Agenda Item No: 10

This Land Annual Business Plan and progress monitoring

To: Strategy & Resources Committee

Meeting Date: 11 July 2023

From: Executive Director of Finance and Resources

Electoral division(s): All

Key decision: Yes

Forward Plan ref: 2023/071

Outcome: To receive an update on the latest strategic position of This Land,

exercising the Council's role as shareholder and lender. This Land intends to boost housing supply and delivers a financial return. The Council oversees governance and risk assurance arrangements on

the investments made.

Recommendation: Strategy & Resources Committee is invited to:

a) receive the latest business plan from This Land and note the latest financial appraisal of the Council's risk relating to its loan to and equity in This Land.

- b) note rephasing of the Council's expected capital receipt from possible overage entitlements to align with This Land's submission as set out in section 2.6.
- c) delegate authority to the section 151 officer to enter into parent company guarantee(s) or bond deeds in relation to This Land, as set out in section 3.3.
- d) permit the land transactions proposed by This Land at Foxton, as set out in section 3.2 and in accordance with the latest business plan, delegating authority to the Section 151 officer to release the Council's pre-emptions, overage and legal charge.
- e) delegate authority to the section 151 officer acting pursuant to the Council's constitution and in consultation with the Chair & Vice Chair, to enter into a shareholder agreement with This Land, and agree updates to the articles of association, further to the good practice review described at section 3.6.

Officer contact:

Name:Tom Kelly

Post: Service Director: Finance & Procurement

Email: tom.kelly@cambridgeshire.gov.uk

Tel: 01223 699241

Member contacts:

Names: Councillors L Nethsingha and E Meschini

Post: Chair/Vice-Chair

Email: <u>Lucy.Nethsingha@cambridgeshire.gov.uk</u> <u>Elisa.Meschini@cambridgeshire.gov.uk</u>

01223 706398 Tel:

1. Background

1.1 This Land is the Council's wholly owned property development company. As at July 2023, the financing advanced to This Land by the County Council is as follows:

Long Term Loans£113.851mEquity£ 5.851mTotal£119.702m

These figures are unchanged from the submission of the previous annual business plan to this Committee in September 2022.

- 1.2 The Council is currently receiving revenue interest on the loans advanced (a £6m net contribution is expected this financial year). In addition to interest, the Council has also already received capital receipts from This Land in excess of £75m for the sale of property at market value. The principal loan sums are currently scheduled for repayment to the Council between August 2026 and February 2029. As the sole owner and lender to This Land, the County Council is the ultimate beneficiary of all of the company's proceeds. It is essential This Land continues to make the expected progress with delivery against its business plan in order to provide the anticipated revenue stream across the medium term financial planning period, as well as the eventual repayment of loans.
- 1.3 The Council has monitoring and accountability arrangements in place with This Land to steward the returns it is expecting from the public funds advanced. This includes the annual submission of a business plan. This Committee is designated as the shareholder under the Council's constitution and in that role has appointed directors to manage the business. The Council is consulted on the company's strategy and objectives but refrains from exercising an undue influence over the operations of the company and This Land retains a separate economic character, rather than acting as an extension of the Council itself. The business plan annexed at Appendix 1 has been considered and agreed by the directors and the shareholder is asked to formally receive it for this year, through this report. As lender, the Council has a further monitoring role to gain assurance that funds on loan will be repaid. The business plan provides a detailed account and pathway to demonstrate how the financial obligations of the company to the Council are achieved over the long-term and the company commits to acting in accordance with this submitted plan in deploying the funds that it generates from trading operations.

2. Annual business plan

- 2.1 In contrast to some major strategic changes in approach in the business plans received in 2020 and 2022, this year's submission reflects greater continuity in overall outcomes and objectives. The key headlines from the 2023 plan, submitted by This Land, include:
 - Delivering approximately 863 new homes in total (of which 490 are supplied by This Land directly, with the remainder as "master-developer") with 78 completed to date.
 - 387 of these homes will be affordable representing 45% of the portfolio
 - Ambitions to extend the commitment to affordable housing, including acquisition of further land from the Council to enable this
 - Securing additional land under option to ensure the continuation of the business in to the medium and long term

- Disposal of assets which do not meet the company's commercial appraisal criteria (based on size and profit)
- Commitment to deliver Environment, Social and Governance policies and to work closely with the housebuilding supply chain to reduce carbon footprint to net zero
- 2.2 The key financial returns from the company to the Council, set out in the central planning assumption in this business plan are:
 - Repayment of £113m loans by 2029, with no further borrowing expected (at this time)
 - Payment of £72m in total interest to the Council (of which £41m is from 2023 onwards)
 - Projected residual cash balance in 2029 of £0.7m.

