

Report to	Cabinet	Item
	13 September 2017	
Report of	Director of regeneration and development	17
Subject	Establishment of Three Score Open Space Management Company	

Purpose

To ensure that the appropriate governance arrangements are in place for management and maintenance of open space and other communal areas at Three Score, Bowthorpe.

Recommendations

1. To agree the right for the council to take control of Three Score Open Management Company in the event that this is requested by the majority of its members;
2. To approve the transfer from the council to Three Score Open Management Company of the tree belt and flood attenuation lagoons and surrounding areas.

Corporate and service priorities

The report helps to meet the corporate priority a healthy city with good housing.

Financial implications

The report will reduce the existing and ongoing maintenance costs for the council.

Ward/s: Bowthorpe

Cabinet member: Councillor Stonard - sustainable and inclusive growth

Contact officers

Tony Jones – city growth and development program coordinator 01603 212234

Gwyn Jones – city growth and development manager 01603 212234

Background documents

None

Report

Background

1. The council is currently taking forward development at Three Score (phase 2) via its wholly owned company, Norwich Regeneration Ltd (NRL). This development is now under construction and the first properties for sale will be handed over in November 2018. Arrangements need to be in place to ensure that the open space provided within the Three Score development can be effectively managed.
2. In January 2015, Cabinet agreed that a fee should be levied to cover the cost of future management and open space at Three Score. The intention is that the open space is managed by a company made up of the residents:
 - to engender a sense of community ownership
 - to avoid the costs of future maintenance of the open space falling to the council.
 - to provide clarity about the responsibility for managing incidental areas of open space in the housing development

Three Score Open Space Management Ltd.

3. The NRL board has approved the establishment of a company to manage open space and communal spaces at Three Score, referred to here as Three Score Open Space Management Ltd and has approved “articles of association” for the company - attached as Appendix 1.
4. The principle objective of the Three Score Open Management Company is to acquire the common areas and to manage them appropriately through suitable contracts. This is to be funded through the collection of an annual fee from its members, comprised of the freeholders and long leaseholders of properties on the development. This approach is entirely in line with that typically adopted by private developers of new housing. Three Score Open Management Company would also be responsible for the maintenance of sustainable urban drainage systems (SUDS) at Three Score, such as attenuation tanks and flood lagoons.
5. Three Score Open Management Company needs to be in place before properties are handed over to residents so that it can be a signatory to conveyancing documents and a one-off joining fee can be collected, payable on completion of the purchase. Work has been carried out to establish the likely costs of managing the open space at Three Score, which currently includes the open space within phase 2 itself, plus existing tree belts and existing open spaces around strategic drainage lagoons on the wider Three Score site. In due course new areas of open space provided in future phases will be taken on by the Three Score Open Management Company.
6. Annual fees are currently estimated at £274.42 for those properties in phase 2 in a block with access to communal gardens and £216.67 for those without. This is to be levied at the commencement of each financial year. This level of charge is in line with similar arrangements adopted by other developers in the city.

