
NORTH AYRSHIRE COUNCIL

24 January 2023

Cabinet

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| Title: | Ownerless Property Transfer Scheme |
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| Purpose: | To seek approval for the proposed North Ayrshire Council submission to the King's and Lord Treasurer's Remembrancer consultation on the proposed new Ownerless Property Transfer Scheme |
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| Recommendation: | That Cabinet approves the submission of the proposed consultation response to the Ownerless Property Transfer Scheme provided at Appendix Two. |
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1. Executive Summary

- 1.1 The King's and Lord Treasurer's Remembrancer has launched a consultation on the proposed new Ownerless Property Transfer Scheme. Views were sought until 16 December 2022. A response has been issued to the consultation, noting this was subject to Cabinet giving approval in January 2023. The consultation response submitted noted that confirmation would be provided by officers following Cabinet's consideration of the proposed response. This report seeks approval for the proposed response as provided at Appendix Two.

2. Background

- 2.1 In Scots Law, the Crown can claim ownerless property. The legal term for ownerless property is bona vacantia. The King's and Lord Treasurer's Remembrancer (KLTR) is the Crown's representative in Scotland with authority to deal with ownerless land and buildings. The main source of properties referred to the KLTR were formerly owned by dissolved companies. These include problematic sites such as open cast coal mines, harbours and landfill sites.
- 2.2 The KLTR does however encounter sites with greater potential for public interest, commercial use or redevelopment such as industrial property, woodland, retail property and undeveloped land. The KLTR received around 190 referrals for properties in the last financial year, many of which may have the potential to deliver community benefit. Historically the KLTR has sought to sell such properties at full market value.
- 2.3 Informed by the Scottish Land Commission's 2020 report on Transforming Scotland's Approach to Vacant and Derelict Land, a more proactive approach has been developed in recent years. This recognises the pivotal role of the KLTR in bringing land and buildings back into positive use. The Ownerless Property Transfer Scheme (OPTS) has been developed to reshape the KLTR's approach and aims to better facilitate disposals for public benefit. Views were sought on the scheme until 16 December 2022.

- 2.4 The OPTS has been informed by a series of pilots across Scotland. It has also been informed by engagement with Scottish Government, Highlands and Islands Enterprise, Local Authorities, public bodies such as the Scottish Land Commission and representative organisations such as Community Land Scotland.
- 2.5 The OPTS would allow the KLTR to transfer ownerless land to another public body at below Market Value or at a nominal value to either:
- Use that land itself for local public benefit; or
 - Transfer it to an appropriately constituted community body demonstrating purposes aligning with local aspirations.
- 2.6 The scheme envisages that the receiving public body would ordinarily be the Local Authority but recognises that other public bodies may be more appropriate in some cases. The proposed two stage scheme approach is outlined at Appendix One. Stage One would offer the property or land to a public body or local authority to enable them to take ownership of and use the property directly.
- 2.7 Stage 2 would be undertaken if there was a community proposal for the property, but the public body or local authority decided not to take ownership. In this case, the KLTR would only transfer a property to a community body under the OPTS process where it has the support of the local authority or relevant public body.
- 2.8 The OPTS would not alter the Council's responsibilities in relation to dangerous buildings under the Building (Scotland) Act 2003. This includes the powers to recover costs or compulsorily purchase the building and/or its site under Section 45 of the Act.
- 2.9 The proposed response provided at Appendix Two was issued to the KLTR on 16 December 2022, subject to Cabinet approval. The submission noted that an update would be provided following Cabinet's consideration of the proposed response. Key points from the proposed response include outlining the:
- Need to align the OPTS with the current processes in place through the Community Empowerment Act including existing Community Asset Transfer arrangements;
 - Resource implications of the OPTS for local authorities and communities and the need for proportionate financial support, including the need for dedicated funding for the preparatory legal and technical work within the local authority or for community groups to progress through the transfer process;
 - Need for an independent valuation to ensure compliance with Best Value obligations for local authorities;
 - Need for a 5 month period, as opposed to the proposed 3 month period, for local authorities to make a decision on ownership of an ownerless property;
 - Need for a clear mechanism to ensure that the intended community benefits are achieved;
 - Need for a clear, neutral and independent appeals process;
 - Suggestion that a legislative amendment be progressed to extend the time limit for the KLTR to disclaim a property; and
 - Need for the consideration of further criteria for the OPTS for example in relation to the extent and nature of community support for proposals and the impact of the proposed development on the asset.

