



Report No: **23/2011** Public Agenda Item: **Yes**

Title: **Princess Gardens, Princess Parade, Marina Car Park, Pavilion and Theatre, Torquay**

Wards Affected: **Tormohun**

To: **Harbour Committee Cabinet** On: **8 February, 2011
17 February 2011**

Key Decision: **Yes – Ref. X40/2010**

Change to Budget: **No** Change to Policy Framework: **No**

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1. What we are trying to achieve

- 1.1 We are seeking to identify an approach which will lead to the regeneration of the Princess Gardens, Princess Parade, Marina Car Park, Pavilion and Theatre area of Torquay in accordance with the Torquay Harbour Area Action Plan and at the same time address the Council's significant repairing liability for Princess Gardens, Princess Parade, Princess Pier and the Pavilion.
- 1.2 To agree a workable solution to the Council's repairing liabilities which results in the promenade, gardens and Pavilion being repaired and restored or replaced and improved, as well as the creation of an enhanced area of public realm befitting of this prime waterside location.
- 1.3 Secure the development of a new, high quality 4 star hotel on the current site of the Marina Car Park, which would be a use that better capitalises on its harbour side location. This use would create an active frontage on the inner harbour and add to the vitality and vibrancy of the area, as well as generate employment and diversify Torbay's current hotel offer.
- 1.4 Extend the theatre so that the larger productions, including some of the more popular productions which currently do not come to Torquay, can be staged at the theatre, to create a fully all-year-round attraction and facility.
- 1.5 The delivery of appropriate commercial and residential development in the vicinity to fund all or some of the repair works and also to add to the vitality of the area; select commercial development could create an added reason to enjoy the

promenade and gardens, creating a well used and well-light environment that is equally as attractive and conducive for relaxation and recreation during the evening as it is during the day.

- 1.6 To ensure that the current level of revenue streams to the Harbour Authority are maintained.
- 1.7 To ensure that the Harbour Committee is consulted so that the Harbour Authority's approval and advice is properly sought for any potential impact on the Inner Harbour, marina, Princess Pier and Princess Parade, and any issues relating to the sea, sea defences or any aspect of the harbour estate or harbour authority function.

2. Recommendation(s) for decision at Harbour Committee

- 2.1 That the Harbour Committee considers the content of this report, including the proposed recommendations set out below, and provides relevant advice to the Mayor.

Recommendation(s) for decision at Cabinet

- 2.2 ***That the Chief Executive of Torbay Development Agency, in consultation with the Mayor, the Portfolio Holder for Regeneration, the Environment Commissioner and the Executive Head of Tor Bay Harbour Authority, be authorised to investigate and deliver a solution to the repairing liabilities at Princess Gardens, Princess Parade, The Pavilion and Princess Pier which may incorporate a combination of i) and ii) below:***
 - i) Private sector investment to deliver, subject to planning consent, appropriate levels of commercial and residential development on-***
 - a) the site of the Marina Car Park***
 - b) additional land on Princess Parade***
 - with such development to include the refurbishment of, and the incorporation of, The Pavilion as well as any associated car parking;***
 - ii) Torbay Council officers being asked to identify funding sources and financial implications of meeting some or all of the costs of repairs including possible new funding sources that may become available in the near future.***
- 2.3 ***That if the approved private sector development does not fund all of the repairs then Torbay Development Agency, in consultation with the Mayor, the Portfolio Holder for Regeneration, Environment Commissioner and the Executive Head of Tor Bay Harbour Authority, be permitted to procure the design and the costing of a schedule of works which would take into account all of the options available for the area under consideration.***
- 2.4 ***That Torbay Development Agency be authorised, on Torbay Council's behalf, to apply for grant funding from all appropriate sources to secure as much funding as possible to cover the cost of the repairs as detailed in 2.3 above.***