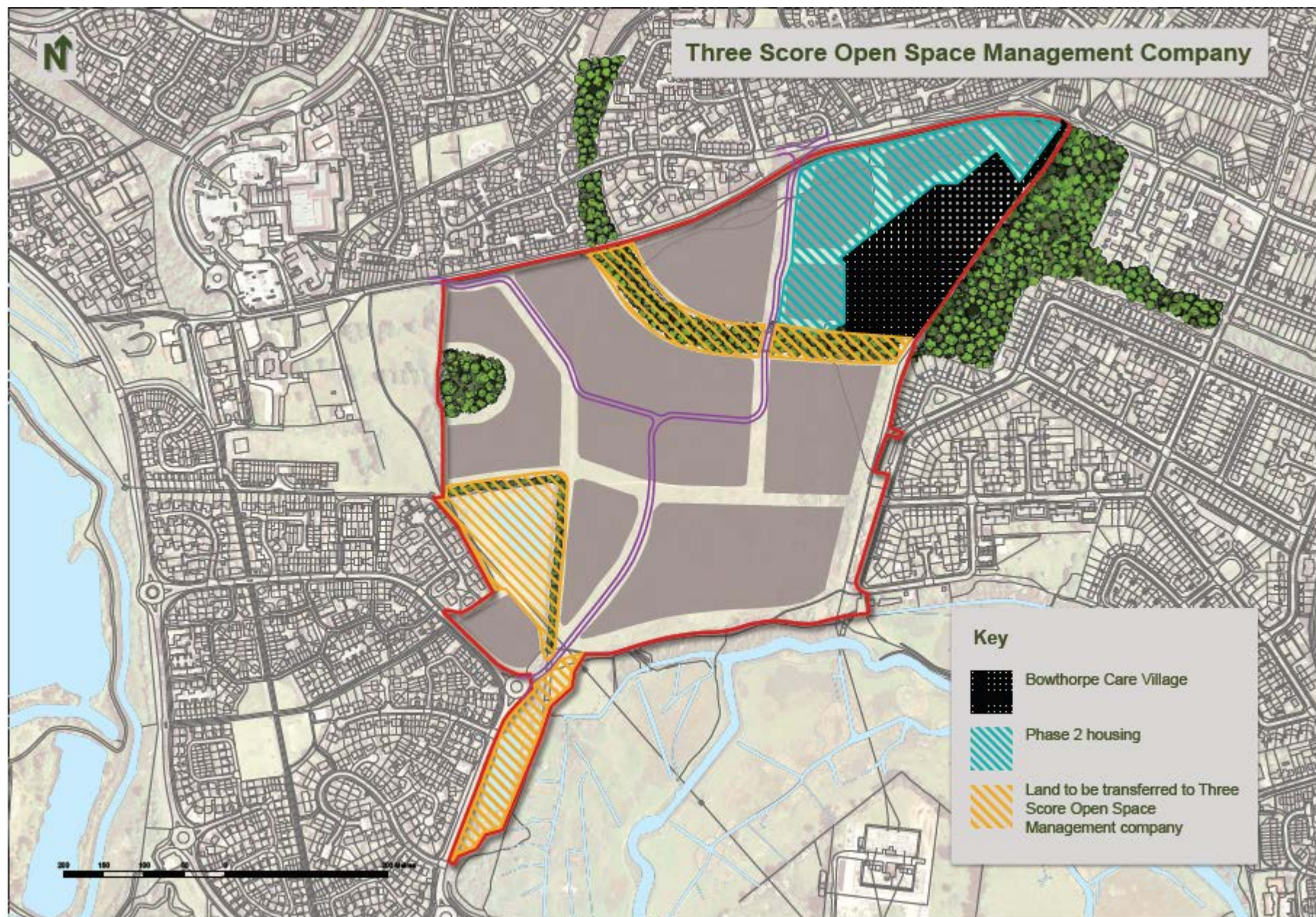
7. The main provisions of the “articles of association” are:
- Three Score Open Management Company is obliged to take on any open space areas offered to them by the developer or Norwich City Council. This will include phase 2 and from future phases of development.
 - Decisions are made by directors or they can be put to members - initially there is to be one director from the council and one from NRL, with further directors expected to be nominated as properties are sold. As properties are developed it is expected that the council/ NRL would relinquish control.
 - Private freeholders and private leaseholders (with a lease of 21 years or more at the time of grant) will be required to become members of the Three Score Open Management Company (one member per dwelling; one vote per member). Council tenants and NRL tenants will not be members, their votes will be held by the freeholder organisation, although they will be encouraged to participate and provide their input into decisions through tenant associations.
 - If 51% of its members pass an ordinary resolution to the effect that the Three Score Open Management Company is failing to adequately discharge its responsibilities to the satisfaction of its members, there is provision to replace the Directors with two officers from Norwich City Council. It would allow the council to resolve issues but with costs covered by the Three Score Open Management Company. This would enable the council to take control of the Three Score Open Management Company (described under section 36 - Step in Rights in the articles in Appendix 1). This is not a right for the council to step in at will. The open space is not handed back to the council and the funding to maintain open spaces would continue to come from the residents.

Transfer of areas of open space to Three Score Open Management Company

8. NRL will transfer the open space areas within its ownership (within the phase 2 housing) to Three Score Open Management Company at the “handover date”- a time that it sees fit. The remainder of the wider Three Score site is still in the council’s ownership. There are some key pieces of open space, notably the tree belt and the two flood attenuation lagoons and their surroundings. The management of these areas can be taken on by Three Score Open Management Company once transferred from the council’s ownership. Cabinet is asked to approve the transfer of land indicated on the appended plan to Three Score Open Management Company (precise boundaries to be agreed). These areas would be transferred at nil consideration as they have no value and are maintenance liabilities. Covenants would be imposed on the transfer to prevent alternative uses of the land.

Council appointment to Three Score Open Management Company board

9. The council needs to appoint its own representative to the Three Score Open Management Company Board. Appointments to outside bodies are a matter for full Council. Outside this, any appointments are delegated to the Director of usiness Services. Accordingly Lee Robson is proposed as the council’s appointment to the Three Score Open Management Company board.



