


Item No. 11.1.5
Halifax Regional Council
September 20, 2011

TO: Mayor Kelly and Members of Halifax Regional Council
Original signed by 

SUBMITTED BY: _____
Richard Butts, Chief Administrative Officer

Original Signed by _____
Mike Labrecque, Deputy Chief Administrative Officer, Operations

DATE: August 24, 2011

SUBJECT: **Penhorn Mall Property: Commencement of Process to Consider Amending the Dartmouth MPS & LUB**

ORIGIN

Community Vision and Action Plan, approved in principle by Regional Council on December 8, 2009.

RECOMMENDATION

It is recommended that Halifax Regional Council initiate the process to consider amending the Dartmouth Municipal Planning Strategy and Land Use By-law to enable mixed-use development on the former Penhorn Mall property (PID Nos. 00222844 & 41331281), including the proposed public participation program presented in Attachment C of this report.

BACKGROUND

On December 8, 2009, Regional Council endorsed in principle the Community Vision and Action Plan for the Penhorn/Woodlawn area of Dartmouth and directed that these plans be considered in the Municipality's business planning and budget process, beginning with the 2010/11 cycle.

The Penhorn/Woodlawn Vision and Action plan recommended that municipal policies and regulations be reviewed with regard to permitted development and desired community form. Amendments to the Dartmouth Municipal Planning Strategy (MPS) and Land Use By-law (LUB) were an anticipated outcome of the Vision and Action Plan process.

DISCUSSION

Regional Plan

As a Regional Plan identified Urban Local Growth Centre (Attachment A), the former Penhorn Mall area is strategically located within the Regional Centre bounded by the Circumferential Highway 111, the Portland Street transit corridor, and the Manor Park neighbourhood (Map 1). Positioned to redevelop as a transit oriented development featuring a mix of medium to high density residential, commercial, institutional and recreation uses, the site offers the opportunity for the establishment of a pedestrian focused neighbourhood in which to live, work and play.

Dartmouth Plan

The property is located within the boundary of the Dartmouth Municipal Planning Strategy and designated Commercial and Zoned C-3 General Business (Attachment B). The current Plan policy and zoning does not allow for residential nor a mix of land uses. The amendment process will be site specific to the 42 acre former Penhorn Mall property.

Penhorn Mall

In response to evolving retail market conditions, spurred by the relocation of anchor tenant Wal-Mart to the nearby Dartmouth Crossing development, the occupancy rate of the Mall has decreased dramatically over the past number of years. As a result, the property owner Empire Company Limited, elected to pursue a new approach resulting in the majority of the former Penhorn Mall being demolished with reinvestment occurring in smaller strip mall and stand alone pad site development. Redevelopment activity on the site in the last 3 years includes:

- 47,000 sq. ft. Sobeys store
- 21,000 sq. ft. retail strip mall featuring 7 tenants
- 25,000 sq. ft. two-storey Nubody's fitness Centre

Community Visioning

The approved Community Vision includes the Penhorn and Woodlawn communities. The Vision established short, medium and long term goals for growth and established the Penhorn site community planning project as a priority.

Establishing the necessary plan policy to enable the former Penhorn Mall property to redevelop as a mixed-use transit oriented development is a priority for both the community and the Municipality.

A successful volunteer recruitment effort during the fall of 2010, resulted in the enlistment of six members of the local community and the creation of the Penhorn/Woodlawn Vision Action Team (VAT). The VAT, with staff assistance, has held initial organizing meetings, established terms of reference and is developing community led projects.

Project Elements

Throughout the preparation of the Community Vision and Action Plan, and also currently, the owner of the Penhorn Mall property has indicated that the front portion of the site (approximately 20 acres) will be retained primarily for commercial purposes. Given existing MPS policy and zoning, commercial development can occur on an as-of-right basis. The owner has also indicated that while the transit terminal is a welcome amenity to the site, negotiations with Metro Transit regarding the location and size of the associated park and ride facility are required. As recently as August, 2011, the property owner has provided notice to HRM to vacate the existing park and ride site. Discussions for an alternative park and ride site abutting the Penhorn Mall property are underway with Transportation and Infrastructure Renewal.