3. Proposals

- 3.1 It is proposed that Cabinet approves the submission of the proposed consultation response on the Ownerless Property Transfer Scheme provided at Appendix Two.

4. Implications/Socio-economic Duty

Financial

- 4.1 The OPTS proposes to transfer properties at a nominal or discounted value. The proposed response outlines the need for an independent valuation to meet Best Value obligations. It also notes that a nominal value may exceed the market value of the property. The Council need to be satisfied as to both the market value and the costs incurred by the KLTR to ensure that proceeding with the acquisition accorded with the criteria for the OPTS.

The draft scheme does not provide confirmation of funding for the preparatory legal and technical work within the local authority or for community groups to progress through the transfer process. The proposed response outlines the need for dedicated funding for these purposes.

Human Resources

- 4.2 The OPTS would effectively create new non-statutory responsibilities for local authorities to consider whether to approve community proposals for ownerless property and, where appropriate, to decide between competing community proposals. Officer time would be required to undertake these activities with input being required from a range of Council Services.

Legal

- 4.3 The OPTS would effectively create new non-statutory responsibilities for local authorities to consider whether to approve community proposals for ownerless property and, where appropriate, to decide between competing community proposals. Robust decision-making processes will require to be developed and implemented to reduce the risk of decisions being challenged. The OPTS would not alter the Council's responsibilities in relation to dangerous buildings under the Building (Scotland) Act 2003.

Equality/Socio-economic

- 4.4 The OPTS aims to tackle long-term vacant and derelict land and buildings thereby reducing their levels and impact on communities. Significant socio-economic benefits will be derived from transfers for community benefit. This will contribute to the reversal economic, social and physical decline and reducing socio-economic disadvantage.

Climate Change and Carbon

- 4.5 The OPTS process requires proposals for properties to have addressed the environmental benefits in the longer term. The public body and/or local authority will be responsible for ensuring that sustainable development issues are considered in detail where required. This would require to be considered on a case by case basis.

Key Priorities

- 4.6 The OPTS will contribute to achieving the Council Plan outcomes under the Inspiring Places and Aspiring People themes. It will contribute to the ambitions for: active and strong communities; an inclusive, growing and enterprising economy; and for a sustainable, vibrant, welcoming and attractive environment.

Community Wealth Building

- 4.7 The OPTS will contribute to the Land and Assets Pillar of the Community Wealth Building Strategy by supporting equitable land development and the development of underutilised assets for community use. This aligns with the priorities and ambitions outlined in the Council's Regeneration Delivery Plan and complements the objectives of the Repurposing Property Grant Fund.

5. Consultation

- 5.1 The consultation response has been informed by input from the Council's Legal, Connected Communities, Finance and Economic Development and Regeneration Services.

RUSSELL McCUTCHEON
Executive Director (Place)

For further information please contact **Louise Kirk, Senior Manager Regeneration** on **01294 324766**.