APPENDIX 1- DRAFT ARTICLES THREE SCORE MANAGEMENT LTD

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THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

THREE SCORE MANAGEMENT LIMITED (the "Company")

INTERPRETATION, OBJECTS AND LIMITATION OF LIABILITY

1. INTERPRETATION

The following definitions and rules of interpretation apply in these Articles:

1.1 Definitions:

90% resolution: has the meaning given in article 6.2;

Act: means the Companies Act 2006;

Appointor: has the meaning given in article 20.1;

Articles: means the Company's articles of association for the time being in force;

bankruptcy: includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;

Business Day: means a day (other than a Saturday, Sunday or public holiday in England) when banks in London are open for business;

chairman of the board: has the meaning given in article 10.3;

chairman of the general meeting: has the meaning given in article 27.4;

Common Areas: those areas designated by the Developer or the Norwich City Council in accordance with Planning Permission to be areas used in common by and for the benefit of the residents of the Property

Conflict: means a situation in which a director has or can have a direct or indirect interest that conflicts or possibly may conflict with the interests of the Company. The following are not to be regarded as giving rise to a Conflict:

- (a) a guarantee given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the Company;
- (b) subscription, or an agreement to subscribe, for securities of the Company or to underwrite, sub-underwrite or guarantee subscription for any such securities;
- (c) arrangements pursuant to which benefits are made available to employees and directors or former employees and directors of the Company which do not provide special benefits for directors or former directors;
- (d) in the case of a Developer's Director, his employment by, directorship of or other office with or having any interest in the Developer (or being the Developer); and
- (e) the director being an owner, tenant or occupier of any part of the Property; and
- (f) the director being an employee officer or agent of a local authority; and

Developer: means NORWICH REGENERATION LIMITED (Company Number 09872330) whose registered office is at Norwich City Council City Hall, St Peters Street, Norwich, Norfolk, NR2 1NH being the registered proprietor for the time being of the freehold estate in the Property;

Developer's Director: means a director of the Company who has been appointed by the Developer under article 16.1, and for the avoidance of doubt the Developer may be a Developer's Director;

director: means a director of the Company and includes any person occupying the position of director, by whatever name called;

document: includes, unless otherwise specified, any document sent or supplied in electronic form;

electronic form: has the meaning given in section 1168 of the Act;

Eligible Director: means a director who would be entitled to vote on the matter at a meeting of directors (but excluding, in relation to the authorisation of a Conflict pursuant to article 12, any director whose vote is not to be counted in respect of the particular matter);

Eligible Member: has the meaning given in section 289 of the Act;

Dwelling: means flat maisonette, messuage, residential unit or dwelling house comprised in the Property;

Resident: means the owner or tenant for the time being of Dwelling;

Handover Date: means the date the Developer transfers the first piece of Common Area land to the Company.

Interested Director: has the meaning given in article 12.1;

Initial Membership Fee: means a fee payable on becoming a Member as determined by the Directors from time to time;

Long Lease: means a lease of a Dwelling granted for an original term of over 21 years;

Member: means a person whose name is entered as a member in the register of members of the Company, and **Membership** shall be construed accordingly;

Membership Contribution: means any sum requested by the Company from the Members on annual basis in order for the Company to meet their objects under Article 2;

Memorandum: means the Company's memorandum of association;

Model Articles: means the model articles for private companies limited by guarantee contained in Schedule 2 to the Companies (Model Articles) Regulations 2008 (*SI 2008/3229*) as amended prior to the date of adoption of these Articles, and reference to a numbered **Model Article** is a reference to that article of the Model Articles;

Norwich City Council means the Norwich City Council of City Hall, St Peter's Street, Norwich, NR2 1NH

ordinary resolution: has the meaning given in section 282 of the Act;

participate: in relation to a directors' meeting, has the meaning given in Model Article 10;

Property: means the freehold and/or leasehold property and buildings erected on Three Score, Bowthorpe, Norwich known;

proxy notice: has the meaning given in Model Article 30;

secretary: means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;

special resolution: has the meaning given in section 283 of the Act;

subsidiary: has the meaning given in section 1159 of the Act; and

writing: means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.

1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles. Save where the context otherwise requires they replace the headings in the Model Articles.

- 1.4 A reference in these Articles to an **article** is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 A reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.6 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the word's description, definition, phrase or term preceding those terms.
- 1.7 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles.
- 1.8 The following Model Articles shall not apply to the Company:
- (a) 1 (Defined terms);
 - (b) 2 (Liability of members);
 - (c) 8 (Unanimous decisions);
 - (d) 9(1) and (3) (Calling a directors' meeting);
 - (e) 11(2) and (3) (Quorum for directors' meetings);
 - (f) 12 (Chairing of directors' meetings);
 - (g) 13 (Casting vote);
 - (h) 14(1), (2), (3) and (4) (Conflicts of interest);
 - (i) 18 (Methods of appointing directors);
 - (j) 19 (Termination of director's appointment);
 - (k) 20 (Directors' remuneration);
 - (l) 21 (Directors' expenses);
 - (m) 22 (Applications for membership);
 - (n) 23 (Termination of membership);
 - (o) 25 (Quorum for general meetings);
 - (p) 26 (Chairing general meetings);
 - (q) 31(2) (Poll votes);
 - (r) 32(1)(d) (Content of proxy notices);
 - (s) 36 (Company seals);
 - (t) 37 (No right to inspect accounts and other records);
 - (u) 39 (Indemnity); and
 - (v) 40 (Insurance).