- 2.5** *That, if necessary, once the works in 2.3 above have been identified and agreed, and once the funding for these works has been secured, Torbay Development Agency be allowed to procure these works in accordance with appropriate European Union Procurement Regulations, if applicable.*
- 2.6** *If there is no or insufficient grant funding available to fund the works in 2.3 then Torbay Development Agency, in consultation with the Council's Chief Finance Officer, look at and report back on the funding options and costs to meet the funding shortfall.*
- 2.7** *That Torbay Development Agency in consultation with the Head of Legal and the Mayor be authorised to advertise and sell, at best value, a long lease of The Marina Car Park, The Pavilion and such additional land required to carry out the development covered in 2.2.*
- 2.8** *That Torbay Development Agency, in consultation with the Executive Head of Tor Bay Harbour Authority, be authorised to investigate the principle of including the Inner Harbour at Torquay within the lease referred to in 2.7 above, if:*
- i) it is demonstrated that private sector investment would maximise the use of the Inner Harbour and therefore its revenue generating capability;*
 - ii) such private sector investment would justify a ground rent being charged for the Inner Harbour which would be higher than the net annual income (allowing for management, maintenance and repairs) that the Harbour Authority currently receives;*
 - iii) and it is demonstrated that the ground rent referred to in 2.8 ii) above would help facilitate the repairs covered in 2.3 above.*
 - iv) appropriate consultation is undertaken with existing Harbour users.*

3. Key points and reasons for recommendations

- 3.1** The history and issues at Princess Gardens, Princess Parade and the surrounding area are well documented and have been detailed in a previous report on Princess Gardens (Report No. 194/2010). However, this is an important part of Torquay's attraction for residents and visitors and as such key points have been included in this report as well.
- 3.2** Princess Parade serves a dual function in that it provides a public walk way and waterside promenade but also, beneath it, there is an important sea wall that protects the historic gardens from wave action and the ingress of salt water. However, the promenade is in very poor condition in many places and pedestrian access to some areas needs to be continuously restricted in the interests of health and safety. Taking no action carries the risk of adversely affecting Torbay's image from both residents and visitors, as well as potential inward investors.
- 3.3** Works required to the promenade, Princess Gardens, Princess Pier and the

Pavilion could amount to in excess of £10.5m. Please see A1.11 below for further information.

- 3.4 The Mayor's Vision suggests commercial, leisure and residential development may be suitable in this location. This principle is reinforced by the draft Torquay Harbour Area Action Plan. Such development may fund, in whole or in part, depending upon the scale of such development, the aforementioned infrastructure works. In addition such development will provide valuable inward investment into the area. A new, quality hotel, boutique shops and branded restaurants and cafes, along with underground car parking and improved public realm, will increase the tourism offer by broadening Torbay's appeal and target a different demographic group.
- 3.5 An extension to the Princess Theatre would allow major West End productions to visit the Bay, providing a year-round attraction.
- 3.6 The infrastructure could, subject to funding and planning, be repaired and reinstated to reflect the original 1950's design and materials, albeit with modern variations and with modern methods which would result in the infrastructure having a longer life expectancy than that of the 1950's works.
- 3.7 Alternatively, the condition of the infrastructure may represent an opportunity to improve the design and layout which may result in improved public realm beyond that envisaged by the 1950's designers.
- 3.8 Furthermore, as well as improving the infrastructure referred to in 3.7 above, this may represent an opportunity to promote additional facilities and development (or to allow such development and facilities if it is demonstrated that this would fund, in whole or in part, the improved infrastructure referred to in 3.7 above) to create a significantly improved waterside regeneration as outlined in the Mayor's Vision and 3.4 above.
- 3.9 Four funding options were highlighted during the consultation events that took place earlier in 2010 (see A6 below). Since then a further option has presented itself and it is now suggested that the following 5 options are available to the Council to fund, in whole or in part, the above repairs:

Option 1 - Council tax increase

It is recognised that the Council does not alter the capital or revenue resources to meet the proposed costs as outlined below. However the Council could undertake prudential borrowing to meet these costs which would result in revenue costs, equivalent to a 2% Council Tax over a 25 year period.

Option 2 - Use the revenue from the sale of further assets

Since 2008 the Council has disposed of 12 assets and raised in excess of £2.2m to fund its capital programme. However the Council's capital programme already has a funding shortfall which has to be met from future sales and it is unlikely that the Council will be able to meet both the current shortfall and the possible costs of this project.

Option 3 - Central Government and national government agencies

This option includes a number of funding sources, each of which is detailed below.