In the central assumption, the sources of expected profit (before interest) are as reported by This Land:

Existing/Retained Sites £82.1m
Strategic Land £27.2m
Future CCC Land £15.9m
Affordable (exception) site £0.8m
Disposal sites £(0.8)m
Subtotal profit £125.2m

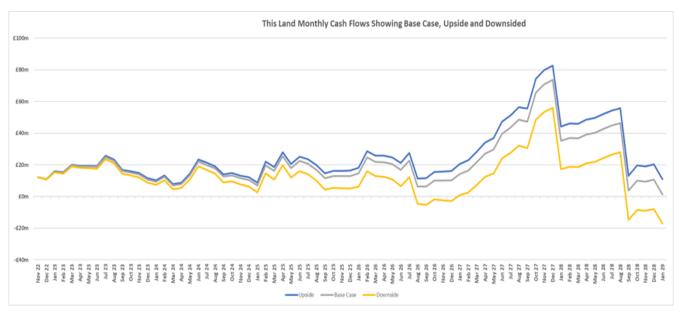
- 2.3 Compared to the Business Plan received by this Committee from This Land in mid-2022, the following areas of revision are apparent across the longer term:
 - Whereas last year the company's central scenario planned that loans would not be fully repaid to the Council until 2031 (by way of a £6m delay on the repayment of funds due in 2029) in this year's revision all £113m has been projected as repayable by 2029.
 - The total interest receivable by the Council has decreased from £75m to £72m
 - The number of homes planned to be delivered has decreased by 62
 - Total expected profit (before interest) in the central assumption across the long term plan has decreased by £11.5m
 - The residual cash balance is £0.7m in 2029 rather than £16.3m in 2035.

Currently, This Land reports that it maintains a good cash position, without the need for additional borrowing from the Council, however the surplus of funds available to build additional homes has been reduced from last year's business plan.

- 2.4 The key change in transactions currently in progress is that the sum receivable for the partial disposal at a site in Greater Cambridge Worts is less than planned last year. Further remarks are made in paragraph 1 of the confidential appendix. The rest of the adverse change is attributed to reductions in revenue expected at a site in East Cambridgeshire and increased costs expected at two other sites in East Cambridgeshire as well as additional operational expenditure costs of This Land. To accommodate the cashflow shortfall that arises from these changes, the business plan includes revisions agreed by the company's board to:
 - Sell Ditton Walk Phase 2 (originally planned to develop by This Land directly)
 - Sell Burwell Phase 3A (originally planned to develop by This Land directly)
 - Accelerate the land sale at Soham Eastern Gateway by 18months and reduce the number of homes that This Land will build at Soham Eastern Gateway by 40

- 2.5 In relation to financial transactions facing the Council, the 2023 plan adopts a more self-sufficient approach to future funding than the 2022 submission. Council officers consider this is the appropriate outlook (especially in view of the factors set out in paragraphs 2.4 and 2.13). In 2020, the Council agreed in principle to loan up to £180m to This Land with an operational boundary at £150m. This Land's 2022 business plan included a further £6m of borrowing from the Council, applying a lower effective cap at £120m, whereas in 2023 This Land's submission proceeds on the basis no further funding will be available above the amounts set out in paragraph 1.1 above. This is a sensible proposition to contain the Council's overall lending exposure however it entails a tighter cashflow position across the next 2 years in particular. The sensitivity analysis also shows that should downside risks materialise, for example from a sustained fall in land / house sales or prices, This Land and the Council are likely to need to revisit this assumption.
- 2.6 From a risk management perspective containing future lending to This Land is welcome for the Council's part, the business plan submitted also requests to defer overage payments amounts of approximately £2.0m (the exact valuation is not known at this stage). This amount had previously been assumed as a capital receipt for the Council in 2023 but This Land now project this will be payable in the subsequent financial year. In part this reflects the actual progress with the disposal programme (as uplifted values which generate an overage on the two relevant sites have not yet been fully realised). Given This Land assesses it may need to access further borrowing in order to enable these payments earlier than 2024 and a delay in the timing of the overage receipts would not impact the primary financial objectives for the Council (recovery of the full value of the loans and collection of interest receivable) it is recommended that this submission is accepted by the Council, revising its assumption about the timing of the capital receipt as part of the Council's capital programme funding. In combination with the wider capital programme forecasting reported at this committee, there is no overall adverse impact on the Council's revenue budget for the cost of capital.
- 2.7 Scenario and sensitivity testing has been submitted alongside the business plan:

	Description
Baseline	This scenario adopts a neutral outlook on inflation across the long term planning horizon for This Land. Simply put this is that there is no increase in revenues generated from housing or land sales and no increase in build costs.
Upside	The upside scenario assumes a 3% increase in revenues but all costs remain stable.
Downside	The downside scenario assumes a 2% reduction in revenue and a 6% increase in build costs.



Further commentary on the short-term risks (and mitigations) to the cashflow position is provided in the confidential appendix paragraph 7.

2.8 Other areas to draw to this Committee's attention in the 2023 plan submitted by This Land are:

ale.	
This Land Submission	County Council commentary
Land purchase and options (third parties): the company reports agreeing terms for a number of new land purchases and promotional sites from third parties	Some of the third party site acquisitions are outside of Cambridgeshire, diversifying the planning authority risk facing the company.
Cambridgeshire County Council (CCC) collaboration: following the consultation on the 2022 business plan, the Council and This Land are further exploring a forward plan for further potential acquisitions, inside the county	CCC would progress future land disposals to This Land where there is a clear benefit arising from alignment with our asset management objectives, reduced risks in This Land's forward financial plans and/or delivery of more affordable homes.
Contractor Framework: This Land has finalised a framework to maintain high build standards and enhanced health and safety requirements, that will also lead to a reduction of build costs.	The Council is also in dialogue with This Land as to how social value is embedded in the company's procurement approach, in synergy with the Council's own Sustainable Procurement Strategy.
Health and safety – This Land maintains a good Health and Safety record.	The Council notes construction sites and other assets are inspected on a regular basis by independent third parties, and has oversight of this area from the construction monitoring surveyor we directly instruct
Economic and consumer context: The company notes that Cambridgeshire house prices are currently at record highs and the continuing momentum in the housing market despite recent global disruptions and UK specific headwinds facing the mortgage market.	A potential downturn is a significant risk to This Land (particularly if it is sustained over a longer period), as illustrated by the sensitivities shown above.

2.9 The business plan submission from This Land provides the following forward projections of net assets and profit:

Year End (£m)	2023	2024	2025	2026	2027	2028	2029
Reported profit	-£9.2	-£3.6	£4.9	£2.5	£11.9	£21.8	£5.0
Net Assets	-£35.1	-£38.8	-£33.8	-£31.3	-£19.4	£2.5	£7.4

These projections are the result of an itemised build up of the site-by-site development appraisal outputs. This Land has undertaken internal challenge and diligence on its business plan assumptions ahead of submission to the board and on to the Council. The company reports drawing on the results of programming and project management advice and analysis by Mace, a major built environment consultancy, to appraise cost and timing assumptions. Strutt and Parker, the property agents and consultancy, have also undertaken a review (instructed by This Land) of the development appraisals and valuations. It should be noted this is on an advisory basis, to inform This Land's planning, rather than conforming to the "Red Book" regulation standards for valuation for this iteration. This Land now calculates contingency on a site-by-site basis, following previous recommendations.

2.10 The table in the paragraph above illustrates that This Land currently has negative net assets for financial reporting purposes and it will be apparent the value of assets that could currently be realised by the company, in the event of liquidation, remain less than the value of the loans that the Council has advanced. The deficit position is due to peak during the 2023-24 financial year, with profits thereafter scheduled to deliver the company to its loan repayments and expected balance sheet position by 2029. This underlines that there is a reliance on cashflows from developments currently in progress to ensure the company's financial obligations to the Council can be met.

This Land deploys the proceeds from housing and land sales in accordance with the business plan it submits. The Council has recently added a floating charge to the security it holds over the firm in recognition that land and building disposals are currently depleting the company's fixed assets (and associated fixed charges thereby released), with proceeds either held as cash or redeployed into work-in-progress assets.