- 1.9 Model Article 3 (Directors' general authority) shall be amended by the insertion of the words "in accordance with its objects" after the words "the management of the Company's business".
- 1.10 Model Article 7 (Member's reserve power) shall be amended by the insertion of the words "save that any such resolution prior to the Handover Date must have the vote of Norwich City Council" after the words "from taking, specified action".
- 1.11 Model Article 7 (Directors to take decisions collectively) shall be amended by:
- (a) the insertion of the words "for the time being" at the end of Model Article 7(2)(a); and
 - (b) the insertion in Model Article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".
- 1.12 Each of the references in Model Article 14(6) and (7) to "chairman" shall be deemed to be a reference to "chairman of the board".
- 1.13 In Model Articles 26(2), 27, 29(2), 30(3) and (4) and 33, each of the references to "chairman of the meeting" shall be deemed to be a reference to "chairman of the general meeting".

2. OBJECTS

- 2.1 The objects for which the Company is established are:
- (a) to acquire the Common Areas;
 - (b) to hold, improve, construct, repair, develop, exchange, let on lease or otherwise, mortgage, charge, dispose of, grant licences, options rights and privileges in respect of the Common areas; and
 - (c) to enter into agreements including but not limited to contracts, licences, and deeds, exercise its powers and perform its obligations under the aforesaid agreements and generally to manage the Common Areas; and
 - (d) to manage the Common Areas and collect the income therefrom
 - (e) to do all such other things as are incidental or conducive to the above objects or beneficial or enhance the value of the Common Areas.
- 2.2 The income and property of the Company shall be applied solely towards the promotion of its objects as set forth in Article 2.1 and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to members of the Company, provided that nothing herein shall prevent any payment in good faith by the Company:

- (a) Of proper and reasonable remuneration to any member, officer or servant of the Company for services rendered to the Company;
- (b) Of any interest on money lent by any member of the Company or an director at a reasonable and proper rate;
- (c) Of reasonable and proper rent for premises demised or let by any member of the Company or any director; and
- (d) To any director for out-of-pocket expenses.

2.3 The Company shall be obliged to accept any Common Land offered to them by the Developer or Norwich City Council.

3. POWERS

In pursuance of the objects set out in article 2, the Company has the power to:

- (a) buy, lease or otherwise acquire and deal with any property real or personal and any rights or privileges of any kind over or in respect of any property real or personal and to improve, manage, develop, construct, repair, sell, lease, mortgage, charge, surrender or dispose of or otherwise deal with all or any part of such property and any and all rights of the Company;
- (b) borrow and raise money in such manner as the directors shall think fit and secure the repayment of any money borrowed, raised or owing by mortgage, charge, lien or other security on the Company's property and assets;
- (c) invest and deal with the funds of the Company not immediately required for its operations in or on such investments, securities or property as may be thought fit;
- (d) subscribe for, take, buy or otherwise acquire, hold, sell, deal with and dispose of, place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority in any part of the world;
- (e) lend and advance money or give credit on such terms as may seem expedient and with or without security to customers and others, to enter into guarantees, contracts of indemnity and suretyships of all kinds to receive money on deposit or loan on such terms as the Company may approve and to secure or guarantee the payment of any sums of money or the performance of any obligation by any company, firm or person including any holding company or subsidiary;
- (f) lobby, advertise, publish, educate, examine, research and survey in respect of all matters of law, regulation, economics, accounting, governance, politics or other issues and to hold meetings, events and other procedures and co-operate with or assist any other body or organisation in each case in

such way or by such means as may, in the opinion of the directors, affect or advance the principal object in any way;

- (g) pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company and to contract with any person, firm or company to pay the same;
- (h) enter into contracts to provide services to or on behalf of other bodies;
- (i) provide and assist in the provision of money, materials or other help;
- (j) open and operate bank accounts and other facilities for banking and draw, accept, endorse, issue or execute promissory notes, bills of exchange, cheques and other instruments;
- (k) incorporate subsidiaries to carry on any trade; and
- (l) do all such other lawful things as are incidental or conducive to the pursuit or to the attainment of any of the objects set out in article 2;
- (m) request and demand an annual Membership Contribution from Members;
- (n) accept monies from Norwich City Council as a subsidiary of any Membership Contribution

4. INCOME

The income of the Company, from wherever derived, shall be applied solely in promoting the Company's objects and, save on a winding up of the Company, no distribution shall be made to its Members in cash or otherwise. Nothing in these Articles shall prevent any payment in good faith by the Company of:

- (a) reasonable and proper remuneration to any Member, officer or servant of the Company for any services rendered to the Company;
- (b) any interest on money lent by any Member or any director at a reasonable and proper rate;
- (c) reasonable and proper rent for premises demised or let by any Member or director; or
- (d) reasonable out-of-pocket expenses properly incurred by any director.

5. GUARANTEE

The liability of each Member is limited to £1, being the amount that each Member undertakes to contribute to the assets of the Company in the event of its being wound up while he is a Member, or within one year after he ceases to be a Member, for:

- (a) payment of the Company's debts and liabilities contracted before he ceases to be a Member;
- (b) payment of the costs, charges and expenses of winding up; and
- (c) adjustment of the rights of the contributories among themselves.