- i) Heritage Lottery Fund (HLF) : they have stated that whilst the repairs to the promenade do not immediately fit with their main objectives, they do advise that the works to restore the gardens could be an applicable project. An application will need to be lodged once detailed costings have been produced and it is suggested that an application is lodged by August 2011 with an anticipated decision by February 2013. It is not possible to accurately state what the level of any grant would be, but the average HLF grant is £1.7m. As Princess Gardens is not of “national significance” we should expect less than this amount. Any grant is likely to provide no more than 40 – 60% of the total project costs.
- ii) Environment Agency (EA) : they are considering whether Princess Pier and Haldon Pier are sea defences and as such more aligned to the EA’s objectives; they believe the sea defences under the Princess Parade are not, at this juncture, within their remit.
- iii) English Heritage (EH) : they have advised that the gardens are “a significant heritage asset and helping to secure a sustainable future for them and their constituent listed buildings...is a priority for English Heritage.” They are able to offer assistance in promoting repairs and regeneration but are not, at this juncture, able to offer any notable financial assistance.
- iv) South West Regional Development Agency (SWRDA) : this organisation is being wound up and whilst SWRDA will continue to support its existing projects for the time being, they will not consider funding applications for any new projects.
- v) Homes and Communities Agency (HCA) : they have advised that they are unlikely to offer financial assistance unless there is a significant element of affordable housing within the scheme. As the purpose of the scheme is to raise finance to fund the repairs to the promenade, it would be counter productive to accept reduced revenue in lieu of affordable housing as this would result in less money to fund the infrastructure works.
- vi) Garden History Society (GHS) : they are a consultee on works affecting all listed parks and gardens. However they have confirmed that they are not able to offer any financial assistance.

In summary it is suggested that grant funding will not cover the costs of the repairs and any such funding will require the council to provide some funding.

Option 4 – Private sector developer / investor

The Council could reach an agreement with a private sector developer to deliver a scheme which solves the repair issues and significantly improves the public realm and visitor experience. This would most probably involve extending the area currently leased to Marina Developments Ltd (see A1.15 below) beyond the

Pavilion and Marina Car Park and enter into a long lease of additional land.

This option has been investigated and further information is provided in 3.8 and 3.13 – 3.15.

Option 5 – Using the Council's position to raise finance from either local sources or central government

The Council could use its position to raise money from central government via Prudential Borrowing. It is understood that the Council could raise £1m capital spending power for every £75,000 revenue resources it can raise per annum. Working with the developer Torbay Development Agency has identified how the developer's proposals could incorporate a ground lease, or ground leases, which result in an annual income to the Council. The level of the ground leases is directly proportionate to the amount of development that is allowed. It is suggested that ground leases could be received from:

- i) the site of the marina car park, the Pavilion and any new buildings permitted on the promenade, and
- ii) the Inner Harbour if it is demonstrated that private sector investment in the Inner Harbour is viable.

Such ground leases could be used to fund the payments on the Prudential Borrowing. It should be noted that once the Prudential Borrowing has been repaid the income from the ground leases would still go to the Council.

The Coalition Government has recently released proposals setting out a number of money raising options that the council could consider. These include:

- i) Tax Increment Financing (TIF) whereby the Council could fund regeneration by borrowing against predicted increases in revenue generated from local business rates, and
- ii) New Homes Bonus, whereby central government will match the Council Tax payable on each new home that is built in its constituency, for a period of 6 years. However, there is still some debate as to how Council's will be able to allocate this money.
- iii) As ii but for businesses.

In addition central government is allowing local authorities to fund repairs via a Community Infrastructure Levy, being a levy attached to planning permissions, in addition to s.106 agreements. The Council is working on a plan which identifies where the levy could be used. However it is understood that the proposed South Devon Link Road is likely to attract the majority of these funds. It is not possible, at this juncture, to ascertain what, if any, funds would be available to contribute to the repairs detailed in A1.11.

3.10 It is suggested that as it is unlikely that the Council can fund these repairs in full, the most viable solution is a combination of Options 3 and 4. In broad terms, these funding options may result in a significant proportion of the cost of the repairs being met, leaving the Council to fund the balance via Option 5.