The vacant approximately 20 acre portion of the site (behind the Sobeys and Sears stores) is envisioned to be developed, both by the property owner and the Community Vision and Action Plan, primarily for a mix of residential uses (townhouse, multi-unit buildings) with complimentary commercial/office, recreational and/or institutional uses. The adjacent Penhorn Lake, while needing environmental protection, has potential to be developed as an attractive recreational amenity area.

Opportunities/challenges to be addressed through the Plan amendment process include:

1. The provision of adequate, safe and attractive vehicular/pedestrian access from Portland Street through the front commercial portion of the site to the back residential component.
2. Ensuring there is adequate sanitary sewer and water capacity.
3. Achieving a medium to high density residential development that respects the community form of adjacent neighbourhoods, and includes high quality design elements.
4. A resolution of the location and size of the MetroTransit terminal and park and ride facility.
5. The potential utilization of a sizeable land holding owned by the Province as part of the original Portland Street right-of-way.

Plan Amendment Process

With respect to implementation mechanisms for this process, presently staff is proposing the use of a Comprehensive Development District (CDD) and development agreement approach for this particular project. This will entail a comprehensive site specific policy set reflective of the Regional Plan and Community Vision objectives, with a focus on transit oriented development and the pedestrian realm. Due to the size of the property, the lack of a current development

proposal from the property owner, and the anticipated timeframe for full build-out of the site, the CDD policy will require the developer to prepare a Concept Plan for the lands. The Concept Plan will have to adequately address the criteria listed in the CDD policy.

The CDD policy will also retain the existing by-right commercial land use (C-3 Commercial) zone and permitted uses for approximately half of the site fronting on Portland Street and including the existing commercial developments (Sobeys, Sears and retail strip mall). The option to redevelop these portions of the site as mixed-use by development agreement will also be provided.

The creation of the CDD policy will constitute amendments to the Dartmouth MPS and LUB, and will require public consultation and a public hearing before Regional Council.

Subsequent to Regional Council's approval of the MPS and LUB amendments, the policy will require the proponent to submit, as previously mentioned, a Concept Plan for the lands. Based on this plan, a Development Agreement will be prepared, describing the detailed elements of the proposal – building location, height, massing, landscaping, access, parking, phasing, and so on. This process will require public consultation and a public hearing before Harbour East Community Council.

Staff have investigated the possibility of using a Form Based Code approach (similar to HRMbyDesign), however, the lack of an established road network and the resultant challenges regarding the development of a consistent streetscape and development form has led staff to prefer the Comprehensive Development District approach.

Staff Resources/Upcoming Regional Plan Review

The recommended site specific MPS/LUB amendment process for the Penhorn Mall site is not expected to detract staff resources from the upcoming Regional Plan Review process. Staff will work intensively with internal stakeholders, the Vision Action Team and the property owner over the fall of 2011, and be in a position to take a draft MPS amendment package to a public consultation session at this time. Based on the feedback received, the draft policies and regulations may be revised and then proceed to the Dartmouth Lakes Advisory Board for review and comment. The proposed amendments will then proceed to Harbour East Community Council for recommendation to Regional Council for a public hearing. It is hoped this process can be completed by early 2012. While this timeline may slightly overlap with the initial work on the Regional Plan Review, it is not expected to have a serious impact, since the bulk of the Penhorn project work will have been completed by late-Fall.

BUDGET IMPLICATIONS

The costs to process this project can be accommodated within the approved 2011/12 Operating budget for C310 Planning & Applications.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

Amendments to the Dartmouth MPS and LUB involve community engagement and the engagement process will be consistent with the intent of the HRM Community Engagement Strategy, the Halifax Regional Municipality Charter and the Public Participation Program approved by Council on February 25, 1997.

The proposed level of community engagement is consultation. This will be achieved through working with the Penhorn Vision Action Team throughout the process. Staff will assist the VAT in conducting, as a minimum, one public meeting/open house at an appropriate stage of the process. An additional public meeting may be held if warranted. Attachment B lists the components of the community engagement strategy. Lastly, a public hearing at Regional Council will be held prior to it making a decision on the proposed MPS and LUB amendments.

The proposed plan amendments will potentially impact the following stakeholders: local residents, property owners, community organizations, businesses, other HRM business units and the Nova Scotia Department of Transportation and Infrastructure Renewal.

ALTERNATIVES

1. Council may choose to approve the process to consider amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law for the former Penhorn Mall property and the proposed public participation program. This is the staff recommendation.
2. Council may choose to not initiate the Plan amendment process or to make adjustments to the proposed public consultation program. This is not recommended by staff for the reasons outlined in this report.

ATTACHMENTS

Map 1	Site Location Map
Attachment A	Regional Municipal Planning Strategy (Excerpt)
Attachment B	Existing Land Use By-law Regulations (C-3 and C-2 Zones)
Attachment C	Proposed Public Participation Program

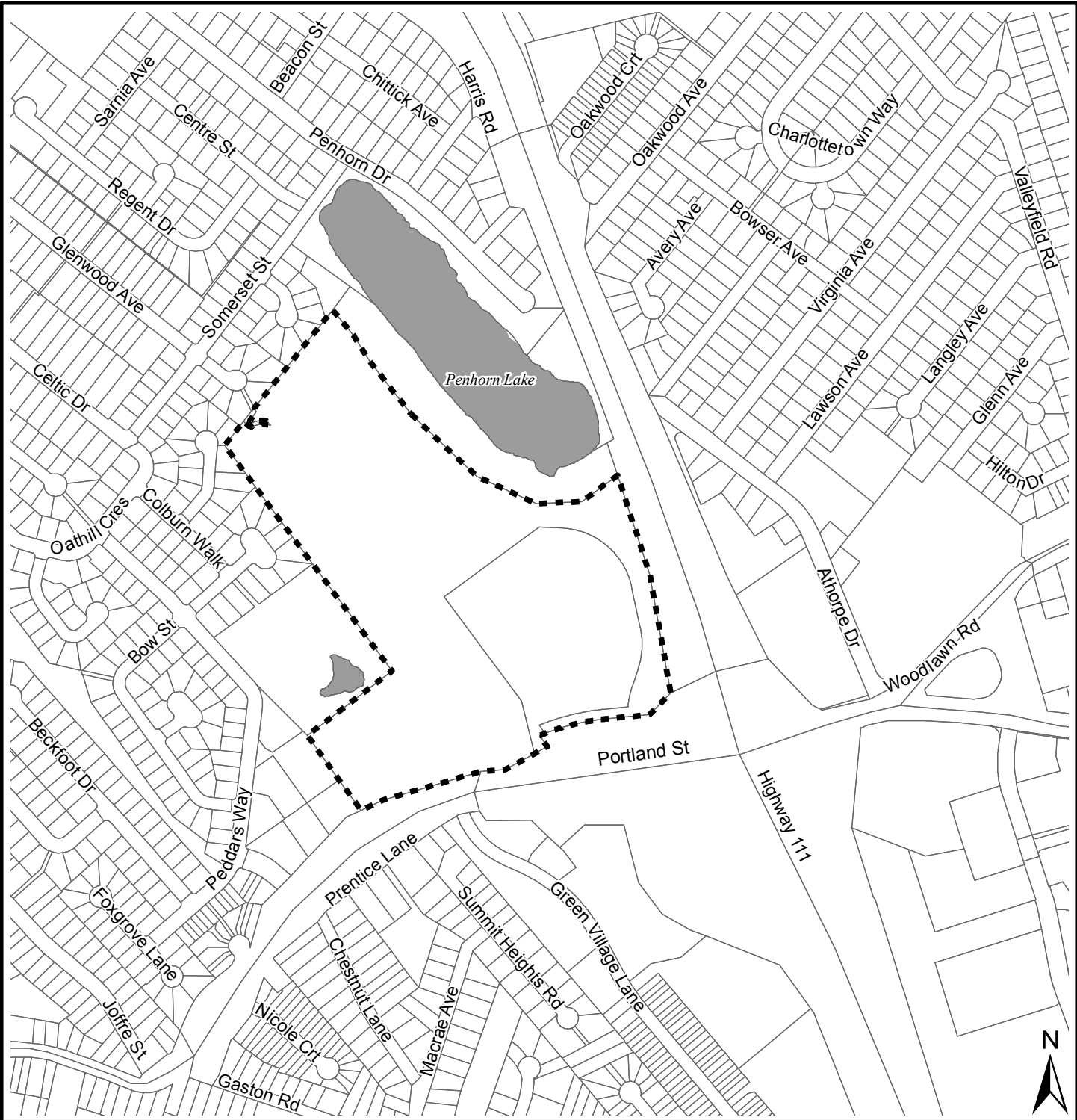
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: David Lane, Senior Planner 490-5593



Report Approved by: _____
Austin French, Manager, Planning Services, 490-6717

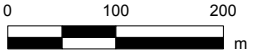
Financial Approval by: _____
For Bruce Fisher, Acting Director of Finance, 490-4493

Original Signed



Map 1: Former Penhorn Mall Site Boundary

-  Site Boundary
-  Property Boundaries



Dartmouth
Plan Area

HRM does not guarantee the accuracy of any representation on this plan. Date of map is not indicative of the date of data creation.