6. ENTRENCHED PROVISIONS

- 6.1 Except with the authority of a 90% resolution and the prior written consent of Norwich City Council, the following Articles may not be amended or repealed:
- (a) Article 1 (interpretation);
 - (b) Article 2 (objects);
 - (c) Article 3 (powers);
 - (d) Article 4 (income);
 - (e) this article 6 (entrenched provisions);
 - (f) Article 11 (casting vote);
 - (g) Article 12 (director's conflicts of interest);
 - (h) Article 17 (director's remuneration);
 - (i) Article 22 (membership);
 - (j) Article 23 (applications for membership);
 - (k) Article 24 (cessation of membership);
 - (l) Article 27 (votes of members);
 - (m) Article 34 (indemnity and insurance);
 - (n) Article 35 (step in rights); and
 - (o) Model Article 4 (members' reserve power).
- 6.2 A 90% resolution is a resolution of the Members passed by a majority of not less than 90%.
- 6.3 A written resolution is passed by a majority of not less than 90% if it is passed by not less than 90% of the Eligible Members.
- 6.4 Where a resolution is passed as a written resolution:
- (a) the resolution is not a 90% resolution unless it stated that it was proposed as a 90% resolution; and
 - (b) if the resolution so stated, it may only be passed as a 90% resolution.
- 6.5 A resolution passed at a meeting on a show of hands is passed by a majority of not less than 90% if it is passed by not less than 90% of the votes cast by those entitled to vote.
- 6.6 A resolution passed on a poll taken at a meeting is passed by a majority of not less than 90% if it is passed by Members representing not less than 90% of the total voting rights of the Members who (being entitled to do so) vote on the resolution.

- 6.7 Where a resolution is passed at a meeting:
- (a) the resolution is not a 90% resolution unless the notice of the meeting included the text of the resolution and specified the intention to propose the resolution as a 90% resolution; and
 - (b) if the notice of meeting so specified, the resolution can only be passed as a 90% resolution.

6.8 This Article does not apply before the Handover Date.

DIRECTORS

DECISION-MAKING BY DIRECTORS

7. UNANIMOUS DECISIONS

- 7.1 A decision of the directors is taken in accordance with this Article when all Eligible Directors indicate to each other by any means that they share a common view on a matter.
- 7.2 Such a decision may take the form of a resolution in writing, where each Eligible Director has signed one or more copies of it, or to which each Eligible Director has otherwise indicated agreement in writing.
- 7.3 A decision may not be taken in accordance with this Article if the Eligible Directors would not have formed a quorum at such a meeting.

8. CALLING A DIRECTORS' MEETING

- 8.1 Any director may call a directors' meeting by giving 5 Business Days' notice of the meeting (or such lesser notice as all the directors may agree) to the directors or by authorising the secretary to give such notice.
- 8.2 Notice of a directors' meeting shall be given to each director in writing.

9. QUORUM FOR DIRECTORS' MEETINGS

- 9.1 Subject to article 9.2, the quorum for the transaction of business at a meeting of directors is any two Eligible Directors. Until the Handover Date, the quorum must include a Developer's Director participating in the meeting.
- 9.2 For the purposes of any meeting (or part of a meeting) held pursuant to article 12 to authorise a Conflict, if there is only one Eligible Director in office other than the

Interested Director(s), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.

- 9.3 If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision to appoint further directors.

10. CHAIRING OF DIRECTORS' MEETINGS

- 10.1 The directors may appoint a director to chair their meetings.
- 10.2 Until the Handover Date, the person so appointed must be a Developer's Director.
- 10.3 The person so appointed for the time being is known as the chairman of the board.
- 10.4 After the Handover Date:
- (a) the directors may terminate the appointment of chairman of the board at any time; and
 - (b) if the chairman of the board is not participating in a directors' meeting within ten minutes of the time it was to start, the participating directors must appoint one of themselves to chair it.

11. CASTING VOTE

- 11.1 If the numbers of votes for and against a proposal at a meeting of directors are equal, the director appointed by Norwich City Council shall have a second or casting vote.

12. DIRECTORS' CONFLICTS OF INTEREST

- 12.1 The directors may, in accordance with the requirements set out in this Article, authorise any Conflict proposed to them by any director which would, if not authorised, involve a director (an **Interested Director**) breaching his duty to avoid conflicts of interest under section 175 of the Act provided that any employment or office with the Developer or any local authority shall not be considered as an interest or conflict for the purposes of these articles.
- 12.2 Any authorisation under this article 12 shall be effective only if:
- (a) to the extent permitted by the Act, the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;

- (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and
- (c) the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.