3.11 It is suggested that significant funding could come from some form of land sale

or developer agreement with a private developer. Such a deal would, subject to Council approval and planning consent, allow an appropriate amount of development and secure ground leases to provide an income to the Council which the Council could in turn use to fund some of the repair works (via Prudential Borrowing as covered in Option 5 in 3.9 above). Any rents received from these ground leases that are then used to fund the Prudential Borrowing would, importantly, need to be in excess of the rental income that MDL currently pay to the Harbour Authority under the terms of their existing lease. See A1.26 below.

- 3.12 Marina Developments Ltd (MDL) has long leases of The Pavilion and the Marina/Marina Car Park, being leases for 125 years from 1985 and 1987 respectively. Working with a specialist developer they are keen to develop the car park site and make better use of The Pavilion.
- 3.13 MDL have approached TDA with their aspirations for a new hotel and underground car parking and highlighted how their development could be part of the comprehensive Mayor's Vision for this area. As such they have produced a development proposal incorporating their leased assets plus the Princess Parade.
- 3.14 TDA invited MDL's developer to present their proposals at community partnership presentations in February and May 2010 (see A6 below). This scheme included a new hotel, car parking, boutique shops and restaurants with residential development above. The scale and quantum of development proposed at that stage was likely to fund all of the repairs to the gardens, pavilion and the promenade (see A1.11 below). Despite being well received in May and at the 3 day consultation that followed, there has since been some opposition to the scale of the development that was proposed, especially due to the potential loss of sea views.
- 3.15 Recent discussions with the developer have sought to address the height and scale of the development. Current proposals include a significant reduction in the level of development, especially on the promenade, which results in far more of the sea views being preserved. In summary, the *current* proposals include:
 - A new quality, 4 star hotel on the site of the current marina car park
 - The Pavilion being restored and forming part of the hotel, with the future maintenance liability passed to the developer
 - An extended and improved theatre capable of attracting bigger productions
 - An appropriate number of cafes and restaurants with apartments above
 - Parking for marina users and hotel guests and some residential parking
- 3.16 This approach will, however, result in a shortfall in the funds necessary to carry out the repairs detailed in A.11 below. However it is suggested that this reduced development, coupled with funding options 3 and 5, could result in a workable and pragmatic solution to the repair issue whilst also bringing significant benefits to Torbay. The historic gardens and promenade will be repaired and there will be increased vitality to the area both during the daytime and in the evening.
- 3.17 If this approach is to be considered further work is needed to agree an appropriate level of development; agree what ground leases would be viable from such development; agree a schedule of repair works and their cost; apply

for funding sources detailed in 3.9 above, and ascertain what level of Prudential Borrowing could be financed from this reduced level of development. If this works, in principle, then TDA would seek on behalf of the Council to offer long leases of the necessary areas of land to allow this agreed development at levels that make the overall scheme, and repairs, viable. Further Mayoral approval would be sought before any such leases are granted.

- 3.18 It is suggested that the possible inclusion of the Inner Harbour in the leases detailed in 3.17 should be investigated to ascertain whether or not this is a viable option to raise additional money. The Inner Harbour has the potential to accommodate in excess of 200 marina berths accessed via pontoons. A marina operator could rent this area from the Council and be responsible for maintaining the harbour walls and its pontoons, as well as the possibility of the cill and footbridge. The rental income to the Council, if it is shown to be in excess of the net annual income that the Harbour Authority currently receives, would then be used by the Council to cover the interest payments for additional Prudential Borrowing. It should be noted that once the borrowing is repaid this rental income would then be received, without deduction, by the Council.
- 3.19 Any ground leases that are proposed in either Option 4 within 3.9 and 3.18 above would need to be at a level higher than the net income currently received by the Harbour Authority. The Harbour Authority's current levels of income would need to be retained, and allow for the current levels of anticipated future growth in these incomes, possibly by linking the current level to the Consumer Prices Index (CPI). Details of these income levels can be found in A1.26 below.

For more detailed information on this proposal please refer to the supporting information attached.

