



Meeting: Council

Date: 17th July 2014

Wards Affected: All wards

Report Title: Clennon Valley Sport and Leisure Proposal

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

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1. Purpose and Introduction

- 1.1 Following the Council's decision to tender and consider options for its Clennon Valley and Goodrington assets a detailed procurement exercise was undertaken under the Official Journal of the European Union (OJEU).
- 1.2 A thorough evaluation of the bids was carried out and Moirai Capital Investments Ltd (MCI) was the winning tender and was selected by the project board for Members to approve or not as the preferred bidder.

2. Proposed Decision

- 2.1 Members are asked to consider the proposals detailed within this report from MCI for the land edged red on the plan within appendix 1 and then either:
 - (i) **Approve MCI Ltd as the preferred bidder for the sport and leisure improvements at Clennon Valley and Goodrington**
 - OR
 - (ii) **Reject MCI Ltd as the preferred bidder for the sport and leisure improvements at Clennon Valley and Goodrington**
- 2.2 Subject to members selecting option 2.1 (i) above that the project board in consultation with the Executive Director and Executive Head of Commercial Services be given authority to negotiate the detailed contractual terms with MCI Ltd.

3 Reason for Decision

- 3.1 A requirement of the OJEU procurement exercise was for Members to review the winning tender, in this instance MCI Ltd, and then determine whether or not to grant them preferred bidder status.
- 3.2 This distinction provides the bidder with the necessary confidence to invest the resources required to progress the proposals in more detail before entering into a contractual arrangement with the Council.
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Supporting Information

4. Position

- 4.1 The report along with the accompanying appendices will set out:
- the original tender brief (Appendix 2)
 - the extent of the Council's ownership that will be transferred (Appendix 1)
 - a clear list of what the bidder will be contractually obliged to deliver (Appendix 4)
 - the overall level of investment proposed by MCI and the potential financial return for the Council (Appendix 3 exempt)
 - MCI's proposed legal structure and a list of frequently asked questions (Appendix 5 & 6)
 - the results of a recent consultation exercise (Appendix 7)
 - summary of the financial consideration (Appendix 8 exempt)
- 4.2 The Council's original overarching objective was to create the Clennon Valley and Goodrington sports and leisure tourism hub.
- 4.3 As part of the tendering process a descriptive document and pre qualification questionnaire was produced which sets out the key objectives along with the scoring and evaluation methodology. This document will provide Members with a clear understanding of the process along with the Council's desired outputs. This is available at Appendix 2.
- 4.4 The essence of the proposal from MCI is for them to take three leases (relating to the various zones 1-3) from the Council for 125 years, rent would be payable. Two of the leases would be granted at day 1 with the final lease (Claylands) deferred until the completion of the various 'Core' outputs on the other two zones.
- 4.5 A plan showing the total area of Council land that would be transferred and the configuration of the three zones is available at Appendix 1. In addition a masterplan sketch is available at Appendix 9. The total acreage that would be transferred under this proposal on a 125 year lease is as follows:
- Zone 1 - 64.6 acres
 - Zone 2 - 20.3 acres
 - Zone 3 - 13 acres
 - **Total - 97.9 acres**

- 4.6 The MCI submission has been assessed and evaluated by the project board. Clarification has been ongoing with the bidder to finalise and clarify the various Core outputs that will be achieved. In addition to the Core outputs there are a number of 'Optional' outputs that MCI say they would like to deliver if it is commercially viable to do so. A definitive list of both the 'Core' and 'Optional' outputs can be found at Appendix 4.
- 4.7 The proposal put forward contains a contractual obligation on MCI to deliver the Core outputs but no contractual obligation on MCI to deliver the 'Optional' outputs and Members should be aware of this when considering the merits of this opportunity.
- 4.8 Specific timeframes were set out as mandatory contractual requirements as part of the final tender. These are:
- Planning application within 6 months of contract completion
 - Core items to be commenced within 18 months of contract completion and completed within 3 years
- 4.9 The delivery of each 'Core' element will require a capital investment from MCI. The total capital investment proposed by MCI to deliver these Core elements is £24,826,000.
- Zone 1 Clennon Leisure - £8,847,000
 - Zone 2 Goodrington - £3,480,000
 - Zone 3 Claylands – £12,499,000
- 4.10 Many of the 'Core' elements of the project will produce an annual income to MCI and it is proposed that in return for the 125 year lease the Council will receive 5% of this income.
- The total annual income MCI has projected for all three zones - £2,483,199.
 - Based on these assumptions the Council would receive an annual income of £124,159.
- 4.11 It must be stressed that this income figure in Para 4.8 is not a guaranteed figure and is only based on projections. The lowest figure that the Council would receive is £100,000 per annum for the lease duration plus an additional £30,000 per annum for 25 years to cover the Council's investment in delivering the cycle track.
- 4.12 A full breakdown of both the capital investment proposed and the projected income can be found at Appendix 3 (exempt appendix).
- 4.13 The Council's assets and land involved in this proposal currently require subsidy from the Council to operate effectively. As a collective they currently generate a revenue liability for the Council:
- Council income generated from the assets and land - £346,654
 - Council expenditure in the form of maintenance and subsidy - £608,468

- 4.14 It must be noted that transferring these assets to MCI will not see the Council's expenditure reduce by the figure £608,468 referred to in Para 4.11. The Council currently have maintenance contracts for these assets and if those assets are removed from those contracts then we are advised that it is unlikely to generate the same level of savings.
- 4.15 None of the figures mentioned above include or give consideration to any potential capital receipt the Council would be foregoing for the land in Zone 4, namely Claylands and it is important that Members are aware of this. The potential receipt for the land is dependent on a number of factors however while this has not been substantiated an estimated value has been included at Appendix 8 (exempt appendix)
- 4.16 The proposal and legal structure assume that there will be Service Level Agreements (SLA's) in place for Zones 1 & 2 to deal with management principles and any specific requirements the Council may have. MCI's expectation is that this will be a partnership and as such these documents will be fairly high level and talk about principles rather than detailed specifics.

5. Possibilities and Options

- 5.1 The Council could identify the specific outputs it would like to see delivered on each element of the Clennon site and then procure each element individually. There is range of alternative ways in which this could be done, each resulting in different financial opportunities or implications for the Council.
- 5.2 The Council could raise capital finance through their current lease income on the site to carry out certain capital improvements.
- 5.3 Whilst the above are not the options before Council the right approach is not clear cut. There are clear advantages and disadvantages to each option and Members will need to consider the level of control that they wish to maintain and the outcomes they are seeking for the Council and the community.

6. Fair Decision Making

- 6.1 There has been ongoing dialog with local sports clubs, organisations with legal interests in the site and other local businesses have been engaged with. In addition presentations have been made to the Community Partnership on several occasions.
- 6.2 A consultation exercise was undertaken between 13th March and 9th April 2014 by the Policy, Performance and Review team. A full copy of the report is available at Appendix 7.
- 6.3 Of the 181 responses received:
- 70% of respondents make use of the facilities at Clennon Valley

- Overall more than 90% of respondents support the proposals for the regeneration of Clennon Valley
- 88% of responses came from individuals rather than from businesses or organisations
- Among those not using the current Clennon Valley facilities there was strong support for the regeneration proposals (90%)

6.4 In contrast to these results and following the consultation exercise a number of negative responses were received indicating that

- it was not clear what would and wouldn't be delivered
- there was a lack of imagery when presenting the proposals

6.5 It must also be mentioned that during the consultation exercise it was not made explicit what items were to be 'Core' and which ones were 'Optional'.

7. Public Services (Social Value) Act 2012

7.1 After extensive engagement with the Councils procurement and legal departments a fully compliant OJEU tender exercise was undertaken.

7.2 When conducting this OJEU Competitive Dialogue procurement process, consideration as to what added economic, environmental and social benefits was included. This wider social value was a significant element of the process that was embedded into the project and key objectives. The schemes being proposed had to demonstrate how they meet these objectives and the resultant evaluation criteria was structured to assess this requirement. Examples of the objectives that directly link to Social Value outcomes are:

- help deliver sustainable regeneration to the Bay that promotes employment opportunities to Torbay residents;
- promote project proposals that improve the economic value of tourism to the Torbay economy;
- consider including cycling and footpath links to reduce reliance on motorised transport;
- use carbon reducing technologies;
- submit proposals which will enhance environmental awareness and appreciation among residents and visitors and deliver a positive contribution to the aims of the Green Infrastructure Strategy;
- provide community access to the sports facilities at prices commensurate with similar facilities elsewhere in the region.

8. Risks

8.1 A key risk to the timeframe and delivery of certain aspects of the proposal is the uncertainty surrounding the current leisure centre operator. The current operator has the benefit of a short term lease which expires in 2019 and to date MCI has obtained no formal agreement for them to surrender that lease. If MCI are unable to reach an agreement with the current leaseholder then this could delay the completion of any contractual agreements with the Council.

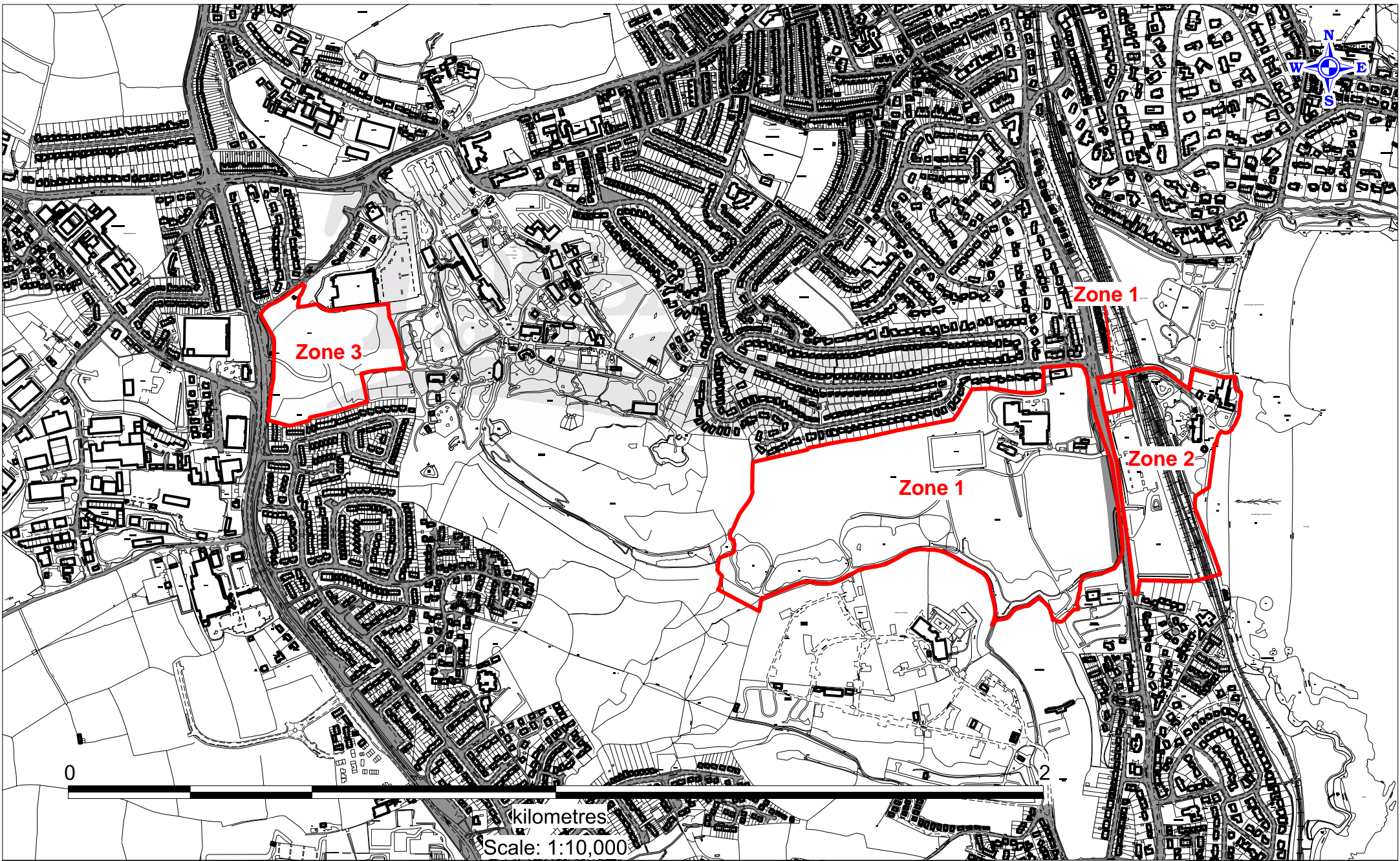
- 8.2 Transferring key assets to a third party for a 125 year term will restrict the Council ability to control how they are operated and maintained in the future. Goodrington is a key tourist destination and part of the overall Torbay offer. Accepting the proposal will impact on the Council's ability to influence or shape this area for a significant period of time.
- 8.3 Members should be aware that the Flood improvement works is listed as a Core item but it is proposed that the funding required to deliver this will come from S106 contributions that MCI will be required to make as part of any planning applications they make. Using these monies for this purpose means they cannot be used elsewhere which creates an opportunity cost for the Council.
- 8.4 What impact the delivery of the proposed uses at Claylands will have on Paignton town centre is unclear. There is a risk that the proposals for this site will have a detrimental impact on the footfall within the town centre and could impact on businesses there.