12.3 Any authorisation of a Conflict under this article 12 may (whether at the time of giving the authorisation or subsequently):

- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
- (b) provide that the Interested Director be excluded from the receipt of documents and information and from participation in discussions (whether at meetings of the directors or otherwise) related to the Conflict;
- (c) provide that the Interested Director shall or shall not be an Eligible Director in respect of any future decision of the directors in relation to any resolution related to the Conflict;
- (d) impose on the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit;
- (e) provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a director of the Company) information that is confidential to a third party, he shall not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and
- (f) permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or for, the directors to the extent they relate to such matters.

12.4 Where the directors authorise a Conflict, the Interested Director shall be obliged to conduct himself in accordance with any terms and conditions imposed by the directors in relation to the Conflict.

12.5 The directors may revoke or vary such authorisation at any time, but this shall not affect anything done by the Interested Director prior to such revocation or variation in accordance with the terms of such authorisation.

12.6 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors in accordance with these Articles or by the Company in general meeting (subject in each

case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

12.7 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act, and provided he has declared the nature and extent of his interest in accordance with the requirements of the Act, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
- (b) shall be an Eligible Director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such existing or proposed transaction or arrangement in which he is interested;
- (c) shall be entitled to vote at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he is interested;
- (d) may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director;
- (e) may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
- (f) shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

13. CONSULTATION WITH MEMBERS

The Directors will from time to time consult with any members or tenants associations as seems appropriate to them in their absolute discretion.

14. RECORDS OF DECISIONS TO BE KEPT

Where decisions of the directors are taken by electronic means, such decisions shall be recorded and kept for 10 years.

APPOINTMENT OF DIRECTORS

15. NUMBER OF DIRECTORS

Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum but shall not be less than two.

16. APPOINTMENT OF DIRECTORS

16.1 Until the Handover Date, the Developer may by notice in writing to the Company appoint up to two persons to be a Developer's Director and may by like notice remove any Developer's Director and appoint another person in his place.

16.2 Without prejudice to article 16.1, any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director by a decision of the directors.

16.3 Without prejudice to article 16.1 there shall be at least one director representing each phase of the development to which this management company relates.

16.4 In any case where, for whatever reason, the Company has no Members and no directors, Norwich City Council shall appoint a person to be a director.

17. TERMINATION OF DIRECTOR'S APPOINTMENT

A person ceases to be a director as soon as:

- (a) that person ceases to be a director by virtue of any provision of the Act or is prohibited from being a director by law;
- (b) a bankruptcy order is made against that person;
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
- (e) notification is received by the Company from the director that the director is resigning from office and such resignation has taken effect in accordance with its terms;
- (f) being a Developer's Director, Handover occurs; or

18. DIRECTORS' REMUNERATION

Except with the consent of the Company in general meeting, the directors shall not be entitled to any remuneration. Any resolution giving such consent shall specify the

amount of remuneration to be paid to the directors and, unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.

19. DIRECTORS' EXPENSES

The Company may pay any reasonable expenses which the directors (including alternate directors) and the secretary properly incur in connection with their attendance at:

- (a) meetings of directors or committees of directors;
- (b) general meetings; or
- (c) separate meetings of the holders of any class of Members or debentures of the Company,

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

20. APPOINTMENT AND REMOVAL OF ALTERNATE DIRECTORS

20.1 Any director (other than an alternate director) (**Appointor**) may appoint as an alternate any other director, or any other person approved by resolution of the directors, to:

- (a) exercise that director's powers; and
- (b) carry out that director's responsibilities,

in relation to the taking of decisions by the directors, in the absence of the Appointor.

20.2 Any appointment or removal of an alternate director must be effected by notice in writing to the Company signed by the Appointor, or in any other manner approved by the directors.

20.3 The notice must:

- (a) identify the proposed alternate; and
- (b) in the case of a notice of appointment, contain a statement signed by the proposed alternate that he is willing to act as the alternate of the director giving the notice.

21. RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS

21.1 An alternate director may act as alternate director to more than one director and has the same rights in relation to any decision of the directors as the alternate's Appointor.

21.2 Except as the Articles specify otherwise, alternate directors are:

- (a) deemed for all purposes to be directors;
- (b) liable for their own acts and omissions;
- (c) subject to the same restrictions as their Appointors; and
- (d) not deemed to be agents of or for their Appointors

and, in particular (without limitation), each alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his Appointor is a Member.

21.3 A person who is an alternate director but not a director:

- (a) may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's Appointor is not participating);
- (b) may participate in a unanimous decision of the directors (but only if his Appointor is an Eligible Director in relation to that decision, but does not participate); and
- (c) shall not be counted as more than one director for the purposes of article 21.3(a) and article 21.3(b).

21.4 A director who is also an alternate director is entitled, in the absence of his Appointor(s), to a separate vote on behalf of each Appointor, in addition to his own vote on any decision of the directors (provided that an Appointor for whom he exercises a separate vote is an Eligible Director in relation to that decision), but shall not count as more than one director for the purposes of determining whether a quorum is present.