Steve Parrock, Chief Executive of Torbay Development Agency

Supporting information to Report 23/2011

A1. Introduction and history

- A1.1 This report is written pursuant to the Cabinet Report No. 194/2010. That report set out in detail the history of the Princess Gardens, the land reclamation exercises and the repairing liabilities that present themselves. As this information is relevant to this report, it has been included in this report with appropriate updates.
- A1.2 The Princess Gardens and Princess Parade have evolved over the last 120 years. They were built on reclaimed land in two distinct tranches. The initial land reclamation exercise began in 1892 with the building of a seawall spanning from the bottom of Rock Walk on Torbay Road to the North Quay. The area was then backfilled and planted to create Princess Gardens and a promenade on the line of the seawall. The gardens were opened in 1894.
- A1.3 There was a second land reclamation exercise which was enabled by the Torquay Corporation Act, 1937. Works were halted during WWII but began again after the war, and were completed in 1955. These works saw the construction of new sea defences and a new promenade, known as Princess Parade, along with a 2-tier construction known as the “banjo”.
- A1.4 The gardens were originally designed to be inward looking, with the promenade providing an opportunity to walk, sit and look out over the Bay. The form of planting and their method of enjoyment changed many times over the years, from ‘pay on entry’ enclosed formal gardens to more open, informal gardens and recreation land.
- A1.5 The Princess Gardens are included within the National Register of Parks and Gardens of Historic Interest and contain a Grade II listed fountain and memorial. The Pavilion is also a Grade II listed building.
- A1.6 The works completed in 1955 are failing and are in need of urgent attention. The material used to in-fill the reclaimed land is sub-standard and settling unevenly, causing pavements and walls to crack. The promenade is constructed of steel-reinforced concrete supported on concrete columns. A combination of wave pressure and chemical reactions with the sea is causing the structure, in particular the concrete columns and decking, to crumble. Additionally, the steel reinforcement was laid very near the surface of the concrete when the structure was built and this has exacerbated the spalling of the concrete and the rusting of the steel.
- A1.7 A structural survey was carried out on the Princess Parade. The survey highlighted a number of structural problems and as a result the eastern section of the promenade, was closed to the public due to health and safety concerns. The “banjo” was also closed at the same time.
- A1.8 The columns and concrete decking of the western section of Princess Parade were repaired by specialist contractors in 2007. These works cost approximately £800,000 and incorporated specialist treatment known as “cathodic protection.” These works are operating well and should safeguard this section of the promenade for approximately 50 years.

A1.9 Substantial repairs are also required to Princess Pier and the Pavilion. MDL are currently responsible for maintaining The Pavilion but the law, and their lease, does not clearly define who is responsible for the building's inherent defects due to its design. As such the repairing liabilities are disputable.

A1.10 The Council is engaged in an exercise of surveying all of its assets and creating a database to inform future maintenance decisions. However, without a significant increase in the budget that is available to support the necessary maintenance work it is inevitable that further problems of this nature will arise. It is currently estimated, for example, that the cost of dealing with the backlog of repairs to Council owned assets is in excess of £40m.

A1.11 The specific costs of repairing the infrastructure associated with this Report are:

Repairs to front garden areas,	£500k - £1.5m
Repairs to Pavilion, in excess of	£2.0m
Repair "banjo"	£1.3 - £1.5m
Repair/replace eastern section of Princess Parade	£1.6 - £2.0m
New walking surfaces and wall repairs	£500k - £1.0m

Torbay Council's contribution to Princess Pier repairs (see below)	£2.5m*
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*The total overall cost to Torbay Council could be in excess of £10.5m. However central government may part fund the repairs to Princess Pier, but at the time of writing this report the final amount of any contribution is not known. The EA will not fund the steel work or timber decking.

A1.12 TDA has suggested that there are 5 options that the Council could consider to fund the above repairs. These have been detailed in 3.9 above.

A1.13 The site is identified within the Mayor's Vision as being suitable for regeneration and development. The Vision suggests commercial, leisure and residential development may be suitable in this location.

A1.14 The Princess Theatre is currently one of the larger theatres in the south west but is incapable of staging larger, West End shows due to the small and inadequate "back of house" facilities. An extension to the rear of the theatre would resolve this and add to the year-round attraction of the Bay and vitality of the area.

A1.15 Marina Developments Ltd (MDL) has long leases of the Marina area & Marina Car Park and the Pavilion. Both leases are for 99 years and contain an option for an additional 26 years, making them effectively 125 years. The Marina lease (which includes the car park) is from 1987 and the Pavilion lease from 1985.

A1.16 MDL is working with a developer to develop their sites, subject to them securing the Council's agreement as landlord, and also subject to the usual statutory controls such as planning consent and building regulations.

A1.17 MDL has approached TDA with their aspirations for a new hotel and underground car parking and highlighted how their development could be part of

the comprehensive Mayor's Vision for this area.

A1.18 TDA highlighted the scale of the repairing liability at Princess Gardens at a meeting of the Tormohun Community Partnership on 22nd February 2010. MDL's developer also presented their proposals at this meeting, and again on 26th May 2010 following further design. At that juncture English Heritage and the Torbay Civic Society both, in principle, supported the existing developer's proposals.

A1.19 The developer held a 3 day public consultation event in May 2010 and feedback on the proposals was invited. Some 72% of the respondents provided positive feedback and welcomed some private sector development to fund the works.

A1.20 It should be appreciated that the above proposals were schematic and conceptual and subject to detailed design. However, since the above proposals were tabled there has been some opposition to the quantum of development that these proposals indicate. The Princess Gardens and Princess Parade is a sensitive area and any development has to be carefully designed and considered, with the aim of enhancing the historic gardens and buildings but at the same time allowing sufficient development to fund (in whole or in part) some of the repairs. The views from the gardens and promenade are particularly sensitive.

A1.21 TDA has encouraged MDL's developer to consider an alternative option, being a smaller scheme which requires less development on the promenade. This is detailed in 3.15 above. However it should be appreciated that this results in a short fall in the funding of the repairs.

A1.22 Discussions with the existing developer continue regarding EU procurement legal advice. The Council will need to comply with all relevant procurement regulations, where they apply.

A1.23 Any works to extend the promenade seawards may result in the loss of navigable water which may necessitate the need for a Harbour Revision Order. This is a statutory process which can take 18 - 24 months to obtain and can involve a Public Inquiry. Officers have identified the Torquay Corporation Act of 1937 that allowed the construction of the "banjo" also allowed works to vary the structure. Counsel's opinion will be needed to ascertain what works, if any, are allowed without the need for a Harbour Revision Order. It is likely to cost up to £2,000 and take up to a month to obtain such advice, but this may negate the need for a Harbour Revision Order.

A1.24 Paragraph A1.23 would not apply if the promenade is reinstated in its current position.

A1.25 The Council has included this element of the Mayoral Vision within the LABV advertisement seeking a private sector partner to deliver the Mayoral Vision.

A1.26 The harbour estate includes the outer harbour, inner harbour and the site of the marina car park. Consequently the Harbour Authority receives the following incomes which are relevant to this Report:

- i) an income from the MDL's lease of the marina and marina car park, being a percentage of MDL's turnover.

- ii) an income from the moorings located within the Inner Harbour.

There are 174 moorings within the Inner Harbour. Between 2008 and 2010 the occupancy rate has ranged from 68% and 84%. Over the last 5 years the average repairs and maintenance bill for the Torquay Harbour footbridge and cill has been approximately £14,000 per annum.

Assuming 100% occupancy the Inner Harbour has the potential to generate an annual gross income of £101,366, at 2010/11 charges.

Allowing for repairs of £14,000 plus £5,000 for on going repairs and maintenance to the masonry and railings, it is estimated that the net annual income, before management costs, is approximately £82,000. However working on an average occupancy of 75% this would mean average income would be in the region of £57,000.

Details of the income from MDL and the total net income to the Harbour Estate are detailed in the attached Exempt Appendix 1.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 There is a risk of strong opposition to *any* development involving the Marina Car Park, The Pavilion and / or Princess Parade, even if the development was significantly less than previously proposed and even if the reduced development resulted in a holistic regeneration and repair of the area.

A2.1.2 There is a risk that a partial, reduced development scheme does not generate enough profits to fund enough of the repair works, leaving Torbay Council with an unacceptable proportion of the repair bill, for which it may not be able to raise the finance.

A2.1.3 There is a risk that the cost of repairs / replacement is higher than anticipated meaning that the level of development has to be increased beyond what is perceived to be acceptable, or the Council has to raise more money than it anticipates. This risk will be mitigated by further investigation into these repairs.