Appendices

- Appendix 1 Plan showing the extent of the land that would be transferred to Moirai Capital Investments**
- Appendix 2 Original tender documentation, Descriptive document and pre-qualification questionnaire**
- Appendix 3 Detailed breakdown of the facilities to be provided and associated costs included (Exempt Appendix)**
- Appendix 4 Detailed breakdown of the facilities to be provided and associated costs excluded**
- Appendix 5 Proposed legal structure**
- Appendix 6 FAQs on the legal structure**
- Appendix 7 Report highlighting feedback from the consultation exercise**
- Appendix 8 Summary of financial consideration (Exempt Appendix)**
- Appendix 9 Masterplan sketch**

Additional Information

None



EM Plan No: EM2432
Date: 26th June 2014
Title: Clennon Valley & Goodrington Bay Masterplan

TORBAY DEVELOPMENT AGENCY - ASSET MANAGEMENT



APPENDIX 2

**T15111TDA / CLENNON VALLEY AND GOODRINGTON
DEVELOPMENT OPPORTUNITY**

Descriptive Document and Pre-Qualification Questionnaire

CONTENTS

Definitions

Executive Summary

Site Information

Opportunity Information

Key Objectives

Key Objective 1 – Preserve and enhance the community, sport and recreational facilities at Torbay Leisure Centre.

Key Objective 2 – To enhance the quality and range of the outdoor sport and recreation facilities in Clennon Valley.

Key Objective 3 – To seek self-financing ways to improve the range of sports facilities offered.

Key Objective 4 – Providing facilities that will Improve the opportunity to participate in sport for people of all ages, backgrounds and abilities.

Key Objective 5 – Improve the quality and range of tourism facilities at Goodrington and in Clennon Valley to meet the needs of residents and tourists in the 21st Century. It is preferred that the existing water park be retained and ideally enhanced unless a persuasive case is made to justify its relocation or removal

Key Objective 6 – To achieve the objectives without compromising the public open space and the valuable natural environment.

Key Objective 7 –To investigate ways to integrate and enhance the connectivity of existing and new leisure and sporting facilities into the surrounding areas.

Role and Structure of the Partnership

Timetable

Information

Pre-Qualification Instructions

Pre-Qualification Evaluation and Scoring Methodology

Appendix One (1) – Pre-Qualification Questionnaire

Appendix Two (2) – Site Information

DEFINITIONS

3G	Shall mean third (3 rd) generation sports facility as defined by Sport England
ASA	Shall mean the governing body for swimming within the United Kingdom (UK)
Bidder	Shall mean any applicant expressing their interest in the project and that submits a Pre Qualification Questionnaire response
Clennon Valley and Goodrington Sports and Tourism Hub	Shall mean the area falling within the red line on the plan referred to in Appendix Two (2) Site Information.
Collaboration	Shall mean the working arrangement between the Council, the Part A Bidder and the Part B Bidder(s).
Collaboration Vehicle	Shall mean the organisation with whom the Council will contract
Collaborator	Shall mean the organisation selected from Part A and the Bidders from Part B chosen by the successful Part A Bidder
Competitive Dialogue	Shall mean the procurement procedure laid out within regulation 18 of the Public Contract Regulations 2006 as amended
Contract	Shall mean the Agreement between the Council and successful Bidder(s) for the execution of the Works, including all documents to which reference may properly be made in order to ascertain the rights and obligations of all the parties involved
Development	Shall mean the alteration of a site through construction, refurbishment and/or regeneration
English Riviera	Shall mean Torbay (the "Bay")
English Riviera Geopark and Visitor Centre	Shall mean the location(s) from which information can be obtained about the English Riviera Geopark
English Riviera Geopark organisation	Shall mean the organisation established to co-ordinate the management of the English Riviera Geopark
Invitation to Participate in (competitive) Dialogue (ITPD)	Shall mean a procurement document that will be distributed to all long listed Bidders, which will seek to explore aspects of the Bidders' proposals for the Project
Invitation to Submit Final Tenders (ISFT)	Shall mean a procurement document that will be distributed to all short listed Bidders, the responses to which shall be used by the Council to make the Contract award decision
Key Objectives	Shall mean the critical outcomes required by the Council, as laid out in the section entitled Key Objectives within this Descriptive Document
Part A Submission	Shall mean a Bidder's Pre Qualification Questionnaire application to be considered to deliver the priority Opportunity A site
Part B Submission	Shall mean Bidder's Pre Qualification Questionnaire application to be added to the Potential Development Partner List to deliver any or all of the additional Opportunities B to I
Partner	Shall mean the successful Bidder(s) that will be awarded a Contract(s) as a result of this procurement process
Potential Development Partner	Shall mean the Part B Bidders
Pre Qualification Questionnaire	Shall mean the content within this Descriptive Document and appended pre Qualification Questionnaire, which will be used by the Council to select the long list of Bidders
Standard Offer	Shall mean Bidders' Part A Submissions for the priority

	Opportunity A site
Torbay Council (the "Council")	Shall mean the procuring entity
Variant Offer	Shall mean a proposal from a Bidder, which offers an alternative to the Bidders' Part A Submission for the priority Opportunity A site

EXECUTIVE SUMMARY

Torbay's unique natural and historic environment is its biggest selling point for visitors, residents and investors. The English Riviera is made up of twenty two (22) miles of attractive coastline, 'The Bay' itself is a major asset, with eighteen (18) sandy beaches, rocky coves, picturesque harbours and a mild climate combining to attract visitors, residents and investors. Torbay is growing and has ambitious plans for further growth. The recent confirmation of funding for the South Devon Link Road is a 'game changer' for Torbay, greatly improving access to and from the Bay. It will lead to greater investment in the Bay.

In September 2007 the English Riviera received international recognition for its rich geological, historical and cultural heritage when it became one of just sixty seven (67) areas around the world, endorsed by UNESCO, as a European and Global Geopark. Situated within the stunning, rolling hills of South Devon and the geology of the English Riviera has created the beautiful coastline of today, which links the rich diversity of landscape with wildlife, people and culture.

Torbay Council is seeking a Collaborator to help deliver the Clennon Valley (hereafter referred to as the "Valley") and Goodrington Sports and Tourism Hub. The aim being for Clennon Valley and Goodrington to become an outstanding sporting, leisure and recreation venue, providing activities and sports facilities for residents and visitors within a superb natural setting. Proposals that will provide a mix of leisure, recreational, tourism and community uses will be invited. Development should complement the ecology and conservation principles in an important green space supporting in a sensitive diverse ecological area in a picturesque valley / green wedge.

The Valley already contains a diverse range of existing community sports assets that the Council wishes to see improved through them either being regenerated or redeveloped. Ideally the Council also wishes to see the range of sports provided extended and participation in sport improved.

Torbay Leisure Centre within the Valley was constructed in the mid 1970's and contains one (1) of Torbay's four (4) community swimming pools, together with a sports hall, squash courts, fitness and aerobic facilities together with other ancillary indoor sports facilities. Adjacent to the leisure centre is approximately three hundred and eighty one (381) acres of open space that is largely Council-owned land. This open space accommodates Torbay's largest grouping of sports pitches and an extensive area of further open space providing informal recreation land, undeveloped land and areas of important environmental habitat.

The Valley at its southern end runs down to the sea at Goodrington and stretches to Brixham Road in the North where it adjoins area with important educational and tourism assets as well key areas of housing and commercial property.

This procurement has been split into nine (9) possible development opportunities, each potentially with its own set of individual requirements that Torbay Council would like to see developed in the Valley and Goodrington areas. The opportunities are described at Opportunity Information below.

It is not a requirement for all opportunities to be delivered. Opportunity A has been classed as the priority. Other sites are classed as additionalities that are available so that Bidders can submit additional proposals to develop other opportunities in addition to Opportunity A.

Applicants who are interested in developing Opportunity A should refer to Submission Part A below. Applicants who are interested in developing one (1) or more of the additionalities but who are not interested in developing Opportunity A should refer to Submission Part B below.

The proposals should be self funding and may include proposals that assume the inclusion of enabling development on land within the boundary of the overall site area.

The Council recently undertook a tender exercise entitled Torbay Regeneration Joint Venture, the aim of which was to set up a regeneration partnership vehicle to undertake development activity at various sites across Torbay. The Valley and Goodrington was identified as a possible site for development, but was only classified as a contingency site so was not guaranteed.

The vision is to not utilise the partnership vehicle to deliver development on the Valley and Goodrington site. In this instance it was decided that the most suitable option is to test the open market in order to gain the best possible development proposal for the people of Torbay. However, the Council reserve the right to not award and to resort back to using this partnership vehicle if it is evaluated that all the schemes proposed are not suitable.

Part A Submission

Bidders have the opportunity to submit a 'Standard Offer' for the priority Opportunity A site. Should Bidders' proposals be outside of the current scope for Opportunity A, for example, the suggestion is to develop community sports facilities on a different site than is currently implicated, Bidders can in addition to the 'Standard Offer' submit a 'Variant Offer', giving their alternative proposal. Any Bidders wishing to take this option up must submit a 'Standard Offer' as well as their 'Variant Offer' in order for their 'Variant Offer' to be considered valid by the Council.

Bidders wishing to submit offer(s) for the priority Opportunity A and any or all of the opportunities B to I may also do so, in accordance with the submission requirements outlined at Pre Qualification Instructions below.

Part B Submission

If you do not wish to submit a 'Standard Offer' but have an interest in developing one (1) or more of the additionalities (opportunities B – I), then you have the opportunity to apply at the Pre-Qualification Stage to be added to a Potential Development Partner List. Potential Development Partners will be added to a List of Potential Development Partners, which will be made available to all the successful Bidders that are selected to progress to the next stage of the procurement process. This list will include the Potential Development Partner's contact information, the additionalities that the Potential Development Partner is interested in developing and their brief proposals.

Please note that there is no guarantee that you will be contacted by any of the Bidders and there is no guarantee that you will be successful in being given the opportunity to develop the additionality that you have applied for. It will be the decision of the individual Part A Submission Bidders that are selected to progress with the procurement process as to whether or not they wish to work in partnership with any of the Part B Submission Bidders. Furthermore, Bidders

should be aware that the Council is not offering any Contract(s) for any of the additionalities B to I. Rather the opportunity is available for developers wishing to work with the successful Part A Submission Bidder(s) to work to implement a holistic solution to the development opportunities outlined within this document. There will be a clear method of contact which will be communicated to all parties, which must be abided by. The Council has implemented a Confidentiality Agreement, detailed at the section entitled Confidentiality below, which gives details of all parties' obligations in relation to commercial confidentiality.

SITE INFORMATION

The Valley and Goodrington site can be found within Appendix Two (2) Site Information, which also includes details of the facilities that are in the surrounding areas that will be connected. It is important to note that not all the area of land included within the red line that is annotated on the plan is owned by the Council or available for development. In some instances this is due to some areas being owned by a third party or subject to other title restrictions. Some of the principle third party ownerships are identified by a blue line that is annotated on the plan. Details of some such ownerships are included in this notice. More information on the site will be available after the Pre-Qualification Questionnaire stage of the procurement process.