Attachment A

Regional Municipal Planning Strategy (Excerpt)

3.4 Planning for Centres

The Urban Settlement Designation includes both the urban and suburban centres. These centres will be designed through Community Visioning and secondary plan review processes as mixed-used transit-oriented communities, to accommodate a mix of housing types, office, retail and institutional uses in addition to parks, trails, community gardens and safe public open spaces. Growth can occur in many of the existing areas in the HRM by developing vacant land or redeveloping under-used sites where appropriate. Policies in this Plan provide protection to established neighbourhoods from rapid unplanned change, directing most future growth to areas where it can occur without affecting residents.

This Plan envisions that low-density residential uses consisting of single unit dwellings, accessory apartments, two-unit dwellings, and townhouses may be considered in appropriate locations within the established neighbourhoods which are within walking distance of the commercial and transit focus of each centre. It is anticipated that a mix of medium to high density residential and commercial uses will be situated around key focal points within the centre such as transit stations. This density is expected to gradually decrease and the proportion of residential land uses is expected to increase toward the periphery of the centre in the transition area between the centres and the surrounding neighbourhoods. The density of each centre will vary and be considered within its regional context.

The community centre and surrounding neighbourhoods will be serviced with an interconnected system of streets, pathways, sidewalks, and bicycle lanes where appropriate. Buildings within the centre will have varied architectural facades which will frame the street and have direct connection to the public sidewalk and street. The ground floor of buildings within the core of a centre that front on corridors and public facilities will be developed with commercial uses such as shops, restaurants and cafes with large windows that add visual interest for pedestrians and provide shelter in the form of awnings, structured colonnades or street trees. Adequate short-term parking will be provided to service these retail areas, without compromising pedestrian access from the sidewalk.

Maintaining the integrity of rural communities and lands is integral to this Plan, and policies regarding rural areas provide recognition of their ecological, economic and social values. Centres in rural areas will be focussed around areas where a service centre has already begun to develop to serve the outlying area. Sustainable growth is envisioned in a way that will protect the rural resource base and ensure the retention of rural community character.

S-11 HRM shall, through secondary planning processes, define the centres within each designation. The general characteristics of the centres are provided in Table 3-1. These planning strategies shall also define the specific boundaries of the centres, population targets and will develop detailed design policies related to the layout of the centres, range of permitted uses, development densities and mechanisms for implementation. The centres shall be designed in consideration of the criteria described in Chapter 9 and all other applicable policies of this Plan.

Table 3-1: Characteristics of Centres

Urban Settlement Centres			
Centre Type	Centre Name	Land Uses	Transit
Regional	Regional Centre	<ul style="list-style-type: none"> • on opportunity sites, medium to high density residential, commercial, institutional or recreation uses • in established neighbourhoods, low to medium density residential uses 	<ul style="list-style-type: none"> • focal point for higher order transit
Urban District	West End Mall Mic Mac Mall	<ul style="list-style-type: none"> • mix of high density residential, commercial, institutional & recreation uses 	<ul style="list-style-type: none"> • parking structures for park & ride and commercial uses
Suburban District	Spryfield Bedford West Sunnyside Mall Sackville Russell Lake	<ul style="list-style-type: none"> • mix of low, medium and high density residential, commercial, institutional & recreation uses • in established neighbourhoods, low to medium density residential uses 	<ul style="list-style-type: none"> • connecting point for higher order transit to other centres & Regional Centre • surface park & ride or parking structures • street or side yard parking for pedestrian oriented retail
Urban Local	Shannon Park City of Lakes Business Park Penhorn Mall Woodside	<ul style="list-style-type: none"> • mix of medium to high density residential, commercial, institutional & recreation uses • in established neighbourhoods, low to medium density residential uses 	<ul style="list-style-type: none"> • all day transit to connect to other centres & Regional Centre • shared surface parking or parking structures for park & ride and commercial uses
Suburban Local	Herring Cove Lakeside/Beechville Timberlea Village Clayton Park West Birch Cove Bedford South Kearney Lake North Bedford Mill Cove Lower Sackville Middle Sackville Burnside East Tacoma Drive Westphal Cole Harbour Morris Lake Eastern Passage	<ul style="list-style-type: none"> • mix of low to medium density residential & convenience commercial uses • in established neighbourhoods, low to medium density residential uses 	<ul style="list-style-type: none"> • all day transit to connect to other centres & Regional Centre • surface park & ride or parking structures • street or side yard parking for pedestrian-oriented retail