A2.1.4 There is a risk that whatever level of development is deemed to be appropriate may not actually be viable on the basis of the Council's required level of ground rents (such ground rents being needed to fund the Prudential Borrowing as detailed in 3.6 above). This would leave a funding gap in the cost of the repairs.

A2.1.5 There is a risk that the funding sources identified in Option 3 of 3.9 above do not release any funds for the repair works, leaving the Council with a requirement to obtain more money via Prudential Borrowing.

A2.1.6 There is a risk that whatever level of Prudential Borrowing is requested is not actually forthcoming.

A2.1.7 There is a risk that the Tax Increment Financing (TIF) and New Homes Bonus as proposed by central government are not forthcoming or can not be allocated

for this specific project.

A2.1.8 There is a risk that the Inner Harbour can not be pontooned, or that such investment does not justify a ground rent which is higher than the net annual income that the Harbour Authority currently receives from the Inner Harbour. This is detailed in A1.26 above. This situation may result in the ground rents received by the Council being less than is required to fund the Prudential Borrowing that it needs to carry out the repairs, should the private sector investment not meet these costs in full.

A2.1.9 There is a risk that the Council embarks on this strategy but planning consent is not forthcoming.

A2.1.10 There is a risk that development is delayed due to the need to secure a Harbour Revision Order as detailed in A1.23.

A2.1.11 The Environment Agency has expressed concern about car parking underneath the promenade or below sea level. However, this is not thought to be insurmountable. This risk will be better understood and assessed by further design work. In addition, alternative locations for the required car parking could be identified.

A2.1.12 There is a risk that the construction process takes longer than anticipated and the area becomes a building site for a prolonged period of time. Works will need to be phased but some building activity could be taking place for approximately 3 years.

A2.1.13 There is a risk that development start on site but the developer goes into administration during the construction process and the Council inherits a part completed development.

A2.1.14 There is a risk that despite this being a prime waterfront location, the TDA and council are not able to secure the interest from a private sector investor.

A2.1.15 There is a risk that the Council's harbour revenue will be badly disrupted during the construction phase.

A2.2 Remaining risks

A2.2.1 If the recommendations are implemented the Council should be aware that delivering the potential development could take a number of years. Obtaining Planning Consent is likely to be contentious and any development will need to be careful planning and sensitive design. During this process the eastern section of Princess Parade will remain closed. Current concerns about Torbay's image and the perception of residents and visitors will remain. However, information could be placed on the fencing relating to the proposed development to mitigate this concern.

(Note: A full risk assessment of the proposals is available from the report author.)

A3. Other Options

- A3.1 Do nothing. The eastern section of Princess Parade will remain closed, with the resulting loss of favour from residents and tourists. If prolonged this will have a significant, wider impact on regeneration within the Bay, including a possible lack of support from any partner for the LABV. It is considered that a strategy of no action will result in the infrastructure deteriorating further, resulting in increased repair bills for the Pavilion and Princess Pier, and the eventual total structural failure of the “banjo” and the eastern walkway.
- A3.2 The whole of the second land reclamation works, the 1955 works, could be demolished. This would remove the “banjo” and all of the Princess Parade, leaving the original reclaimed land and Princess Gardens untouched. This would expose the original 1892 seawall which may, or may not, need repairing / adding to if it is to act as the first line in sea defences. The costs of demolition, and any additional costs to the original seawall, are not known at this stage, but they are likely to be significant. Such a strategy may undermine the structural integrity of Princess Theatre.
- A3.3 The Council could choose to carry out all of the repair works. The total cost, as detailed in A1.11 above, could be in excess of £10.5m. It is considered that the Council would need to look at other repairing liabilities within the Bay before prioritising and confirming the carrying out of these works.
- A3.4 The Council may decide to completely demolish the 1955 works (the “banjo” and promenade) and build a new, ‘fit for purpose’ structure with a probable life of 50 years. This option has not been costed as it would depend upon the design of the new structure. A look at the costs detailed in A1.9 above should provide an indication of such works.
- A3.5 The Council may decide to remove the eastern section of Princess Parade, and possibly the “banjo.” The western section should, perhaps, remain as it was been repaired in 2007 and may add structural integrity to the theatre. This partial demolition option would need costing but would undoubtedly be a cheaper option than any that involves replacing the promenade. However there are considerations / disadvantages with this option in that:
- i) A new, albeit low, sea wall would need to be built to prevent sea and sea-spray being brought on to the walkway and gardens.
 - ii) There would be a loss in public open space and amenity.
 - iii) It may result in an unbalanced appearance as the western section, and possibly the “banjo” would be retained. These are at varying heights.
- A3.6 The land in question has been included within the LABV documentation as a contingency site. The Council could transfer the site to the LABV and the LABV’s private sector partner could help to finance the development and, from the profits, fund the repairs. However, the LABV would need to acquire the leases from MDL, at a cost, and this may render this option unviable.
- A3.7 A separate Cabinet Report, number 22/2011, has been published which suggests a joint venture partner for the LABV, and suggests how the profits