The land ownerships that have been annotated in blue have been included to invite proposals that might integrate and connect with these areas. Bidders will in due course need to consider if and how these ownerships might be included in their proposals. Bidders should not assume such third parties will wish to engage in this process.

Bidders should be aware that a small proportion of the site is a landfill site. Bidders should make their own enquiries and investigations of the Council's sites. The Council will not accept any requests to undertake due diligence after the award of the contract to the successful contractor. It should be noted that the details regarding the sites represent the Authority's best endeavours to provide this information. Applicants must undertake due diligence to ensure the accuracy of the information supplied.

Bidders should be aware that the site information provided within Appendix Two (2) Site Information is subject to change as the procurement process progresses. Bidders will be informed of any and all changes to the site information as it arises throughout the course of the Project, if applicable.

OPPORTUNITY INFORMATION

The Council does not have pre-set requirements as to where and how the opportunity proposals are delivered within the site provided that any solution satisfies the Key Objectives and meets the proposal requirements listed for Opportunity A in this Opportunity section

Opportunities consist of:

Part A Submission

- 1 Opportunity A – Community Sports Facilities – Priority

Part B Submission

- 2 Opportunity B – Indoor Bowls Sports Facilities – Additionality
- 3 Opportunity C – Additional Outdoor Recreational Facilities – Additionality
- 4 Opportunity D – Additional Sports Facilities – Additionality
- 5 Opportunity E – Maritime Watersports Facilities – Additionality
- 6 Opportunity F – Centre of Excellence Sports Facilities – Additionality
- 7 Opportunity G – Beach and Tourism Amenities – Additionality
- 8 Opportunity H – Tourist Attraction – Additionality
- 9 Opportunity I – Self Catering Holiday Accommodation – Additionality

The Council does not assume that Bidders will necessarily wish to or be able to satisfy all of the opportunities listed above.

Bidders' proposals should:

- Ensure that the Clennon Valley Leisure Centre remains open until such time that the new development is completed
- Be self funding or funded as a part of composite bid by a consortium proposing more than one (1) opportunity
- If enabling development is included in the proposal it must fall within the boundary of the overall site, its proposed location exactly defined and outline information provided.
- Seek to improve energy efficiency and reduce waste. Improvements for innovative energy use and the inclusion of sustainable technologies
- Improve the value for money for the Council of providing sports and tourism facilities
- Improve user satisfaction
- Aim to directly improve or to facilitate improvements in public participation in sport at all levels and for all types of users
- Be financially credible and bidders should expect to provide evidence to support a sustainable business case.

All proposals submitted should not:

- Adversely effect the overall attractiveness of the beach and valley
- Adversely impact the natural environment
- Reduce community access to sports facilities or exclude community use unless such facilities are additional facilities that have been provided for private use
- Cause unnecessary harm or nuisance to the residential amenity of adjacent residential areas.

It is not necessary for Bidders to ensure that these points are covered within their Pre-Qualification Questionnaire submissions at this stage in the procurement process; rather these issues will be examined during the Competitive Dialogue and subsequent procurement stages.

Opportunity A – Community Sports Facilities

It is preferred that the proposals be delivered without the need for Council capital contributions or the need for future revenue support. The Council can, however, consider making further land available within the overall site to help fund the new/improved facilities and enable development.

Proposals for the required facilities should provide either new/replacement facilities or the improvement and restoration of existing buildings where they can be made fit for purpose.

Proposals to develop Opportunity A must include, but is not limited to the following:

- A variable depth swimming pool of at least twenty five metres (25m) built to appropriate ASA standards; six (6) lane minimum, eight (8) lane preferred
- The retention of the existing sports fields with no net reduction in the quantum of playing pitches with proposals to improve pitch quality
- A replacement all weather (minimum of 3G) playing pitch
- All weather facilities for hockey
- A four (4) court sports hall – multi purpose sports hall
- A fitness suite including multi station cardio vascular exercise equipment and weight training equipment
- A sprung floor multi functional fitness studio providing capability to accommodate dance, aerobic exercise
- Four (4) or more squash courts, one (1) of which should provide a viewing area
- Adequate pool and dry changing facilities delivering improved family changing facilities
- New or upgraded changing facilities for the outdoor sports pitches
- If the proposal involves the demolition of the existing rifle club building (and it has not been re-provided elsewhere in the interim) Bidders should include a replacement club facility.

Additional options that might be considered are:

- A variable depth multi-purpose fifty metre (50m) swimming pool would be welcomed provided that any proposal is self funding (eight (8) lane)
- A diving pool
- Any realignment or alteration to the playing pitches should provide for an improvement in the quality and/or efficiency of the facilities offered
- An all weather athletics track
- A climbing wall
- A sports academy providing a centre of excellence for any (one (1) or more) recognised international sport(s)
- Indoor athletics facilities
- A larger sports hall capable of accommodating competition standard basketball tournaments
- Tennis court facilities of up to twelve (12) courts possibly providing a mix of lawn and all weather covered
- A rugby complex

- An indoor five-a-side football facility
- A health and beauty treatment suite that might include for instance a hair and beauty salon, jacuzzi, sauna, steam room, etc.
- An ice rink capable of accommodating hockey and other ice-based sports
- Table tennis facilities
- A velodrome
- A dance studio.

Opportunity B – Bowls Sports Facilities

Proposals to develop Opportunity B whether proposed under a Part A Submission or as a Part B Submission must include but is not limited to the following:

- A four (4) rink indoor Bowls centre together with ancillary facilities.

Additional options that might be considered are:

- A six (6) or eight (8) rink indoor bowls centre
- Other enabling development consistent with uses identified in Opportunity A that is necessary to fund or part fund its construction.

Opportunity C – Extended Outdoor Recreational Facilities

Proposals to develop Opportunity C whether proposed under a Part A Submission or as a Part B Submission must include but is not limited to the following:

- A fitness trail
- A cycle link through the Valley between Goodrington sea front and South Devon College via the Roselands area of Paignton.

Additional options that might be considered are:

- Ecological enhancements
- Extend and/or enhance the areas of reed bed and improve education / interpretation facilities
- Riding stables and bridleway.

Opportunity D – Additional Sports Facilities

Proposals to develop Opportunity D whether proposed under a Part A Submission or as a Part B Submission must include but is not limited to the following:

- A gymnastics hall providing a full range of mat and apparatus
- An indoor archery club and/or
- A rifle club
- A boxing club

Additional options can also be considered that provide new or additional sports facilities for which there is a proven sporting need.

Opportunity E – Maritime Watersports Facilities

Proposals to develop Opportunity E whether proposed under a Part A Submission or as a Part B Submission must include but is not limited to the following:

- Watersports centre providing facilities for example gig rowing, dinghy sailing, wind surfing and canoeing

Additional options that might be considered are:

- Community facilities for voluntary users possibly including sea scouts/cadets and/or local schools/colleges

Opportunity F – Centre of Excellence Sports Facilities

Proposals to develop Opportunity F whether proposed under a Part A Submission or as a Part B Submission must include but is not limited to the following:

- A centre of excellence for one or more recognised sports that would create a centre of regional or national significance.

Additional options can also be considered

Opportunity G – Beach Amenities

Proposals to develop Opportunity G whether proposed under a Part A Submission or as a Part B Submission must include but is not limited to the following:

- A scheme of improvement to the beach amenities at Goodrington that improves the range and quality of facilities available to tourists and residents

Additional options that might be considered are:

- Proposals for new toilets/showers, cafés, restaurants, public realm, self catering holiday accommodation, holiday accommodation
- Additional tourism attraction
- New multi-functional environment awareness / study centre incorporating educational facilities, interpretation exhibits of the marine environment and the English Riviera Geopark and Visitor Centre promoting events and tourism related activities e.g. kayaking. Work in partnership with Torbay Coast and Countryside Trust and the English Riviera Geopark Organisation – (This additionality should be regarded as a requirement if the Bidders' proposals involve the proposed demolition of the existing Drake House building).

Opportunity H – Tourist Attraction

Proposals to develop Opportunity H whether proposed under a Part A Submission or as a Part B Submission must include but is not limited to the following:

- A new or enhanced tourism attraction that would generate a substantial increase in visitor numbers to Torbay

Additional options that might be considered are:

- Proposals to improve linkages with other tourist attraction would be welcomed and such proposals to integrate access to other facilities might possibly working with the operators of Paignton Zoo, the steam railway, the beach the sports facilities and/or the holiday parks.

Opportunity I – Self Catering Holiday Accommodation

Proposals to develop Opportunity I whether proposed under a Part A Submission or as a Part B Submission must include but is not limited to the following:

- Self catering holiday accommodation that improves the quality of Torbay's tourist accommodation, extends the length of the tourism season and increases visitor spend and economic activity throughout

Additional options can also be considered

- Proposals for hotel and sporting halls of residence are also invited.

REFERENCE INFORMATION

Bidders are referred to:

- The Tourism strategy
<http://www.torbay.gov.uk/index/leisure/tourism/tourismstrategy.htm>
- The Local Plan
<http://www.torbay.gov.uk/index/environment-planning/strategicplanning/localplan> and
<http://plans.torbay.gov.uk/written/cpt5a.htm#top>
- Strategic Flood Risk assessments - <http://www.torbay.gov.uk/torbaysfrareport.pdf> and
<http://www.torbay.gov.uk/level2sfrareport.pdf>
- The Playing Pitch Strategy
<http://www.torbay.gov.uk/playingpitchstrategy.pdf>
- The Sport Facilities Strategy
<http://www.torbay.gov.uk/index/leisure/sports/sportsfacilities/sportsfacilitiesstrategy.htm>
- The recent Community Consultation undertaken in July 2011 into sports and visitor issues at Clennon Valley and Goodrington.
<http://www.torbay.gov.uk/developingsports>
- The Torbay Biodiversity Action Plan
<http://www.countryside-trust.org.uk/lbap.htm>

- The Green Space Strategy
<http://www.torbay.gov.uk/index/environmentplanning/strategicplanning/ldf/greenspacestrategy.htm>
- The Torbay Green Infrastructure Delivery Plan
<http://www.torbay.gov.uk/index/environmentplanning/strategicplanning/ldf/greeninfrastructure.htm> and
<http://www.countryside-trust.org.uk/mainintro.cfm?id=1049>
- Landscape Character Assessment
<http://www.torbay.gov.uk/torbaylca1.pdf> and <http://www.torbay.gov.uk/torbaylca2.pdf>
- Retail study
<http://www.torbay.gov.uk/retailstudyupdate2011.pdf> and
<http://www.torbay.gov.uk/retailstudyupdate2011execsummary.pdf>
- Community Infrastructure Levy consultation
<http://www.torbay.gov.uk/draftcilchargingschedule.pdf>
- Planning Contributions and affordable housing SPD -
<http://www.torbay.gov.uk/pcahspdupdate3.pdf>
- Urban Design Guide SPD
http://www.torbay.gov.uk/finalurbandesign_adopted.pdf
- Building Heights Strategy (see TDA)
<http://www.torbay.gov.uk/buildingheights>
- Torbay Housing Market Assessment 2011
<http://www.torbay.gov.uk/shmatorbayupdate.pdf>
- Torbay Strategic Housing Land Availability Assessment 2008 -
<http://www.torbay.gov.uk/torbayshlaavol1.pdf> and
<http://www.torbay.gov.uk/torbayshlaavol2.pdf>
- Sustainable Energy Assessment
<http://www.torbay.gov.uk/sustainableenergyassessment.pdf>
- Principle Holiday Accommodation Areas
<http://www.torbay.gov.uk/phaarevisedguidance.doc>
- South Hams Greater Horseshoe Bat Special Area of Conservation Planning Guidance
<http://naturalengland.etraderstores.com/NaturalEnglandShop/bat>

KEY OBJECTIVES

Key Objective One (1) – Preserve and Enhance the Community, Sport and Recreational Facilities in Clennon Valley and at Torbay Leisure Centre

The sports facilities at the leisure centre are regarded by the Council as being essential community facilities that the Council is committed to protecting in terms of ensuring that public access to equivalent or improved sports facilities is retained. The Council wishes to invite Bidders to submit proposals that would ideally enhance the range and quality of sporting community sporting facilities and community access.

