plan consultation

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: