

THIS LAND BOARD REPRESENTATION

To: **Commercial and Investment Committee**

Meeting Date: **19th June 2020**

From: **Deputy Chief Executive and Chief Finance Officer**

Electoral division(s): **All**

Forward Plan ref: **N/a** *Key decision:* **No**

Outcome: **To establish a process for the shareholder to attend the Board of This Land Limited as an observer to the proceedings and to agree a change to one of the appointed shareholder representatives on the Board.**

Recommendation: **It is recommended that the Committee:**

- a. agree to the process of a Member of the Committee attending This Land Board meetings as an Observer as set out in this report;**
- b. approve the appointment of Councillor Schumann as a shareholder representative on the Board of the Company.**

<i>Officer contact:</i>		<i>Member contact:</i>	
Name:	Chris Malyon	Names:	Councillor Mark Goldsack
Post:	Deputy Chief Executive & CFO	Post:	Committee Chairman
Email:	Chris.malyon@cambridgeshire.gov.uk	Email:	Mark.goldsack@cambridgeshire.gov.uk
Tel:	01223 699241	Tel:	01223 706398

1. BACKGROUND

- 1.1 At the May 2020 meeting of this Committee, a discussion around the action regarding the Shareholder's representative on the Board of This Land resulted in the highlighting of the ability to attend the Board meeting as an 'observer'. A briefing note was circulated after the meeting with the legal advice received on the issue alongside the dates of the 2020 Board meetings.
- 1.2 Although this ability has been in place for over two years it has not been exercised by anyone other than Councillor Schumann during that period. However following the discussion at the Committee, a number of Members expressed a wish to attend the next Board meeting which was a few days later. This took the Chairman of the Board by surprise as there was no formal process established to manage such requests. The Chairman of the Committee wrote to all Members of the Committee and has asked that a process be established to ensure that any such requests can be managed effectively.
- 1.3 In addition the Committee will be aware that it agreed that a political representative would take up one of the Non-Executive Director roles on the Board and at that point the Deputy Chief Executive would step down from the Board. This report proposes a way forward for this role.

2. SHAREHOLDER OBSERVER ROLE

- 2.1 This is not the first time that the issue of the observer has been discussed by this Committee. The following is an extract from a report to the Committee of 22nd June 2018:
 - 2.1.1 *'The Articles of Association of This Land were agreed by the Shareholder before they were registered at Companies House. Under the Articles the Shareholder can appoint an official observer to attend Board meetings and report back to the Committee either monthly or quarterly albeit this role carries with it no voting responsibilities on the Board of the Committee.'*
 - 2.1.2 *'Without wishing to stifle any Member attending in this capacity the process will need to be managed. If other Members of the Committee also express a desire to attend there will be practical accommodation issues as the meeting room at This Land offices cannot support significant additional attendees.'*
 - 2.1.3 This does suggest a more formal arrangement to the attendance as an observer and although the issue of managing the process highlighted accommodation restrictions, which is not relevant in the short term, there are some practical issues regarding the management of Board meetings.

2.2 Proposal

- 2.2.1 In order to ensure that the Company continues to operate without operational influence from the Council, thereby maintaining the integrity of the relationship and avoiding the governance risks previously highlighted, it is proposed that:
 - Attendance as the shareholder observer will be restricted to one Member of the Committee per Board meeting;

- The Chairperson can choose to represent the Shareholder if they so choose;
- However should the Chairperson not wish to attend the Board meeting the Chair will agree to another Member representing the Shareholder;
- The observer can be from any political group;
- Any Member who wishes to attend a Board must notify the Chairperson of this Committee;
- In such circumstances where more than one Member wishes to attend the same meeting the Chairperson will use his or her discretion in determining who will attend that meeting and will do all they can to offer another suitable date to any Member that has expressed a wish to attend but was not able to;
- In attending a Board meeting the Member accepts:
 - This is purely in an observer role and conveys no authority to contribute to the matters under consideration;
 - The activities of the Board are confidential and are governed by the same Code of Conduct as other matters of the Council;
 - That there be may some circumstances where it would not be appropriate for an observer to be present such as the preservation of the lawyers client privilege.

2.3 Reporting

- 2.3.1 Although the Committee meets with the Board three times a year, at which point they are able to question and challenge progress against the Business Plan, it is proposed that the Observer to the Board will provide an informal briefing to the Committee after each meeting. The purpose of this briefing would not be to discuss individual projects in the programme but to provide an overview of progress, performance and key risks or issues facing the Company. This will supplement the aforementioned meetings between the Committee and the Board.
- 2.3.2 As it is not general practice to bring matters for information to formal meetings of the Council it is proposed that the briefing would not form part of the formal democratic process but would be provided outside of this. This would also remove the need for the Committee meeting to move into a confidential session each cycle as the briefings would be commercially sensitive.

3. SHAREHOLDER NON-EXECUTIVE DIRECTOR

- 3.1 The Committee has received legal advice on the role of officers and Members sitting as shareholder representatives on the boards of private companies and the potential conflicts that arise as a result. The Council has put in place processes to mitigate those potential conflicts but it was agreed that the current Shareholder role undertaken by the Statutory Section 151 Officer would be undertaken by Councillor Hickford when he was in a position to do so.
- 3.2 Councillor Hickford has recently been asked to undertake the additional Council responsibilities of Co-Chair of the Health and Wellbeing Board, lead Member on the Member Engagement Board, and replacing Councillor Bates on the Greater Cambridge Partnership. All these responsibilities come with significant additional time commitments, particularly whilst the Covid 19 pandemic continues. I have therefore been advised that,

given these additional commitments, Councillor Hickford no longer has the capacity to sit on the Board of This Land.

- 3.3 As a result I have liaised with the Chairman of the Committee, as per the original delegation from this Committee, *“The Committee delegates to the Deputy Chief Executive, in consultation with the Chairman, the appointment of an elected member of this authority (not a Commercial & Investment Committee Member), to the vacant role.”* to agree a way forward. As a consequence it is therefore proposed that Councillor Schumann will fulfil this role following its consideration by the Committee. As the Committee will recall from the legal advice received it is not advised that any Member of the Committee should sit on the Board as this increases the potential opportunities for there being a conflict of interest. As Councillor Schumann no longer sits on Commercial and Investments Committee this risk is therefore mitigated.

4. ALIGNMENT WITH CORPORATE PRIORITIES

4.1 A good quality of life for everyone

There are no significant implications for this priority.

4.2 Thriving places for people to live

There are no significant implications for this priority.

4.3 The best start for Cambridgeshire’s children

There are no significant implications for this priority.

4.4 Net zero carbon emissions for Cambridgeshire by 2050

There are no significant implications for this priority.

5. SIGNIFICANT IMPLICATIONS

5.1 Resource Implications

There are no significant implications arising from this report.

5.2 Procurement/Contractual/Council Contract Procedure Rules Implications

There are no significant implications arising from this report.

5.3 Statutory, Legal and Risk Implications

There are no significant implications arising from this report.

5.4 Equality and Diversity Implications

There are no significant implications within this category.

5.5 Engagement and Communications Implications

There are no significant implications arising from this report.

5.6 Localism and Local Member Involvement

There are no significant implications arising from this report.

5.7 Public Health Implications

There are no significant implications within this category.

Implications	Officer Clearance
Have the resource implications been cleared by Finance?	No implications
Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement?	No implications
Has the impact on statutory, legal and risk implications been cleared by LGSS Law?	Yes Name of Legal Officer: Fiona McMillan
Have the equality and diversity implications been cleared by your Service Contact?	No implications
Have any engagement and communication implications been cleared by Communications?	No implications
Have any localism and Local Member involvement issues been cleared by your Service Contact?	Yes Name of Officer: Chris Malyon
Have any Public Health implications been cleared by Public Health?	No implications

6. SOURCE DOCUMENTS

Source Documents	Location
1. C&I report June 2018	1. Link
2. This Land Articles of Association	2. Link