The leisure centre is nearing the end of its design life and is now in need of significant investment to enable it to continue to be fit for purpose. The Council recognises that the range, specification and the quality of these sports facilities are now arguably out of step with current design standards. The Council currently needs to address the physical condition of the existing facilities which are in poor physical condition. The need for investment presents an opportunity

for the Council to invite Bidders to submit proposals that will improve of the range and suitability of sports facilities available to the community. The Council intends that proposals should broaden the sporting offer so as to increase participation in sport and improve the access of the whole community to sport.

The Council does not have pre set requirements for where and how the sports facilities are accommodated within the overall Valley and Goodrington Site marked out in Appendix Two (2) Site Information provided that any solution satisfies the other Objectives and meets the proposal requirements listed for Opportunity A within Opportunity Information.

Key Objective Two (2) – To Enhance the Quality and range of the Outdoor Sport and Recreation Facilities in Clennon Valley

The sports pitches in the Valley would benefit from improved drainage and changing room facilities. Bidders are advised to come forward with investment proposals to improve utilisation, public access and the quality of the sporting assets. Bidders are invited to consider these pitches in the context of the aims of the sports pitch strategy.

Key Objective Three (3) – To Seek Self Financing Ways to Improve the Range of Sports Facilities Offered

The aim is to substantially reduce, and ideally remove, from the Council some or all of the cost of regenerating or re-providing the community sports facilities within the Valley and leisure centre. The Council will be flexible in its approach and it is willing to make further land available within the overall site for potential enabling development to help fund the new/improved facilities.

The Council also invites bidders to propose other self funding proposals that would extend the range and quality of sports provided. These could be either community based or private facilities or a combination of them both.

Proposals that offer to provide ‘world class’ facilities for elite sport will be particularly welcome especially if they will help develop sporting skills among the local and regional community and or attract sportsmen and women to Torbay.

Key Objective Four (4) – Providing facilities that will improve the opportunity to participate in sport for people of all ages, backgrounds and abilities

The Council wishes to improve the health and well being of all the residents of Torbay and also to provide sporting facilities for visitors to Torbay where this would support the local economy. Whilst promoting investment in the Goodrington and Valley area Bidders are specifically encouraged to consider how the facilities can be made more welcoming and inclusive. There is an aim in the process to improve the awareness of sporting and healthy life style options, to

improve public perception of the facilities and improve the reality of usage levels across a more diverse range of users particularly among those who do not currently get involved in sport.

Proposals that improve the range of sports, reach out to those sectors of the community that are hard to reach and that make quantitative and qualitative improvements will be particularly welcome. Any proposals should retain a focus on a need to ensure that community access is affordable.

Key Objective Five (5) – Improve the quality and range of tourism facilities at Goodrington and in the Valley to meet the needs of residents and tourists in the 21st Century. It is preferred that the existing water park be retained and ideally enhanced unless a persuasive case is made to justify its relocation or removal

The recent sports and leisure survey that looked at the Valley and Goodrington indicated that the majority of the public who participated in the survey were of the opinion that the tourism offer at Goodrington and the Valley was in need of improvement.

Bidders are invited to consider how the aims of the Council's Tourism Strategy, a reference to which is given above at Reference Information, might be supported by their proposals where such enabling development is envisaged so as to fund the improvement in the sporting offer in the Valley.

The Valley is an important environmental area but the potential exists to deliver improvements in the range, scale and the quality of leisure facilities. Such proposals should have regard to the overall attractiveness of Torbay as a tourist location and improve the economic benefits to the wider local economy.

Proposals that would bring forward a major tourism attraction or that extend and substantially improve to attractiveness of an existing facility would be particularly welcome provided such proposals support the overall emphasis of bid process which aims to improve the sports and environmental aspects of the project.

Some of the tourism facilities particularly for instance the Grange Holiday Park (Hobourne Leisure), Paignton Zoo (Whitley Wildlife Trust) and the Steam Railway (Dartmouth Railway and Ferry Boat Company Ltd.) are owned and operated by third parties. The Council currently envisages that any Bidders proposals that would involve changes to the tourism offer of such third party facilities would only come about with the agreement of these businesses.

Proposals which improve the quality and quantity of both self catering accommodation and hotel accommodation would be encouraged.

Key Objective 6 – To Achieve the Objectives without Compromising the Public Open Space and the Valuable Natural Environment.

Bidders are specifically requested to appreciate that the Council's ownership includes areas of significant informal public open space. The value of this public open space for recreation and the importance of the Valley as a green corridor and key natural area is defined in the Torbay Green Infrastructure Delivery Plan (2011).

The Valley contains areas of considerable ecological significance and parts are designated as County Wildlife Site or Local Wildlife Site status. The valley is an important wildlife corridor with priority biodiversity action plan habitats, including the most significant area of open freshwater and wetland in Torbay (Torbay Biodiversity and Geodiversity Action Plan, 2006-2016). The Valley is a strategic flyway for the Greater Horseshoe Bat and also lies within the Greater Horseshoe Bat sustenance zone (South Hams SAC – Greater horseshoe bat planning guidance) and serves as feeding/foraging areas for many protected or important species . Whilst proposals which improve such public enjoyment and user appreciation of these areas would be encouraged the wholesale development of these areas is most definitely not being envisaged or encouraged. Interventions should enhance and protect the habitats and species.

Some areas of the public open space within the red line are in third party ownership and bidders are encouraged to familiarise themselves with the site information .

Key Objective Seven (7) – To investigate ways to integrate and enhance the connectivity of existing and new leisure and sporting facilities into the Surrounding Areas.

The tourism facilities in the Valley in particular the zoo, steam railway, water park, beach and Young's Park are some of Torbay's principle tourist assets. These facilities currently lack cohesion and integration within their current setting. These facilities are also surrounded by business and residential communities, including significant holiday accommodation. Bidders are specifically encouraged to consider how their proposals might improve the integration of these assets with each other, the sporting facilities and any new scheme elements that are proposed.

ROLE AND STRUCTURE OF THE COLLABORATION

Role of the Collaboration

The Council's objectives for the Collaboration are to bring forward a Development that will:

- meet the requirements listed under Opportunity A as a minimum
- in addition if appropriate to the proposal meet requirements listed under Opportunities B-I

- support the Council in meeting the Key Objectives.

Structure of the Collaboration

It is envisaged that a Collaboration Vehicle will be established between the Council and the successful Bidder in order to promote and develop sports and leisure facilities in line with the Council's Key Objectives. The legal structure of the Collaboration will be agreed through the Competitive Dialogue process.

It is extremely unlikely the Council will agree to sell the freehold of any areas of land within the overall site (de-minimus exceptions may be discussed during the Competitive Dialogue process). Leasehold arrangements will be considered on terms that are suitable and needed to facilitate the preferred scheme.

The procurement of Opportunity A (and other appropriate opportunities) will for an initial term need to be negotiated with appropriate break clauses attached to specific agreements. The structural arrangements should permanently protect community access rights to sports facilities. The value of each party's interest may be negotiated on the value of assets or services each commits to the Collaboration Vehicle. The sharing of returns from the Development and Services is open for discussion during the Competitive Dialogue process. This will also establish a methodology for a valuation of the Council's assets that are made available to the Collaboration Vehicle.

Development activity may be funded through injections of equity from many sources geared with development finance. Profits generated by the Collaborations activities will be distributed in accordance with the each party's contribution. Other arrangements may be explored during the Competitive Dialogue process. Proposals which will be reliant on discretionary third party funding (such as lottery or grant funding should be disclosed) at the Pre-Qualification Questionnaire stage of the procurement process although detailed funding information is not required at this stage.

Collaborator

The Collaborator will be required to:

- Demonstrate a willingness to enter into an arrangement that will align its objectives without compromising those of the Council
- Commit to exploring opportunities of partnering with other private sector partners or voluntary groups who only want the opportunity to develop one or more additional opportunities
- Demonstrate its commitment to delivering the Council's Key Objectives
- Demonstrate and apply its development skills and strengths in delivering development projects similar to the key objectives set out in this document
- Provide evidence of organisational capacity, resources and expertise to drive forward the development plans for the Valley and Goodrington site effectively and efficiently
- Commit to providing solutions that are self funding, which are delivered without the need for Council capital contributions or the need for future revenue support (where there may be such dependencies these should be clearly identified)

- Provide innovation and a strong commitment to achieving design quality and delivering sustainable development
- Consider the recent Community Consultation undertaken in July 2011 in to sports and visitor issues at the Valley and Goodrington site and commit to ongoing community participation
- Commit to the delivery of social and economic benefits and secure the provision of community facilities
- Commit to the principles of partnering in an open and transparent manner.

Development Site

Please refer to Appendix Two (2) Site Information for the link to the site plan. The Council reserves the right to add or remove any of the additional opportunities (B to I above) prior to the establishment of the Collaboration Vehicle or vary the land included in the development site . The Council can consider making further land available within the overall site for potential enabling development to help fund the new and/or improved facilities.

Procurement Process

The Procurement Process will be structured according to the Competitive Dialogue process as defined by the Public Contracts Regulations 2006 (as amended), as follows;

Stage One (1): this Pre Qualification Questionnaire stage, which will be for the purpose of selecting up to six (6) long listed parties (assuming there are sufficient suitable bidders) to be invited to take part in the remainder of the procurement process in relation to Opportunity A and to ensure that all parties interested in Opportunities B to I are added to the Potential Development Partner List, which will be made available to the Bidders selected as a result of this stage one (1).

Those Bidders making a Part B Submission (Opportunities B to I) will end their involvement with the Council upon making their submission and to that end, the Council will not undertake to evaluate their submissions or make any judgements as to the suitability or appropriateness of their proposals. The Authority's role will be to compile the Potential Development Partner List and disseminate it to the long listed Bidders that are successful with their Part A Submissions (Opportunity A). This will take place directly upon notification to Bidders as to the outcome of their Part A Submissions (i.e. whether or not they have been successful) and the Potential Development Partner List will only be sent to those long listed Bidders.

Stage Two (2): Competitive Dialogue, which will be a series of meetings held in two (2) stages, the first of which will result in the dissemination by the Authority and completion by the long listed Bidders of an Invitation to Participate in (competitive) Dialogue (ITPD) document. Long listed Bidders' completed ITPD's will be evaluated by the Authority and the long list will be reduced to a short list of up to three (3) Bidders.

The Competitive Dialogue will continue into the second stage with those three (3) Bidders who will then be invited to complete and submit their Invitation to Submit Final Tenders (ISFT) document and fully priced proposals.

Further details on the dialogue phases and what is required of the Bidders will be provided in the ITPD.

Confidentiality

As part of this stage one (1) Pre Qualification Questionnaire, a requirement will be placed on all Bidders making a Part A or B Submission to read, complete and submit a Confidentiality Agreement, which can be found within the Pre Qualification Questionnaire document at Appendix Four (4). This is a mandatory requirement intended to protect the commercial interests of all interested parties. Any parties making a Part A or Part B Submission but omitting a signed Confidentiality Agreement will be requested to complete the Confidentiality Agreement and submit it prior to the completion of the evaluation stage, detailed below within the Timetable. Those Bidders that neglect to submit a Confidentiality Agreement following clarification shall be excluded from participating any further in the procurement process, even if they would otherwise have been selected as a long listed Bidder.

TIMETABLE

The following timetable is subject to change and the Council reserves the right to amend it as the project progresses. Bidders should be aware that should proposals require more discussion than the timetable allows and necessitate further stages within the procurement process, the impact will be felt at the latter stages of the timetable as it is laid out below. All Bidders involved in the process at the time that the decision is taken to extend the programme will be notified accordingly, if required.

Stage One (1) Pre Qualification Questionnaire

OJEU Notice Published	w/c 06 January 2012
Descriptive Document and PQQ available	06 January 2012
PQQ Online Submission	Twelve (12) noon on 17 February 2012
Evaluation of PQQ	17 Feb – 16 March 2012
Notification of outcome of Pre Qualification Questionnaire	03 April 2012
Issue of Potential Development Partner List	03 April 2012

Stage Two (2) Competitive Dialogue (Stage One (1) up to six (6) Bidders)

Finalisation of ITPD Document	13 April 2012
Issue Invitation to Participate in (competitive) Dialogue (ITPD)	13 April 2012
First (1 st) Stage of Dialogue	30 April – 15 June 2012
ITPD Submission	27 July 2012
Evaluation of ITPD	30 July – 31 August 2012
Notification of short listed Bidders	07 September 2012

Stage Two (2) Competitive Dialogue (Stage Two (2) up to three (3) Bidders)

Second (2 nd) Stage of Dialogue	24 Sept – 19 Oct 2012
Finalisation of ISFT Document	16 Nov 2012
Issue ISFT	19 November 2012
ISFT Submission	04 January 2013
Evaluation of ISFT	04 Jan – 01 Feb 2013
Notification of Preferred Bidder	18 February 2013
Clarification and Fine Tuning	Feb - March 2013
Award	April 2013
Standstill Period	April 2013
Enter Council Contract with Partner(s)	April 2013

INFORMATION

Information Provided

Bidders to whom the ITPD is issued will upon completion and submission (with their Pre Qualification Questionnaire response) of a Confidentiality Agreement receive:

1. access to the project electronic data containing property, planning and legal information relating to the Project.
2. access to the Potential Development Partner List, which will include the potential partners' contact details , details of the Opportunities in which they are interested and outline proposals.

Council Representatives

No person in the Council's employ or other agent, except as so authorised by the Council Representative or Procurement Representative, has any authority to make any representation or explanation to Bidders as to the meaning of the Contract or any other document or as to anything to be done or not to be done by Bidders or the successful Bidder or as to these instructions or as to any other matter or thing so as to bind the Council.

Council Representative Contact Details

Iain Masters – Torbay Economic Development Company (TEDC) (formerly the Torbay Development Agency (TDA))
Senior Development Surveyor
01803 208975
iain.masters@tedcltd.com

Procurement Representative Contact Details

Carly Wedderburn
Senior Procurement Officer
01803 208980
carly.wedderburn@torbay.gov.uk

Enquiries

If your organisation has any questions relating to any part of this questionnaire or to the procurement process as a whole, please contact the Procurement Representative

There will be no negotiations of any of the substantive terms of the documents. Only clarification queries relating to the documents will be answered.

All clarification questions will be submitted via the Devon Tenders e-Tendering portal before twelve (12) noon on 03 February 2012 and the answers will be given within five (5) working days via the same.

Bidders should note that unless your question is innovation based, responses will be provided to all Bidders. The identity of Bidders raising any questions will remain confidential.

Any instruction by the Council prior to the due date will be issued to all Bidders via the Devon Tenders e-Tendering portal.

Responses

Pre Qualification Questionnaire submissions (Parts A and B) must be returned electronically via the Supplying the South West e-Tendering portal. Should you experience any problems with Supplying the South West please contact the support desk at tendersupport@devon.gov.uk or call (01392) 384659. This line is available between 08:30 and 16:30 Monday to Friday.

Submissions must be received in advance of the deadline in order to qualify as timely offers. As such, Bidders are urged to make their submission well in advance of the stated time or date in order to avoid such issues as technical difficulties with the electronic system that may be due to the high volume of traffic attempting to submit offers on the same date at the same time, for example.

Submissions made after the date and time specified on the documents or to a different address, electronically or otherwise, will not be considered under any circumstances.

The Bidder is encouraged to view the questions as soon as they receive this document in order to be able to understand the nature and complexity of the requirements to allow itself sufficient time to respond. Responses can be made at any time prior to the final submission deadline and Bidders can return to their submission at any time prior to making their full submission.

PRE QUALIFICATION INSTRUCTIONS

The purpose of the attached Pre Qualification Questionnaire is to help the Council evaluate which organisations to shortlist to progress through the remainder of the procurement process. This Pre Qualification Questionnaire assesses the technical capability and capacity, and the financial and economic strengths of organisations expressing an interest in bidding for this development partnership.

The information disclosed in this Pre Qualification Questionnaire will be used in an evaluation and selection process and will be treated in the strictest confidence. Any invitation to participate further in the procurement process based on the responses to this Pre Qualification Questionnaire does not imply any guarantee by the Council as to the Bidder's financial standing or technical competence. The right to return to these matters as part of the formal tender evaluation process is reserved.

Please complete the attached Pre Qualification Questionnaire in accordance with the following instructions. The Council reserves the right to reject responses which are not submitted in accordance with these instructions.

- Select what you are applying for, either Submission A to submit proposals to develop Opportunity A as a Standard Offer and if required proposals for Opportunity A and additionalities as Variant Offers, or Submission B to be added to the List of Potential Development Partners.
- Complete the sections that are relevant to your organisation based upon whether you are making a Part A Submission or a Part B Submission and any attached appendices to the Pre Qualification Questionnaire.
- Complete the Confidentiality Agreement.
- If your organisation is part of a group of organisations, please complete all parts of the questionnaire specifically for your organisation, not for the group. Please note that whenever used in this questionnaire and unless otherwise instructed, the term 'Bidder' refers to a sole proprietor, partnership, incorporated company, cooperative or consortium as appropriate.
- Where the Bidder comprises two (2) or more parties it may, if selected to form the partnership, be required by the council to form a corporate vehicle prior to taking an interest in the partnership.
- If the application is made by or on behalf of a consortium, all parts of the questionnaire must be completed for each member of the consortium. The Council will consider the consortium members' submissions together in determining scores for the consortium Bidder. Each member of the consortium is expected to complete the Certificate of Good Standing. Bids from property consultants not likely to be taking at least a thirty three per cent (33%) shareholding in any consortium or joint venture vehicle will not be considered.

- If the application is made without the identification of proposed partners, the Council reserves the right to undertake a due diligence financial check on the partners once identified at any stage through the process. Any issues that arise coming from these checks will be discussed during the Competitive Dialogue stages and may result in the disqualification of these partners if issues that have arisen cannot be resolved to the satisfaction of the Council.
- Please do not send any general marketing or promotional information by way of answers to any of the questions.
- Please adhere to any word limits imposed within the instruction to the pre Qualification Questionnaire or within the questions themselves. Any Bidder failing to adhere to the word limit shall be evaluated up to and including the word limit, but no further and the Bidder's scores shall be affected accordingly.
- Responses should be typewritten in English using Arial font size eleven (11). Bidders should not use tables, pictures or diagrams, except where explicitly requested, to support their response. Bidders should not append any supporting documentation to their Pre Qualification Questionnaire response, except where explicitly requested. Bidders may continue their responses, where the word limit permits, within the Pre Qualification Questionnaire response itself and not within appended supporting documentation. Where Bidders ignore these instructions and submit additional supporting documentation, this will be disregarded by the Council and will not be evaluated. Bidder's scores may be affected accordingly.
- Bidders should return their Pre Qualification Questionnaires in either of the following formats: Microsoft Word 2007 or Adobe pdf.
- The Council reserves the right to require Bidders to clarify their answers or provide more details.

PRE QUALIFICATION EVALUATION AND SCORING METHODOLOGY

Part A Submission Evaluation Criteria and Weightings

The submission evaluation criteria and weightings to be applied for this initial procurement stage are:

Section	Description	Question Number	Weighting
Appendix 1	Declaration	Appendix 1	Pass/Fail
Appendix 2	Certificate of Good Standing – Grounds for Mandatory Exclusion	Appendix 2	Pass/Fail
Appendix 3	Grounds for Discretionary Exclusion	Appendix 3	Pass/Fail
Appendix 4	Confidentiality Agreement	Appendix 4	Pass/Fail
Section 1	Organisation Details	1.1 to 1.9	Information
Section 2	Sub Contracting and Consortia	2.1 to 2.3	Min

			Threshold Req
Section 3	Technical Capacity and Experience	3	To be Scored
	3.1 Principal Main Areas of Business	3.1	Information
	3.2 Experience and Capacity of the Team Members	3.2	20%
	3.3.1 Procurement and development experience of sports and/or leisure facilities in team	3.3	20%
	3.3.2 Track record demonstrated in owning / operating other sports leisure schemes / prudent management & sports improvements	3.4	15%
	3.3.3 Experience of team in collaborative working.	3.5	15%
	3.3.4 Experience of financial management - budgets	3.6	15%
	3.3.5 Evidence of financial strength or experience and capacity to procure funding to deliver projects similar to the scheme being proposed	3.7	15%
Section 4	Financials	4	Min Threshold Req
	Financial Info	4.1 to 4.3	
	Parent Company Guarantee	4.4	
Section 5	Insurance	5.1 – 5.3	Min Threshold Req
Section 6	Disputes	6.1 to 6.2	Min Threshold Req
Section 7	Health and Safety	7.1 to 7.3	Min Threshold Req
Section 8	Quality Assurance	8.1 to 8.2	Min Threshold Req
Section 9	Sustainability Issues	9.1 to 9.3	Min Threshold Req
Section 10	Equality	10.1 to 10.5	Min Threshold Req

Bidders are required to complete and Pass the requirements within Appendices One (1) to Four (4).

Bidders are required to complete and meet the minimum thresholds for the Questions in sections Two (2) and Four (4) to Ten (10).

Bidders who have passed the questions and met the minimum thresholds outlined above will be scored against the questions in section Three (3), which will be marked in accordance with the Evaluation Scoring methodology given below.

Only the top six (6) Bidders that achieve the highest scores for the questions (when totalled and weighted in accordance with the Submission Evaluation Criteria and Weightings) shall be invited to participate further in this procurement process.

Part B Submission Evaluation Criteria and Weightings

Section	Description	Question Number	Weighting
Appendix 4	Confidentiality Agreement	Appendix 4	Pass/Fail
Section 11	Part B Submissions	11	Information
	11.1 Organisation details	11.1	Information
	11.2 Contact details	11.2	Information
	11.3 Legal status of Bidder	11.3	Information
	11.4 Track record and experience	11.4	Information
	11.5 Executive summary of proposal/s	11.5	Information
	11.6 Detailed description of proposal/s	11.6	Information

Bidders are required to complete and Pass the requirements within Appendix Four (4).

The remainder of Bidder's responses to section Eleven (11) will be for information only, which will be passed on to the long listed Bidders making Part A Submissions, in accordance with the sections entitled Part B Submissions and Procurement Process above.

Evaluation Scoring Methodology

Score 1	Extremely Weak	Very poor proposal/response, does not cover all of the associated requirements, major deficiencies, unrealistic or impossible to implement and manage. No relevant detail proposed	Weak
Score 2	Very Weak	Poor proposal/response, only partially covers the requirements, deficiencies in detail apparent, difficult to implement and manage. Little relevant detail proposed	
Score 3	Weak	Mediocre proposal/response, with minor deficiencies either in thinking or detail, problematic to implement and manage. Significant detail missing	
Score 4	Fair - Below Average	Proposal/response partially satisfies the requirements, with small deficiencies apparent, needs some work to fully understand it. Some useful detail provided	Fair - Good
Score 5	Fair - Average	Satisfactory proposal/response, would work to deliver all of the Council's requirements to the minimum level	
Score 6	Fair - Above Average	Satisfactory proposal/response, would work to deliver the majority of the Council's requirements to the minimum level with some evidence of where the Participant could exceed the minimum requirements	
Score 7	Good	Good proposal/response that convinces the Council of its suitability Response slightly exceeds minimum the requirements	
Score 8	Strong	Robust proposal/response, exceeds minimum requirements, including a level of detail or evidence of original thinking which adds value to the bid	Strong - Excellent
Score 9	Very Strong	Proposal/response well in excess of expectations, with a comprehensive level of detail given including a full description of techniques and measurements	

		employed	
Score 10	Outstanding/ Excellent	Fully thought through proposal/response, which is innovative and provides the reader with confidence of the suitability of the approach to be adopted	

Bidders responses to the scoreable questions within section Three (3) will be evaluated in accordance with the scoring methodology above.