21.5 An alternate director may be paid expenses and may be indemnified by the Company to the same extent as if he were a director but shall not be entitled to receive any remuneration from the Company for serving as an alternate director except such part (if any) of the remuneration otherwise payable to the alternate's Appointor as the Appointor may by notice in writing to the Company from time to time direct.

22. TERMINATION OF ALTERNATE DIRECTORSHIP

An alternate director's appointment as an alternate (in respect of a particular Appointor) terminates:

- (a) when the alternate's Appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
- (b) on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a director;

- (c) on the death of the alternate's Appointor; or
- (d) when the alternate director's Appointor ceases to be a director for whatever reason.

MEMBERS: BECOMING AND CEASING TO BE A MEMBER

23. MEMBERSHIP

23.1 No person may be a Member other than:

- (a) the subscribers to the Memorandum;
- (b) the Developer;
- (c) a nominee or nominees of the Developer; or
- (d) an owner or tenant of a Dwelling on a Long Lease; or
- (e) an officer of Norwich City Council.

23.2 Where two or more persons are jointly the owners and/or tenants of a Dwelling they together constitute one Member, and the person first named in the register of members may exercise all voting and other rights and powers vested in that Member to the exclusion of the other owners and/or tenants in respect of that Dwelling. All such owners and/or tenants shall be subject jointly and severally to any liability imposed on that Member under or pursuant to the Articles.

23.3 Where a person is an owner and/or tenant of more than one Dwelling or is both a tenant on a Long Lease and a nominee of the Developer or officer of Norwich City Council he shall (except where the Articles provide otherwise) be treated under the Articles as a separate Member in respect of each of his several capacities as owner and/tenant of each Dwelling, nominee of the Developer or officer of Norwich City Council as the case may be.

24. APPLICATIONS FOR MEMBERSHIP

24.1 No person shall become a Member unless he has completed an application for Membership in a form approved by the directors from time to time. A letter shall be sent to each successful applicant confirming his Membership and the details of each successful applicant shall be entered into the register of members and on becoming a member the member is thereupon obliged to all the rights and duties of a member.

24.2 Where a person applies to be a Member they shall pay the Initial Membership Fee.

24.3 Membership shall not be transferable.

25. CESSATION OF MEMBERSHIP

25.1 A subscriber to the Memorandum may by notice to the Company resign from Membership at any time before the Handover Date.

25.2 A Member will cease to be a Member in the following circumstances:

- (a) if he is the Developer or a nominee of the Developer, when Handover occurs;
- (b) if he is an owner and/or tenant of a Dwelling:
 - (i) on his death or bankruptcy; or
 - (ii) if a corporate Member, when it goes into receivership, administrative receivership, administration, liquidation or other arrangement for the winding up of a company; or
 - (iii) on the assignment, transfer or sale of the Dwelling.

Despite a person ceasing to be a Member by virtue of the occurrence of the circumstances set out in this article, the person will continue as a separate Member in any other capacity that he may have as the owner and/or tenant of a Dwelling, Developer or nominee of the Developer.

25.3 A owner and/tenant of a Dwelling may not cease to be a Member except as permitted or required by the Articles.

25.4 On a person ceasing to be a Member, that person shall forthwith be removed from the register of members.

ORGANISATION OF GENERAL MEETINGS

26. QUORUM FOR GENERAL MEETINGS

26.1 No business other than the appointment of the chairman of the general meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

26.2 Pending the Handover Date, two qualifying persons (as defined in section 318(3) of the Act) shall be a quorum;

- (a) at least one the qualifying persons of must be:
 - (i) the Developer;
 - (ii) a nominee of the Developer;
 - (iii) a person appointed as the proxy of the Developer or a nominee of the Developer in relation to the meeting; or

- (iv) where the Developer or a nominee of the Developer is a corporation, a person authorised under section 323 of the Act to act as its representative in relation to the meeting.

AND

- (b) at least one of the qualifying persons must be:
 - (i) Norwich City Council
 - (ii) a nominee of Norwich City Council;
 - (iii) a person appointed as the proxy of Norwich City Council or a nominee of Norwich City Council in relation to the meeting; or
 - (iv) where Norwich City Council or a nominee of the Norwich City Council is a corporation, a person authorised under section 323 of the Act to act as its representative in relation to the meeting.

- 26.3 With effect from the Handover Date, the quorum shall be 20% of the members of the Company entitled to vote on the business to be transacted, or two members of the Company so entitled (whichever is the greater) present in person or by proxy.

27. CHAIRING GENERAL MEETINGS

- 27.1 If the directors have appointed a chairman of the board, the chairman of the board shall chair general meetings if present and willing to do so.
- 27.2 If the directors have not appointed a chairman of the board, or if the chairman of the board is unwilling to chair a general meeting or is not present within ten minutes of the time at which the meeting was due to start:
- (a) the directors present, or
 - (b) (if no directors are present) the meeting,

must, until the Handover Date, appoint a Developer's Director (if present and willing to do so) or, if no Developer's Director is present and willing to do so, any other director to chair the meeting and must, on or after the Handover Date, appoint a director or Member to chair the meeting.