could be allocated. It suggests some money is ring fenced to support regeneration projects which are otherwise unviable. As such the Council may be obliged to spend these profits on regeneration projects, as distinct from its repairs and maintenance programme. If it chose it may be able to carry out the necessary repairs to Princess Garden, Princess Parade and Princess Pier itself, from the LABV development proceeds. However the Council would need to allocate these repairs over and above its other liabilities, including, but not limited to, its maintenance backlog.

A4. Summary of resource implications

- A4.1 TDA resources will need to be allocated for the work on this project. One Senior Development Surveyor at least will need to be assigned and a considerable proportion of his/her working capacity will be required to proactively progress the solution. Significant input from the Council's planning, highways and engineering departments, and the Harbour Authority, Residents and Visitor Services and Legal Services, will also be required. In addition input from the Council's Chief Financial Officer would be required if the Council is to utilise its Prudential Borrowing capabilities or the TIF and New Homes Bonus schemes that are proposed (see 3.9 above).
- A4.2 The Council's financial resources will need to be examined if it is to carry out all or any of the infrastructure repairs itself. These repairs are just part of the Council's repairing obligations and in reaching a decision the Council should consider the need for investment elsewhere.
- A4.3 The Council's harbour revenue will be badly disrupted during the construction phase, and the Harbour Committee will need to identify short term resources to compensate for any loss.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 The recommendations will not have any detrimental effect on equalities, environmental sustainability or crime and disorder.

A6. Consultation and Customer Focus

A6.1 TDA highlighted the scale of the repairing liability at Princess Gardens and associated infrastructure at a meeting of the Tormohun Community Partnership on 22nd February 2010. MDL's existing developer also presented their proposals at this meeting, and again on 26th May 2010 following further design. English Heritage and the Torbay Civic Society both, in principle, commended the developer's proposals at this meeting.

A6.2 Feedback from both meetings has been adopted by TDA. The overwhelming opinion was in favour of some development which would facilitate a new promenade being opened up and provide a new hotel and theatre along with shops, cafes and restaurants. Some concern was expressed about the height of the proposed buildings and the loss of views.

A6.3 Since the above meetings there has been an apparent increase in opposition to the proposals. The height of the buildings and the loss of sea views remain a sensitive issue. In addition English Heritage has expressed concern about the scale of the development in relation to the historic listed gardens and the Grade II listed buildings.

A6.4 TDA will continue to engage with and consult with the public regarding the issues referred to in this report.

A6.5 The Harbour Committee has been consulted but time has not allowed for discussion with harbour user groups or the Torquay/Paignton Harbour Liaison Forum.

A7. Are there any implications for other Business Units?

A7.1 The Tor Bay Harbour Authority business unit will be affected by the recommendations. It manages the water and harbour estate within the Council's jurisdiction and receives an income from one of the MDL leases. MDL pay a rent as a percentage of the turnover for the marina, marina car park and rents it receives from other properties on the harbour estate. The Council's Executive Head of Tor Bay Harbour Authority has advised that the Harbour Committee will wish to see their annual income protected. Any variations to MDL's leases must reflect this.

Appendices

Exempt Appendix 1 – Total Net Income to the Harbour Estate

Documents available in members' rooms

None.

Background Papers:

The following documents/files were used to compile this report:

Torbay Council Cabinet Report no. 194/2010