Existing Breakdown of the proposed facilities to be provided

ZONE 1 - LEISURE	Unit Number	Unit Description	Lease Start Date	Nett		Gross		Planning Classification	Planning Totals		Comment
				Total Area sq ft	Total Area M2	Total Area sq ft	Total Area M2		Nett sq ft	Gross sq ft	
ZONE 1 - LEISURE	Unit 1	Swimming Pool	TBA	25,000	2,323	30,500	2,834	D2	25,000	30,500	New Build 25m x 6m pool and appropriate facilities to hold competitions (seating numbers yet to be confirmed)
	Unit 2	Lake & Flood Improvements	TBA					Sui Generis			MCI propose that the cost of these works will be funded from any S106 contributions they might have to make as part of any planning applications made.
	Unit 3	New Beach Sports Facility	TBA	1,250	116	1,525	142	D2	1,250	1,525	
	Unit 4	Beach Event F&B	TBA	2,000	186	2,440	227	A3	2,000	2,440	
	Unit 5	Cycle Hire Facility	TBA	850	79	1,037	96	D2	850	1,037	
	Unit 6	Cycle Retail	TBA	1,700	158	2,074	193	A1	1,700	2,074	
	Unit 7	Cycle F&B	TBA	1,700	158	2,074	193	A3	1,700	2,074	
	Unit 8	Improvements to the existing facade									Specification of the improvements has yet to be agreed
	Unit 9	Cycle Track & Speedway	TBA			0		D2			Will require British Cycling Approval - Contribution of £30,00 pa by MCI to the Council to cover the Councils borrowing.
	Unit 10	Torbay Leisure Centre	TBA	16,000	1,486	19,520	1,813	D2			No long term loss of facilities during renovation, No overall reduction in sports capacity, Provision of 3 x natural adult pitches, 1 adult 3G or natural pitch, 1 x junior pitch. Pitches must meet the standard of the relevant Governing Body and the drainage will be improved to meet the appropriate governing body's standard. Re-carpet the astro turf pitch to meet the British standard for artificial grass pitches.
Existing Tenancies	Existing	Existing Leases	TBA		0	0	0	Sui Generis			Zone 1 inc Rent from Sports pitches, rifle club plus income from Parking
				48,500	4,506	59,170	5,497		32,500	39,650	

ZONE 2 - BEACH	Unit Number	Unit Description	Lease Start Date	Nett		Gross		Planning Classification	Planning Totals		Comment
				Total Area sq ft	Total Area M2	Total Area sq ft	Total Area M2		Nett sq ft	Gross sq ft	
	Unit 11	Expand Wet Weather Water Park	TBA	17,000	1,579	20,740	1,927	D2	17,000	20,740	70% of the existing floor area will become all weather. Costs for this element are estimated.
	Unit 12	Beach Pods & Huts	TBA	1,300	121	1,586	147	D2	1,300	1,586	MCI are looking to expand the numbers including replacement of existing and potential for 2 storey subject to Council discussions
Existing Tenancies	Existing	Existing Leases	TBA		-	-	-	Sui Generis			See attached Schedule
Sponsor	Unit 13	Retail	TBA		-	-	-				Team Tour Events to include use of Youngs Park under license and other areas that are suitable for each specific event.
				18,300	1,700	22,326	2,074		18,300	22,326	

ZONE 4 - LEISURE PARK	Unit Number	Unit Description	Lease Start Date	Target		Actual		Planning Classification	Planning Totals		Comment
				Total Area sq ft	Total Area M2	Total Area sq ft	Total Area M2		Nett sq ft	Gross sq ft	
Zone 4 - LEISURE PARK	Unit 1	Cinema	TBA	30,000	2,787	30,600	2,843	D2	30,000	30,600	Estimated based on Expected Multi screen operation compared to other similar schemes
	Unit 2	Bowling	TBA	25,000	2,323	25,500	2,369	D2	25,000	25,500	
	Unit 3	Restaurant 1	TBA	5,700	530	5,814	540	A3	5,700	5,814	
	Units 4	Restaurant 2	TBA	5,700	530	5,814	540	A3	5,700	5,814	
	Unit 5	Restaurant 3	TBA	4,250	395	4,335	403	A3	4,250	4,335	
	Unit 6	Restaurant 4	TBA	4,250	395	4,335	403	A3	4,250	4,335	
	Unit 7	Bar	TBA	5,700	530	5,814	700	A3	5,700	5,814	
	Unit 8	Drive Thru 1	TBA	1,500	139	1,830	2,000	A3	1,500	1,830	
	Unit 9	Drive Thru 2	TBA	1,500	139	1,830	2,000	A3	1,500	1,830	
Ancillary	Unit 10	Car Wash/ Petrol Station	TBA	5,000	465	6,100	567	Sui Generis	5,000	6,100	
				88,600	8,231	91,972	12,364		88,600	91,972	

Core Optional
 Existing

Dated : 28/03/2013

ZONE 1 - LEISURE	Unit Number	Unit Description	Lease Start Date	Nett		Gross		Planning Classification	Planning Totals		Comment
				Total Area sq ft	Total Area M2	Total Area sq ft	Total Area M2		Nett sq ft	Gross sq ft	
	Unit 1	Gymnastics Club	TBA	0	0	0	0	D2			
	Unit 2	Rifle Range	TBA	7,000	650	8,540	793	D2	7,000	8,540	
	Unit 3	High Rope Course	TBA	0	0	0	0	D2			
	Unit 4	Velodrome	TBA	0	0	0	0	D2			Subject to Ground Conditions and further due diligence. If
	Existing	Existing Leases	TBA	0	0	0	0	Sui Generis			Zone 1 inc Rent from Sports pitches, rifle club plus income from Parking
	Unit 8	Retail	TBA	0	0	0	0		0	0	
				7,000	650	8,540	793		7,000	8,540	

ZONE 2 - BEACH	Unit Number	Unit Description	Lease Start Date	Nett		Gross		Planning Classification	Planning Totals		Comment
				Total Area sq ft	Total Area M2	Total Area sq ft	Total Area M2		Nett	Gross	
ZONE 2 - BEACH	Unit 9	Hotel	TBA	38,500	3,577	46,970	4,364	C1	38,500	46,970	80 Bed 2* higher cost upto £3.6m if 3* Hotel is 80 Bed but Optional subject to viability. New Beach Sport Facility and Events F&B subject to viability
	Unit 10	Fountain / Park Facility	TBA	0	0	0	0	D2			
	Existing	Existing Leases	TBA	0	0	0	0	Sui Generis			
				38,500	3,577	46,970	4,364		38,500	46,970	

APPENDIX 5

Torbay Council ("the Council") and Moirai Capital Investments Limited ("MCI")

Proposed Tourism and Leisure Hub Development ("the Project")

Structure of legal arrangements

1 Background

- 1.1 MCI has submitted a final tender in relation to the Project and has been appointed as preferred bidder.
- 1.2 The Parties now seek to complete the documents in relation to the Project, based on the agreed positions below.

2 Development Agreement ("DA") and Grant of Leases

- 2.1 The Parties will enter into a DA which will deal with the planning and development requirements of each Zone. Each Zone will have separate timetables and deliverables which are to be discussed in more detail (with the potential for each Zone to have distinct sections divided between core and aspirational).
- 2.2 There will be provisions within the DA for the parties to agree variations to the deliverables where delivery is outside the control of the 2 parties (e.g. the Rugby club).
- 2.3 There will be similar provisions relating to new developments, not included in the masterplan as at the date of the DA, which will be permitted subject to the consent of the Council. Any profits generated by such new developments will be subject to an overage provision 70/30 in favour of MCI.
- 2.4 Zone 1 containing Torbay Leisure Centre ("Centre") is the cornerstone of the project and delivery of the core elements of this Zone must be prioritised over all other elements of the Project. This Zone must be developed in accordance with the DA within the agreed timescales (completion of Centre within 3 years, commencement within 18 months, application for planning within 6 months of, in each case, the date of the DA). There will be restrictions on the development in other Zones linked to delivering on these core elements.
- 2.5 The DA will provide full rights for MCI to enter and develop each Zone in accordance with its terms
- 2.6 The 125 year lease of Zones 1 and Zone 2 will be granted immediately.
- 2.7 The grant of the leases of Zones 4 will not take place until after the practical completion of the development of "Zone 1". *[NB - noted. The exact details of what minimum development requirements will be needed to trigger additional leases remains to be finalised. It would not be zone specific however. The Council have confirmed that it will include the Splashdown facility]*

- 2.8 (If appropriate) there will be a business transfer agreement entered into simultaneously with grant of any relevant lease.
- 2.9 The Council will have step in provisions within the DA but will accept this be subject to:
 - 2.9.1 a 3 month period (or sooner if necessary) for MCI to remedy any breach (if remediable); and
 - 2.9.2 appropriate step-in rights in favour of any funder of MCI which will need to have priority over the Council's step in rights

3 Responsibility for obtaining consents/approvals

- 3.1 MCI will be responsible for obtaining planning permission for all elements of the development. The timetables for submission and approval of any core elements of each Zone will be specified in the DA. The Council expects the parties to work closely together in working up proposals and Council approval will be needed to any proposed application.
- 3.2 Insofar as any other matters need to be addressed as part of the development (e.g. stopping up orders) these will again be the responsibility of MCI but the Council will use reasonable endeavours to assist.
- 3.3 MCI will be responsible for making appropriate arrangements with Parkwood (existing tenants and operators of the Centre). Any TUPE transfer as a result of arrangements made with Parkwood, or which arise from any other aspect of these proposed arrangements, shall be for the account of MCI.
- 3.4 The Council will be responsible for attending to any statutory compliance required to permit them to grant the leases.

4 Partnering and Strategic Plan

- 4.1 The Parties anticipate that, as the development proceeds, a spirit of partnering - in pursuit of the shared vision and objective of a sporting and tourism hub across the development area ("the Vision") - will be fostered.
- 4.2 To support the Vision a Strategic Plan (encompassing elements of the project and management business plans) shall be included in the SLA (see section 7 below).
- 4.3 Compliance with the Strategic Plan will be a contractual obligation, and will be reviewed (amongst other things) at a meeting of a partnering board. The partnering board will meeting no less than once every six months to review matters such as compliance with the SLA including, without limitation, proposed new developments and progress in delivering the Strategic Plan.
- 4.4 The initial SLA will continue for an initial period of 15 years, and for ten year periods thereafter. At the end of these periods the partnering board will meet to consider whether these arrangements should be adapted to the current circumstances. In the unlikely event that a position cannot be agreed in relation to any services going forward, the default position will be the then current arrangements

5 Terms of each 125 year lease

- 5.1 MCI will keep all premises in good condition throughout the term of each lease.
- 5.2 The Council will have usual reservations for entering the relevant Property including the right to remedy any material breaches of Tenant repairing covenant (if not remedied by the Tenant within 3 months of notice) and the Council will be able to recharge any properly incurred associated costs to MCI
- 5.3 MCI will bear the costs of insurance and all other outgoings (including, without limitation, utilities, rates and employment costs) through the terms of each lease.
- 5.4 MCI will be obliged to use the proceeds of any insurance in reinstating any damage to the Premises (including reasonable endeavours to get planning and all other consents in the event of destruction) subject to usual exclusions where not possible despite using reasonable endeavours etc.
- 5.5 No assignment of part of a lease. Otherwise, assignment and underletting shall be permissible with Council consent - however, the Council will not be able to unreasonably withhold or delay consent if certain pre-conditions are satisfied (e.g. contracted out; let at market rent and not a fine/premium). In addition, consent will be deemed given if the Council do not respond within []. Where applicable the assignment will be conditional on a simultaneous assignment of any relevant SLA
- 5.6 The rent for each lease will be the higher of [5%] of the rents receivable by the Tenant under any permissible sub-lettings OR a base rent figure (to be agreed for each zone). The position regarding the Cycle track will be covered separately.
- 5.7 The user clause for the lease of each Zone will be specific to that Zone which will reflect the terms of the relevant "Opportunities", as set out in the Masterplan. Change of use only permitted with Council consent not to be unreasonably withheld/delayed.
- 5.8 There will be a specific restriction against using any part of Zone 4 for retail use.