- 2.11 In 2022 reports to this Committee, recommendations following a shareholder review of This Land by the consultancy Avison Young included identifying improvements needed in the company's strategy and objectives, resourcing and personnel and financial and commercial planning as well as the subsequent progress which was made in these areas. We also acknowledged uncertainty as to the national capital financing framework for local government as, amongst other developments, Department for Levelling Up, Housing and Communities (DLUHC) consulted on potential changes to the calculation of the Minimum Revenue Provision (MRP) on debt relating to commercial investments. That reflects a wider move in the sector to encourage or mandate a more measured approach to commercial risk than adopted by a number of Councils prior to the pandemic. Although there are potential service and financial benefits from well governed ventures, the Committee will be aware of high-profile examples elsewhere of Councils experiencing financial difficulties and requiring national intervention as a result of disproportionate commercial risk, in some cases involving subsidiary housing companies.
- 2.12 There are some important distinctions in relation to CCC's arrangements with This Land, importantly that the business plan continues to provide a detailed pathway through to the

company meeting all of its financial obligations, and that the Council's overall exposure to commercial income is proportionate and within the limits set within our capital strategy, according with the prudential code. Nevertheless, the 2023 submission from This Land does show reduced headroom for any further downside and a relatively tight route to stay on track with financial obligations coinciding with the current economic uncertainty. Continuing oversight and assurance mechanisms will be exercised by the Council and we intend to commission an updated third party economic review of the This Land profit and cashflow assumptions, and testing of the latest and revised financial model, across the Summer and into early Autumn.

3. Monitoring updates

- 3.1 Recent progress on individual sites, reported through This Land shareholder monitoring is summarised for the Committee in appendix 2 (confidential).
- 3.2 This Land will shortly be in a position to advance the sale/disposal of the property they own at Foxton. This site was identified for disposal in both the 2023 and 2022 business plans as being most appropriate for sale by This Land. Paragraph 5 of the confidential appendix further refers to this. The property has been marketed to local housebuilders with the Council reviewing the marketing process to ensure that market value is achieved. The Committee is asked to authorise the necessary releases to enable the sale.
- 3.3 This Land has requested that the County Council provides a parent company guarantee in relation to a number of infrastructure works where either the utility provider or the highway authority (also CCC) requires developers to provide a deposit or a bond to guarantee the delivery of works required under a section 104, 38 or 278 agreements. This is designed to ensure that infrastructure works and any remediation are completed in the event a development company ceases trading. Bonds allow an annual payment based on a percentage of the Agreement fee whereas a deposit payment ties up the full Agreement amount for the duration of the work, defect and adoption periods. A bond therefore allows more working capital to be available to the company. For this reason, This Land's preference is not to provide a deposit and to follow the bond approach. To be able to utilise a bond however, This Land needs to be backed by a parent company guarantee or deed of indemnity which would be for the County Council to provide – there is no upfront financial cost to the Council of providing this but a contractual commitment is given that the Council will either step in to complete works or reimburse the bondsman for the same, in the event that This Land were to fail. It is considered desirable for This Land to be able to enter into the bonds and that this is compatible with the risk the Council is already engaged with in terms of company's successful delivery of infrastructure construction. We have reviewed the company's spending profile for infrastructure works, the parent deed underlines the Council's interest in monitoring and overseeing the conduct of This Land in delivering construction works. The alternative approaches of requiring This Land to make deposits would expose the Council to similar or greater risk through additional lending and cash outlay.
- 3.4 BNP Paribas, the property services consultancy, have been appointed by the Council to undertake the construction monitoring surveyor function at Over and Ditton Walk, the sites currently under construction. This includes bi-monthly consideration of planning, building control, warranty, programme, project costs, procurement and contracts, quality of construction and health and safety. In the most recent report no red items were noted.

Progress was recorded for the plots under construction. The four amber items identified are reported in paragraph six of the appendix.

- 3.5 There have been a number of changes in directorships at This Land, since the most recent full update to this committee. The team of independent non-executive directors has been supplemented by the appointment of Wendy Colgrave (who Chairs the company's Audit & Risk Committee, with a previous background as Finance Director of a major housing developer) and Julia Gregory (who Chairs the company's ESG Committee and has experience of other public sector related companies and development projects). Frank Jordan, CCC Executive Director for Place and Sustainability has replaced Steve Cox as the senior Council officer nominated to the board. Laura Lawrence has taken up appointment as the company's permanent finance director. Jeremy Miller continues as a non-executive director for a second term, and there are now no vacancies on the board.
- Review of the company's shareholder agreement is currently in progress in liaison between 3.6 the This Land Company Secretary and the Head of Diligence & Best Value at CCC. This follows a review by the external solicitors Freeths in 2022 and will seek to accord the company's governing documents with the best practice recommended for local authority linked companies. The ambit of the shareholder agreement regulates roles and responsibilities between the Council and the company, its board and sub-committees, describing the governance arrangements for the business and business plan, financial, progress and performance reporting and monitoring, financing and supporting of the business, appointment of auditors, information governance, employment and business conduct. Revisions are to be made to ensure definitions, terminology and references are up-to-date for both entities, that the board committees at This Land are reflected and defined accurately and consistently with terms of reference, that director roles and terms of office are consistently referred to, that provision is made for assessment and evaluation of the effectiveness of the board and that a shareholder representative (on behalf of the Council) is empowered to request and receive information from the company, including to information relating to assurance and internal controls. Alignment with the loan agreement rights in relation to the annual business plan submission are also reflected. Several technical updates to the articles of association are also envisaged. The Council's Constitution at Part 3B enables the Committee to authorise the section 151 officer to exercise shareholder rights on behalf of the Council and it is therefore proposed that agreement of the final form and wording of both the shareholder agreement and company articles is delegated to the Executive Director of Finance and Resources, for the shareholder's part.

4. Alignment with ambitions

The financial returns received from This Land contribute to the funding of the Council's policy ambitions

4.1 Net zero carbon emissions for Cambridgeshire by 2045, and our communities and natural environment are supported to adapt and thrive as the climate changes

There are no significant implications for this ambition as a result of this report. As a housebuilder This Land's activities impact on carbon emissions and supporting the natural environment. The company has established an Environmental and Social Governance Committee to advance its contribution in this area.

4.2 Travel across the county is safer and more environmentally sustainable

There are no significant implications for this ambition

4.3 Health inequalities are reduced

There are no significant implications for this ambition

4.4 People enjoy healthy, safe, and independent lives through timely support that is most suited to their needs

There are no significant implications for this ambition

4.5 Helping people out of poverty and income inequality

There are no significant implications for this ambition

4.6 Places and communities prosper because they have a resilient and inclusive economy, access to good quality public services and social justice is prioritised

There are no significant implications for this ambition

4.7 Children and young people have opportunities to thrive

There are no significant implications for this ambition

5. Significant Implications

5.1 Resource Implications

The report sets out the current financial assessment of return and risk to the Council. At this stage the This Land Business Plan submission does not lead to a change to our CCC Medium Term Financial Plan assumptions, although we will continue to keep this under review.

5.2 Procurement/Contractual/Council Contract Procedure Rules Implications

There are no significant implications for procurement or contract procedure rules.

5.3 Statutory, Legal and Risk Implications

A summary of Council's risk assessment in relation to This Land is as follows:

Description	Impact /Likelihood	Response/Mitigation
Construction: cost, defects, materials, milestones	Impact: Medium Likelihood: Medium	 Construction monitor reviews of cost, progress and quality Construction contingency budget Insurance cover / warranties

Planning & regulation: timing, obligations & cost of meeting planning and building regulations approval	Impact: Medium Likelihood: Medium	 Reviews of project plans/budgets for obtaining planning consent, progress and performance Staff expertise Land promotion diversifies planning authorities involved
Workforce & Expertise: attracting and retaining talent, capacity and experience	Impact: High Likelihood: Low	 Director recruitment process Monitoring turnover & performance Diversity of experience of team members, succession planning
Health & Safety - compliance of construction sites	Impact: High Likelihood: Medium	- External independent H&S team - Review by monitoring surveyor - Company policy and procedures
Governance risks: securing best value, acting at arms-length, legal challenge by competitors, subsidy control	Impact: High Likelihood: Medium	 Ongoing legal representation, advice and review Adopt formalised memorandum(s) governing Council:Company interface Reference rates adopted for loans
Performance of strategic land promotion: competitive area, securing agreements, reputation	Impact: High Likelihood: Medium	- Council seeks independent validation - Careful site selection - Work closely with communities - Risk and sunk costs within financial model - Build successful track record
Master developer and non-residential development <i>models:</i> complicated and capital intensive	Impact: Low Likelihood: Medium	 Construction monitor reviews progress and performance Regular review of complex commercial schemes Full prior appraisal by This Land's Development & Investment Committees
Housing demand and economic risks	Inner a st. I limb	Elevated - Increasing prediction of house price reductions as interest rates rise and likely to stay high longer than thought
	Impact: High Likelihood: High	 Sales strategies prudent and based on regular review of local market This Land to develop relationships with mortgage brokers and agents
Future land sales to This Land: land availability	Impact: Medium Likelihood: High	Promotion of land within local plans Seeking alternative land across wider geography
Underlying company value and security/collateral,	Impact: High	Valuations validating ongoing value of the firm Internal appraisals to update This Land financial model

impairment to inventory	- Security over work in progress and visibility that amounts invested lead to increased value
-------------------------	---

In considering this report, and the business plan submitted by the company, the Committee will be mindful of its fiduciary duty to Cambridgeshire taxpayers, with regard to best value, security of funds, risk and commensurate returns.

The Council takes legal advice (from Pathfinder Legal Services or specialist support as appropriate) in relation to all transactions with This Land. This includes, for instance, the releases and consents needed from the Council to enable the land disposals referred to or proposed in this report at Worts Causeway and Foxton, for the floating charge referred to at paragraph 2.11 and to enter other agreements with the company such as those referred to in recommendations c and d. The Council maintains separate legal representation from This Land.

5.4 Equality and Diversity Implications

No significant implications

5.5 Engagement and Communications Implications

No significant implications

5.6 Localism and Local Member Involvement

This Land engages with Members through regular Shareholder Liaison briefings. The County Council gives notices to local Members of the site specific releases requested of this Committee in accordance with its protocol for briefing local Members about estate matters.

5.7 Public Health Implications

No significant implications

5.8 Climate Change and Environment Implications on Priority Areas

This report provides a strategic overview and governance monitoring reflecting the Council's role as shareholder. Company decisions in relation to environmental governance are overseen by the ESG Committee of This Land directors.

5.8.1 Implication 1: Energy efficient, low carbon buildings.

Neutral Status:

Explanation: This Land's new homes will be energy efficient buildings. This report notes the small reduction in planned homes within This Land's business plan.

5.8.2 Implication 2: Low carbon transport.

Neutral Status:

Explanation: No changes/exceptions reported through this report.

5.8.3 Implication 3: Green spaces, peatland, afforestation, habitats and land management. neutral Status:

Explanation: At several locations, This Land plans to build new homes on land currently used for agricultural purposes. This Land will meet commitments to provide accessible green spaces and biodiversity net gain as part of its developments.

5.8.4 Implication 4: Waste Management and Tackling Plastic Pollution.

Neutral Status:

Explanation: No changes/exceptions reported through this report.

5.8.5 Implication 5: Water use, availability and management:

Neutral Status:

Explanation: No changes/exceptions reported through this report. Water Resources are an important planning consideration/risk issue for housing developers in this region.

5.8.6 Implication 6: Air Pollution.

Neutral Status:

Explanation: No changes/exceptions reported through this report.

5.8.7 Implication 7: Resilience of our services and infrastructure, and supporting vulnerable people to cope with climate change.

Neutral Status:

Explanation: No changes/exceptions reported through this report.

Have the resource implications been cleared by Finance? Yes

Name of Financial Officer: M Hudson

Have the procurement/contractual/ Council Contract Procedure Rules implications been

cleared by the Head of Procurement and Commercial? Yes

Name of Officer: C Ellis

Has the impact on statutory, legal and risk implications been cleared by the Council's

Monitoring Officer or Pathfinder Legal? Yes

Name of Legal Officer: E Duncan

Have the equality and diversity implications been cleared by your EqIA Super User? No / not applicable

Have any engagement and communication implications been cleared by Communications?

Yes

Name of Officer: C Birchall

Have any localism and Local Member involvement issues been cleared by your Service

Contact? Yes

Name of Officer: T Kelly

Have any Public Health implications been cleared by Public Health?

No comments received

If a Key decision, have any Climate Change and Environment implications been cleared by the Climate Change Officer?

Yes

Name of Officer: E Bolton

Source documents

This Land Business Plan Financial Model (9 May 2023 and 7 June 2023) Finance & Resources Directorate, New Shire Hall