- 27.3 The appointment of the chairman of the general meeting must be the first business of the meeting.
- 27.4 The person chairing a meeting in accordance with this Article is referred to as **the chairman of the general meeting**.

VOTING AT GENERAL MEETINGS

28. VOTES OF MEMBERS

- 28.1 Subject to the Act and clause 23.3 herein, at any general meeting:
- (a) every Member who is present in person (or by proxy) shall on a show of hands have one vote per Dwelling; and
 - (b) every Member present in person (or by proxy) shall on a poll have one vote per Dwelling.
- 28.2 Until the Handover Date and notwithstanding article 28.1, the Developer on any resolution has 100 votes in addition to the votes of any Dwellings the Developer may hold.

29. POLL VOTES

- 29.1 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318(3) of the Act) present and entitled to vote at the meeting.
- 29.2 Article 30(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that Model Article.

30. PROXIES

- 30.1 Article 31(1)(d) of the Model Articles shall be deleted and replaced with the words "is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate".
- 30.2 Article 31(1) of the Model Articles shall be further amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that Model Article.

COMPANY SECRETARY AND COMPANY NAME

31. SECRETARY

The directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and on such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

32. CHANGE OF COMPANY NAME

The name of the Company may be changed by:

- (a) a decision of the directors; or

or otherwise in accordance with the Act.

ADMINISTRATIVE ARRANGEMENTS

33. MEANS OF COMMUNICATION TO BE USED

33.1 Subject to the Articles, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Act provides for documents or information which are authorised or required by any provision of the Act to be sent or supplied by or to the Company.

33.2 Subject to the Articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

33.3 A director may agree with the Company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

34. INSPECTION AND COPYING OF ACCOUNTS AND OTHER RECORDS

34.1 Except as provided by law or authorised by the directors or an ordinary resolution of the Company, no person is entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a Member. However, this article 34.1 shall apply only until the Handover Date.

34.2 After the Handover Date, the following shall apply in place of article 34.1:

- (a) In addition to, and without derogation from, any right conferred by statute, a Member shall have the right, on reasonable notice, at reasonable times and at such place as shall be convenient to the Company, to inspect, and to be provided with a copy of, any book, minute, document or accounting record of the Company, on payment of any reasonable charge for copying.
- (b) Such right shall be subject:
 - (i) to any resolution of the Company in general meeting; and
 - (ii) in the case of any book, minute, document or accounting record which the directors reasonably consider contains confidential

material the disclosure of which would be contrary to the interests of the Company, to the exclusion or excision of such confidential material (the fact of such exclusion or excision being disclosed to the Member) and to any other reasonable conditions that the directors may impose.

35. INDEMNITY AND INSURANCE

35.1 Subject to article 35.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

- (a) each relevant officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer:
 - (i) in the actual or purported execution or discharge of his duties, or in relation to them;
- (b) the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 35.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

This Article does not authorise any indemnity to the extent that such indemnity would be prohibited or rendered void by any provision of the Act or by any other provision of law and any such indemnity is limited accordingly.

35.2 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.

35.3 In this article 35:

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate;
- (b) a **relevant loss** means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company, any associated company or any pension fund of the Company or associated company; and
- (c) a **relevant officer** means any director or other officer or former director or other officer of the Company, but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

36. STEP IN RIGHTS

- 36.1 If at any point after the Handover Date the Members of the Company wish for the Directors to cease their directorship and for Norwich City Council to appoint two of its officers as Directors then the members may pass an ordinary resolution at a general meeting.
- 36.2 If a resolution is made under article 36.1 then notice of this must be given to Norwich City Council within 2 working days.
- 36.3 Any resolution under article 36.1 shall take effect 15 working days after the vote.

Integrated impact assessment



NORWICH
City Council

The IIA should assess **the impact of the recommendation** being made by the report

Detailed guidance to help with completing the assessment can be found [here](#). Delete this row after completion

Report author to complete

Committee:	Cabinet
Committee date:	13 September 2017
Director / Head of service	Dave Moorcroft / Andy Watt
Report subject:	Three Score Open Space management co.
Date assessed:	20 June 2017
Description:	

	Impact			
Economic (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Finance (value for money)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other departments and services e.g. office facilities, customer contact	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
ICT services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Economic development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Financial inclusion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Social (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Safeguarding children and adults	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<u>S17 crime and disorder act 1998</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Human Rights Act 1998	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Health and well being	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

	Impact			
Equality and diversity (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Relations between groups (cohesion)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Eliminating discrimination & harassment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advancing equality of opportunity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Environmental (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Natural and built environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Waste minimisation & resource use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Pollution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sustainable procurement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Energy and climate change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(Please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Risk management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Recommendations from impact assessment
Positive
Negative
Neutral
Impact of the recommendation is neutral
Issues