6 Forfeiture and Termination of Leases

- 6.1 Each lease will contain the usual forfeiture provisions in the event of material breach only. [Note: We cant accept breach on insolvency]. Will need to be subject to usual funders notification/step in clause.
- 6.2 The Council acknowledge forfeiture being subject to:
 - 6.2.1 a 3 month period (or sooner if necessary) for MCI to remedy any breach (if remediable); and
 - 6.2.2 appropriate step-in rights in favour of any funder of MCI.

7 Provision of Services/SLA

- 7.1 MCI will be expected to provide services in relation to each Zone. These will be reflected by a Service Level Agreement ("SLA") which will be a single document relating to Zones 1, 2 although the provisions of any relevant Zone will only become effective at the date of the grant of the relevant lease.
- 7.2 These services will be fairly "light-touch", and focus on outputs in relation to Zones 2.
- 7.3 However, in relation to the Centre (Zone 1), there are certain requirements (such as provision of community swimming and sporting activities) over which the Council requires a higher degree of on-going control for the duration of the relevant lease.
- 7.4 There will be provisions for liquidated damages in favour of the Council, should the obligations of MCI under the SLA be materially breached. The Council will also have step-in rights to perform any services which are materially in default, and to recover the costs of such activities from MCI.
- 7.5 The Council will have the ability to terminate the SLA in the event of material and persistent breach of the SLA. The Council views Zones 1-2 as part of one development and vision, and does not wish to see one or more Zones "wither on the vine" which is why a single SLA will be used.
- 7.6 The Council require step-in rights under the SLA.
- 7.7 The Council acknowledge that their right to terminate or step in will be subject to appropriate step-in rights in favour of any funder of MCI.

Torbay Council – Proposed Leisure and Tourism Hub (“the Project”)

Moirai Capital Investments Limited (MCI) - Report on Proposals

Background and purpose of this paper

- 1 The Council has received a final tender from MCI in relation to the Project. Browne Jacobson have worked with the Council to propose to MCI a more complete legal structure for the Project which offers more legal and commercial protection to the Council (“the Council Proposals”).
- 2 MCI have responded to the Council Proposals with a number of counter-proposals (“MCI Proposals”). We report below on the key elements of the current MCI Proposals.
- 3 This paper also expands on some of these matters in a “FAQ” format.

Issue
<p><u>Structure of the MCI bid</u></p> <p>MCI have not proposed a traditional PPP model under which services are provided, for a number of years and the sites then returned to the Council.</p> <p>Their model is based on taking four leases (relating to the various zones) from the Council, and paying rent, for 125 years. Original proposals suggested all leases being granted at Day 1. Further discussions indicated MCI might consider taking 2 of the leases at day 1 with the other 2 deferred until completion of certain specified delivery outcomes.</p> <p>There would also be an overarching development agreement and related service level agreements encompassing the whole project. Where appropriate, there may also be business transfer agreements.</p>
<p><u>Development Agreement</u></p> <p>This would deal with matters such as obtaining planning permission and delivery timescales. It would also specify the various trigger events that would allow</p>

the 2 remaining leases to be granted.

It will define “core” delivery outcomes which must be delivered by MCI. These will need careful consideration but should represent the minimum outputs for which the Council would consider the project a success. Only after these have been delivered will MCI be permitted to bring the other 2 zones and developments ‘online’

This document will also set out the framework by which optional elements of the project can be agreed and brought forward. Similarly, it will allow variations to proposals which cannot be delivered due to factors outside of the control of the Council and MCI (e.g the Rugby Club).

Should MCI wish to bring forward any development not envisaged in the masterplan then the framework for agreeing this with the Council will be in this agreement. Profits from any such developments will be split 70/30 in favour of MCI.

Business Transfer Agreement

If any assets/staff would be transferring to MCI as part of the deal then this would be dealt with separately in a Business Transfer Agreement. This would put the transfer in to standard commercial terms and ensure appropriate disclaimers and warranties are given and obtained.

Service Level Agreement

This will set out the services which the Council will expect MCI to deliver. This will be detailed on a zone by zone basis. It is envisaged there will be no services for zone 4 and a “light touch” approach to zone 2.

Zone 1 will have much more detail because the Council have higher expectations and requirements relating to the swimming and sports facilities.

This agreement will also incorporate the framework for setting up a strategic partnering board to ensure delivery of the Strategic Plan and Vision.

Property Arrangements/Leases

The leases will all be on broadly similar format and will deal the following key points:-

Rent – this will be the higher of 5% of the rental turnover (from subtenants) from a particular zone or a specified base level. This is to ensure rent will always be payable which will be key to ensure value for money and an ability to forfeit the lease. The cycle track rent will be dealt with differently – final details yet to be agreed.

User – each zone will only be able to be used for those uses envisaged in the master plan. Further uses would need the Council's approval as Landlord (*nb – the Council would still need to give separate consent in its role as planning authority*)

Forfeiture – this will detail how the leases can be brought to an end for material persistent breaches by MCI of the lease terms.

Repair – MCI will be obliged to keep the premises in good condition. In practice this will depend on what, if any, buildings exist at the time as to the extent of what MCI have to do.

Insurance – MCI will be responsible for all insurance. If a building was to be damaged by an insured risk MCI would be obliged to use the proceeds to reinstate the damage.

Assignment and underlettings – this will be permitted but will require Council consent (which cannot be unreasonably withheld or delayed)

FREQUENTLY ASKED QUESTIONS

The questions (and particularly the answers to them) are intended to set out clearly the key commercial elements of MCI's proposal.

1 How can we ensure MCI delivers what it has promised?

MCI have presented some extremely ambitious proposals and it is likely that not everything can be delivered. The Council needs to agree on what are the "core" delivery items are (e.g. Splashdown) and then we can make sure the legal documents are tailored to make delivering those outcomes a requirement.

The Council should be aware that it is very difficult to ensure something happens (in the same way you cannot ensure that someone does not breach a confidentiality agreement). The key is to make sure there are sufficient incentives/penalties to make it too costly on MCI to fail to deliver.

2 Can we specify a date by which these core requirements will be delivered?

Yes, key dates will be a critical part of the development agreement.

However, with a project as large as this there will need to be various dates linked to key “milestones” such as submission of planning, grant of planning, starting on site, practical completion etc. These dates will need to be realistic and allow for likely issues that may arise. Similarly, some dates will not be able to be stated in the Development agreement but will have to be defined by reference. (e.g. start on site within X months of obtaining planning)

3 What if MCI fails to hit these dates?

That will depend on the reason. Planning could be delayed for various reasons (call in; judicial review) outside of MCI’s control and the Development agreement will allow key dates to be moved in these circumstances. If MCI simply were simply delaying then they would be in breach of the agreement.

4 What remedies do we have if they don’t meet these dates?

That will depend on the type of key date missed but in certain circumstances the Council could be entitled to terminate the contract.

In some circumstances the Council will have step in rights to take over from MCI (but these would be subject to similar rights in favour of MCI’s funders). However, the Council is presumably only concerned with getting the outcomes delivered and is less concerned with who delivers them. As such the funder step in rights may be seen as beneficial

The Council will also be able to withhold granting the lease of zone 4 (which MCI are most interested in) until the Councils core requirements are delivered so there is a commercial incentive for MCI to hit the core dates.

5 What happens if the buildings are not built properly?

The Development requirements will specify the standard to which facilities must be constructed. MCI take on all risk for delivering this and the leases will require them to keep facilities in good condition. In addition, all statutory compliance and liability for the safety of people on site will pass to MCI under the leases.

6 What if MCI goes insolvent/fails half way through constructing a particular building?

This is a good question. Our experience of the MCI model is that they will seek to set up new SPV companies for each zone (each company being the Tenant of that zone) as well as having MCI as a party to the development agreement. Ensuring financial robustness of the contracting parties or guarantors will be key.

MCI have stated that their funders will not allow the leases to terminate on forfeiture.

MCI's funders will have the right to step in and finish out the works. As mentioned above this may not be an issue for the Council. The Council will also have the benefit of its own step in rights to finish out any developments.

7 Once the leases are granted can we take the Land back?

Assuming MCI honour all their obligations in respect of a particular zone then the answer is "no". MCI would have the land (under the terms of the lease) for 125 years.

The leases can be forfeited in certain circumstances but in practice this can be a difficult and lengthy process to achieve.

8 How difficult and lengthy?

Forfeiture is a last resort measure and viewed as such by the Courts. Tenants have a right to apply for relief from forfeiture and the level of breach/misconduct required to justify forfeiture is greater where the consequences are particularly extreme for the Tenant. For a 125 year lease they are therefore set very high.

The Council also needs to bear in mind the funder step in rights which could add additional time to any proceedings. A minimum of 6 months to a year should be allowed for and quite probably longer.

9 So once signed up the Council is committed for the long term?

Yes, this is a significant commitment by the Council. If MCI deliver on all matters as promised then it could be 125 years

Even in the event of failure by MCI to meet its obligations the Council should assume that to get the land back, unencumbered, will take a minimum of 2 to 3 years because given the timelines for forfeiture and because the first significant key date is likely to be 1 or 2 years after the Development Agreement is entered in to.

10 What services will be provided?

This will be determined on a zone by zone basis in the SLA.

11 What happens if the contractor fails to provide the services properly?

The SLA will contain penalty provisions (including liquidated damages provisions) to cover breaches. Persistent material breach would allow termination of the SLA.

The SLA would also permit the Council to “step-in” to provide the services itself in certain circumstances. This would be subject to funder step in rights as with forfeiture.

12 What happens if MCI fail to pay our rent or seek to circumvent the turnover provisions?

Failure to pay rent would permit forfeiture. This would be the easiest ground to prove.

Our experience of working on MCI projects has allowed us to develop ways to prevent avoidance, in particular setting a base rent figure. The leases will prohibit underlettings granted for a premium and low rent to prevent such circumventing but the base rent ensures there is a guaranteed income regardless of MCI's actions.

13 Do any staff transfer, and what about their pensions?

Where staff may have to transfer this will be done under TUPE. The existing pension rights of the Council staff will be protected under the “fair deal”. As new staff are recruited, this will be on the terms and conditions of MCI or the sub-tenants / operators of the facilities.

14 What happens at the end of the contract?

At the end of the 125 year leases (assuming they have not been re-acquired by the Council before then) the leases will end and the Council will take back the land. The leases say very little about the condition in which the land should be at that time, so effectively the Council will be taking it “as is”. There are requirements to keep everything properly maintained on the land but obviously individual structures would change over 125 years.

15 Who takes the risks for planning consents? What happens if planning is not granted?

MCI assume all planning risk.



Clennon Valley Sports & Leisure Regeneration Proposals

Consultation Report

April 2014

Method	Number returned
Online	73
Paper	108
Other (written representations)	6
Total	187

**This survey was open from
13th March to 9th April 2014**



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1. Introduction

Torbay Council has recently invited potential development partners to submit proposals for Clennon Valley and Goodrington, the aim being to enable it to become an outstanding sporting, leisure and recreation venue - providing activities and sports facilities for residents and visitors within a superb natural setting. The Council invited proposals that would provide a mix of leisure, recreational, tourism and community uses.

The Mayor and a cross party group of councillors (known as the Clennon Valley Regeneration Group) considered the proposals submitted. The Group will be recommending that Moirai Capital Investment Ltd be appointed as the council's Development Partner to deliver the proposed scheme, at the meeting of the Council scheduled for the 1 May 2014.

Consultation was undertaken by the Policy, Performance and Review team on behalf of the Torbay Economic Development Agency to produce a report for meeting of the Council to consider when reaching its decision.

2. Methodology

This report contains the full set of results that were received from 13th March up to the 9th April 2014, when the consultation closed. Responses were received via written representations (6), completion of an online survey (74), and completion of a paper survey (101)

Copies of the paper questionnaire were made available in all public libraries and at Clennon Valley Centre. An online version of the questionnaire was also available on the council's website.

Additional to these there were two public consultation events which were held on the 15/16th March that publicised both the proposals and the details of this survey.