Attachment B

Existing Dartmouth Land Use By-law Zone Regulations

PART 10: C-3 (GENERAL BUSINESS) ZONE

- 40(1) The following uses only shall be permitted in a C-3 Zone:
- (a) C-2 uses as herein set out, excepting therefrom any residential uses;
 - (i) ***except Adult Entertainment uses (RC-Jan 31/06;E-Mar 16/06)***
 - (b) warehousing and distribution
- 40(2) Buildings used for C-3 uses in a C-3 Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 square feet
 - (b) Height maximum - 3 storeys for a building with an office function as its primary function.
 - (c) Maximum Lot coverage - 100% if the requirements for 100% lot coverage in the Building Bylaws of the City of Dartmouth are met, except that a motel building or buildings shall occupy surface area of not more than one-third of the total area of the building lot.
 - (d) If lot coverage is not 100%, side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building By-laws of the City of Dartmouth.
 - (e) ***Additional Height Maximum - 35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W". (RC-Feb 8/05;E-Apr 23/05)***

PART 9: C-2 (GENERAL BUSINESS) ZONE

- 39(1) The following uses only shall be permitted in a C-2 Zone:
- (a) R-1, R-2, R-3, C-1 and TH uses as herein set out;
 - (b) Business or commercial enterprises except:
 - (i) obnoxious uses and uses creating a hazard to the public and
 - (ii) offices other than those permitted in the C-1 Zone
 - (iii) ***except Adult Entertainment uses (RC-Jan 31/06;E-Mar 16/06)***
 - (iv) ***cabarets (HECC- Dec 4/08;E-Dec 27/08)***
 - (v) ***pawn shops***
 - (c) Uses accessory to the foregoing uses.
 - (d) ***A group home for not more than 12 residents. (HECC-Nov 4/10; E-Nov 27/10)***
- 39(2) Buildings used for R-1, R-2, R-3, C-1 and TH uses in a C-2 Zone shall comply with the requirements of an R-1, R-2, R-3, C-1 or TH Zone respectively.
- 39(3) Buildings used for C-2 uses in a C-2 Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 sq. ft.

- (b) Height maximum - 3 storeys for a building with an office function as its primary function.
- (c) Maximum Lot coverage - 100% if the requirements for 100% lot coverage in the Building Bylaws of the City of Dartmouth are met, except that a motel building or buildings shall occupy surface area of not more than one-third of the total area of the building lot.
- (d) If lot coverage is not 100%, side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building Bylaws of the City of Dartmouth.
- (e) ***Additional Height Maximum -35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W". (RC-Feb 8/05;E-Apr 23/05)***

Attachment C

Proposed Public Participation Program

Staff will communicate project information to the public via the internet and the networking of the Community Vision Action Team (VAT) – throughout the process.

Staff will work regularly with the VAT as the preparation of MPS policies and Land Use By-law regulations are formulated. Staff will also assist the VAT in conducting, as a minimum, one public meeting/open house at an appropriate stage of the process. An additional public meeting(s) may be held if warranted. The property owner will also be engaged at appropriate stages of the project.

Upon completion of a set of draft MPS policies/LUB regulations, these will be presented to the Dartmouth Lakes Advisory Board (DLAB) – anticipated for Late Fall 2011.

A Staff report will be prepared, inclusive of the proposed Municipal Planning Strategy policy and Land Use By-law amendments, and proceed to:

- Harbour East Community Council (HECC)
- Regional Council for first reading – Winter 2012.

With Regional Council's endorsement, a public hearing will be scheduled for early winter 2012. Notification of stakeholders and local area residents will supplement the regional newspaper advertisements.