An information pack was also made available with the questionnaires which contained information about the nature of the proposals and a plan so that respondents can see where within Clennon Valley it is proposed to build the new facilities.

Where comments have been given these have been sorted into 'themes' – examples of comments made against the 'top 5' themes have been listed within the report below.

The responses received via written representations (6) have been included within the results below.

3. Quality Assurance

To ensure the quality of data provided, all of the information received through the online surveys was checked and, when written responses were received, these were scanned into the same database and combined after checking and verification. This provides the assurance that all sets of responses form an accurate, single representation of the complete views given.

4. Summary of results

Of the 181 responses received up to the closing date of 9th April 2014:-

- Almost three quarters (70.2%) of respondents currently make use of the facilities at Clennon Valley.
- Overall more than 90% (91.6%) of respondents support the proposals for the regeneration of Clennon Valley
- The majority of responses (87.9%) came from individuals rather than from businesses or organisations.
- Among those not currently using the current Clennon Valley facilities there was strong support for the regeneration proposals (90.4%)

5. Results

Q1) Do you currently use the facilities at Clennon Valley?

	Number	Percent
Yes	127	70.2%
No	52	28.8%
Don't know	1	0.5%
No Response	1	0.5%
Total	180	100%

Q1a) Please tell us why

Theme	Examples of comments made
Use of the pool/swimming/Swimming Club (53)	<p><i>"Swimming & Swimming Club...."</i></p> <p><i>"Swimming every day....."</i></p> <p><i>"Access to the pool for lane swimming outside of work hours...."</i></p> <p><i>"I use the swimming pool in the summer"</i></p> <p><i>"Use the swimming pool at the leisure centre at least two times a week...."</i></p> <p><i>"Good size swimming pool for serious swimmers...."</i></p> <p><i>"My children LOVE the inflatable on a Saturday afternoon in the pool"</i></p>
Use of sports facilities - general including gym, badminton, squash, keeping fit etc (42)	<p><i>"To keep fit and active....."</i></p> <p><i>"The gym is on my way home from work"</i></p> <p><i>"Play Badminton...."</i></p> <p><i>"Nearest leisure / sport facility.....gym is well equipped"</i></p> <p><i>"Currently use the squash facilities...."</i></p> <p><i>"Member of the leisure centre...."</i></p> <p><i>"...the Leisure Centre is also convenient to where I live within Torbay"</i></p>

Theme	Examples of comments made
Football/Rugby (24)	<p><i>"Football on astro and grass pitches...."</i></p> <p><i>"Play football on Clennon Valley"</i></p> <p><i>"7 a side football"</i></p> <p><i>"Football. Would like to have inside and outside 3G pitches for all sports"</i></p> <p><i>"Paignton Rugby Club use the Rugby Pitch"</i></p> <p><i>"As I play for Paignton rugby club, we use the rugby field"</i></p> <p><i>"...my son uses the rugby pitch"</i></p>
Fitness Classes/Clubs i.e. Zumba, body balance, running club etc (23)	<p><i>"...fit for life one morning, body balance one morning..."</i></p> <p><i>"Member of a local running club"</i></p> <p><i>"...the centre offers a considerable number of keep fit classes..."</i></p> <p><i>"...use the sports hall for Zumba..."</i></p> <p><i>"...one of my children also goes to the sway street dance classes"</i></p>
Use of the fields/walking/dog walking (12)	<p><i>"for walking.....as well as exercising dogs"</i></p> <p><i>"Walking around with our dog"</i></p> <p><i>"Dog walking, walking around the ponds"</i></p> <p><i>"Dog walking and recreational walking"</i></p> <p><i>"Walk round the fields at the back of leisure centre."</i></p>

Q2) Do you support the Clennon Valley Sport & Leisure Regeneration Proposals?

	Number	Percent
Yes	164	90.6%
No	6	3.3%
Don't know	9	5.0%
No Response	2	1.1%
Total	181	100%

Q2a) Please tell us why

Theme	Examples of comments made
Enhance sporting facilities locally (98)	<p><i>"Anything that is looking at enhancing what we have ... is a bonus"</i></p> <p><i>"better facilities for sports locally"</i></p> <p><i>"A big opportunity to develop an area that is crying out for modernisation."</i></p> <p><i>"Clennon Valley was always going to be a good sports area when the pool was originally built. It will be good to see this area being well used."</i></p> <p><i>"It is good because we will have a more active community"</i></p> <p><i>"Over the years there has been a sad lack of investment in sporting facilities in the Bay and this would be a massive step in the right direction"</i></p> <p><i>"Sport and exercise is good for everyone. More choice means healthier people."</i></p> <p><i>"Sport facilities are essential for society to flourish."</i></p>

Theme	Examples of comments made
<p>An attraction for both locals and tourists (58)</p>	<p><i>“Good for local people. Adds to Torbay attractions for tourists”</i></p> <p><i>“...will add a lot of additional opportunities for local people”</i></p> <p><i>“this will add a lot of additional opportunities for local people especially if schools and local clubs will be using it as well.”</i></p> <p><i>“Better for tourism. Desperately needed improvements.”</i></p> <p><i>“Good for a tourist town”</i></p> <p><i>“Greatly needed both for residents and visitors”</i></p> <p><i>“...it will provide excellent modern facilities for many types of sport which will be of benefit to local residents and also to holidaymakers.”</i></p> <p><i>“Torbay definitely needs new investment to improve attraction to residents and visitors.”</i></p> <p><i>“It seems to allow for residents as well as visitors and will improve the appearance of the site.”</i></p>

Theme	Examples of comments made
<p>Promote health and sport to younger people (43)</p>	<p><i>“...a better future for our town and its youngsters...”</i></p> <p><i>“it will promote health and sport to the younger generation and open up new opportunities”</i></p> <p><i>“A good project for the youth of the Bay”</i></p> <p><i>“Better sports facilities will benefit everybody will help to keep young people fit and give them an interest.”</i></p> <p><i>“Helps young people regenerate the area”</i></p> <p><i>“I support them for a number of reasons, I have a young family and consider both the leisure and the sporting facilities to be very much needed in the area”</i></p> <p><i>“It will greatly improve the facilities for our club and the youth of Paignton/Torbay”</i></p> <p><i>“The bay needs a sports facility for the future of our youth. After the gutless mayor made sure the Brokenbridge development was pushed back as far as possible and delayed the bay has nothing.”</i></p> <p><i>“The development will help our & the next generation”</i></p>

Theme	Examples of comments made
Employment, investment and tourism opportunities (30)	<p><i>“Will bring jobs to area and put Goodrington on the map”</i></p> <p><i>“Improvement to the area which is good, more jobs”</i></p> <p><i>“...if Clennon Valley and Goodrington are bought up to a high standard and become a recreational destination that we can all be proud of, other investors/developers will see the potential in the whole of Paignton and then maybe that in turn would radiate to the whole of the Bay”</i></p> <p><i>“Bring in new tourism opportunities and increase revenues.”</i></p> <p><i>“For the fantastic and original opportunities it will offer the local community. For the employment opportunities it will create. For the financial benefits for the local community the project will produce.”</i></p> <p><i>“Good for all ages and particularly young people (Providing Certs and Fees etc) As wages quite low in this area. Plus lots of unemployment.”</i></p>
Potential to bring national competitions/other sporting events into the area (17)	<p><i>“The proposed pool should be a 50M Pool, that will bring many competitions to the Bay”</i></p> <p><i>“...an indoor archery area, which would not only allow for more regular training, but also allow for local and national competitions. Archery, like cycling is an upcoming Olympic sport in the UK, and we need to ensure facilities are available.”</i></p> <p><i>“...by offering facilities which cannot be found within surrounding areas...Torbay will then be able to offer a venue for Triathlons with the advantage of having the swimming pool and the coast within very close proximity to the cycle track.”</i></p> <p><i>“The pool is well used and often crowded at peak times. Building a 50M pool would bring even more business to the Leisure Centre with opportunities to host more Swimming Galas as well as diving if pool has a moving floor / wall as at Plymouth Life Centre”</i></p>

Theme	Examples of comments made
Archery facility (11)	<p data-bbox="624 237 1310 309"><i>“I wish to see a permanent archery facility in the Torbay area.”</i></p> <p data-bbox="624 344 1369 416"><i>“Because of the new facilities it would bring (i.e. the prospect of an archery range)”</i></p> <p data-bbox="624 452 1398 613"><i>“I also am a keen archer, and believe that there are proposals for an indoor archery area, which would not only allow for more regular training, but also allow for local and national competitions.”</i></p> <p data-bbox="624 649 1398 898"><i>“Torbay is short of quality sports facilities. It would be even more inclusive to have facilities for other minor but growing sports such as archery - both indoors and outdoors. Archery is a sport that is particularly suited to people of all ages and abilities, whether as a recreational pastime or a fully competitive passion.”</i></p>

6. Respondent Profile

Q3) Are you Male or Female?

Gender	Number	Percent
Male	105	58.0%
Female	72	39.8%
No Response	4	2.2%
Total	181	100%

Q4) Which of the following age groups apply to you?

Age Band	Number	Percent
Under 16	4	2.2%
16 – 24	12	6.7%
25 – 34	18	10%
35 – 44	35	19.3%
45 – 54	40	22.1%
55 – 64	29	16.0%
65 – 74	29	16.0%
75 +	12	6.6%
No response	2	1.1%
Total	181	100%

Q5) Do you consider yourself to be disabled in any way?

	Number	Percent
Yes	13	7.2%
No	160	88.4%
No Response	8	4.4%
Total	181	100%

Q5a) If yes (to Q5) please tell us how it effects you?

	Number	Percent
It affects my mobility	9	5%
It affects my hearing	2	1%
It affects my vision	0	0%
It affects me in another way	3	1.7%
No response	167	92.3%
Total	181	100%

Q6) Are you completing this questionnaire on behalf of:

	Number	Percent
Individual	159	87.8%
Business	3	1.7%
Organisation	13	7.2%
No response	6	3.3%
Total	181	100%

Q7) Postcodes of respondents:

Area	Number	Percent
TQ1	18	10.0%
TQ2	12	6.6%
TQ3	36	19.9%
TQ4	67	37.0%
TQ5	18	9.9%
TQ9	3	1.7%
TQ12	5	2.8%
Plymouth etc	5	2.7%
No response	17	9.4%
Total	181	100%

Q8) If you are a member of a sports club please tell us which one:

Sports Club	Number	Percentage
Brixham Archers	16	8.8%
Clennon Valley and Torquay Leisure Centres	13	7.2%
Paignton Saints	8	4.4%
Paignton Pistol and Rifle Club	7	3.9%
Paignton Rugby Club	6	3.3%
Plymouth Mariners Baseball Club	4	2.2%
Torbay Amateur Athletic Club	4	2.2%
Galmpton United	3	1.7%
Torbay Barons Baseball	3	1.7%
Churston Golf Club	2	1.1%
Mid-Devon Cycle Club	2	1.1%
No response	113	62.4%
Total	181	100%

For further information on the consultation report please contact the Policy Performance and Review team on 01803 207227 or email consultation@torbay.gov.uk

The information used to collate this report has been collected and processed in accordance with the Data Protection Act, 1998.



ZONES



- 3**
- ZONE THREE- LEISURE PARK**
- 1 - New multi-screen cinema
 - 2 - Ten-pin bowling
 - 3-7 - New build restaurants and bars
 - 8-9 - 2nr drive-thru restaurants
 - Public realm works including taxi drop-off and disabled parking

- 1**
- ZONE ONE - ACTIVITY PARK**
- 1 - Swimming Pool
 - 2 - Gymnastics Club
 - 3 - Rifle Range
 - 4 - Torbay Leisure Centre
 - 5 - Cycle Track
 - 6 - Cycle Hire Facility
 - 7 - Cycle Retail
 - 8 - Cycle F & B



- 2**
- ZONE TWO - BEACH LIFE**
- 1 - New Beach Sports Facility
 - 2 - Beach Event F & B
 - 3 - New Hotel
 - 4 - Fountain Park Facility
 - 5 - Expand Wet Weather Water Park
 - 6 - Beach Pods & Huts

"In our leisure we reveal what kind of people we are..."



REALISE

2