Background Papers

Ownerless Property Transfer Scheme (OPTS) Consultation Paper

Appendix 1 – Ownerless Property Transfer Scheme Summary

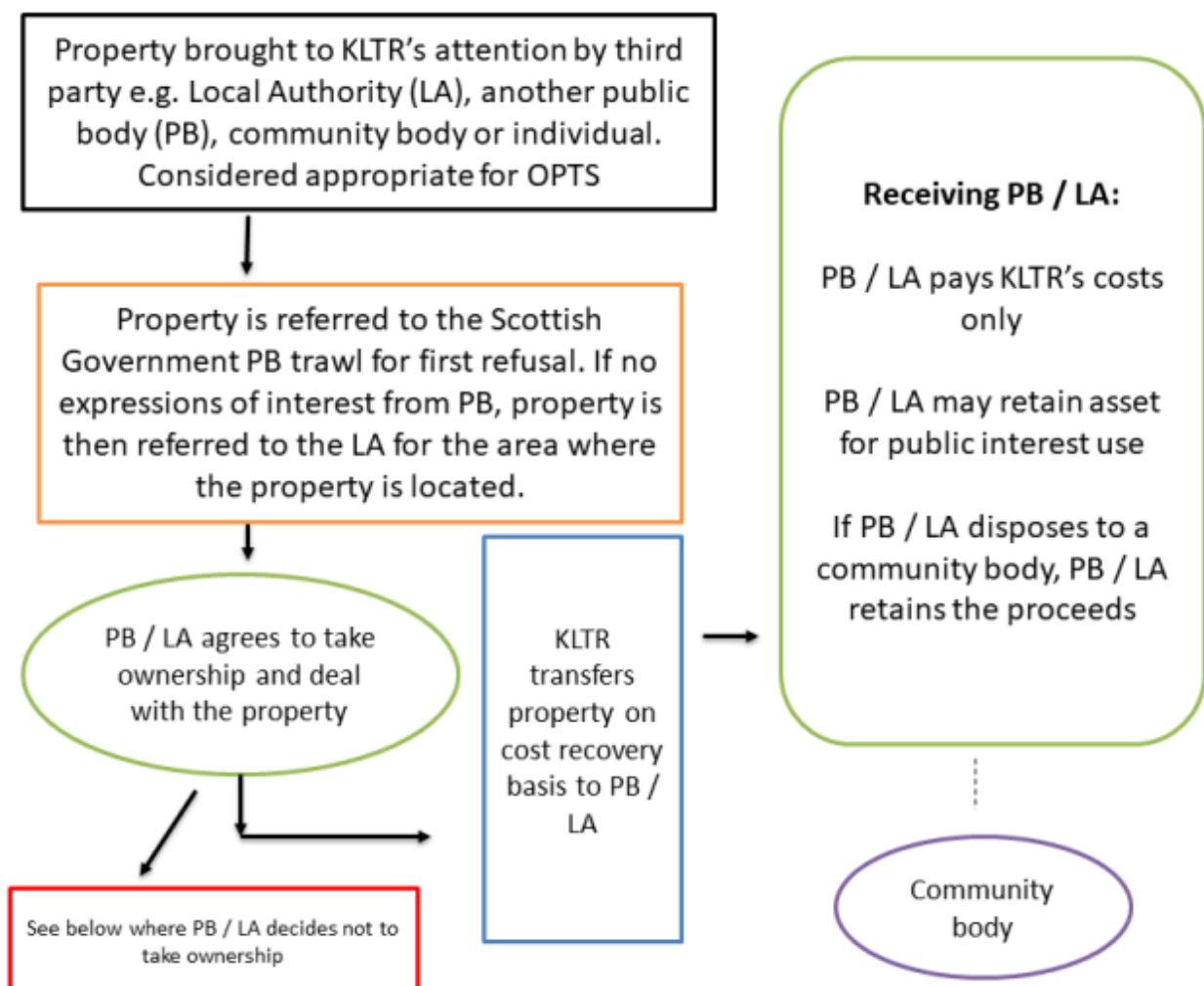
A two stage process is proposed for the scheme. The OPTS will allow the KLTR to transfer ownerless land to another public body at below Market Value or at a nominal value: either to use that land itself for local public benefit, or to transfer to an appropriately constituted community body demonstrating purposes aligning with local aspirations. It is envisaged that the receiving public body would ordinarily be the local authority, but the scheme recognises that other public bodies may be more appropriate in some cases.

Stage One

At this stage, the property will be offered to public bodies and local authorities. Public bodies will be given one month to inform KLTR of interest in property. These bodies will be covered by the Scottish Public Finance Manual's (SPFM) trawl process. If there is no interest, the local authority will be provided with three months to consider ownership of the property for a public interest, community use or to offer to a suitable, appropriately constituted community group.

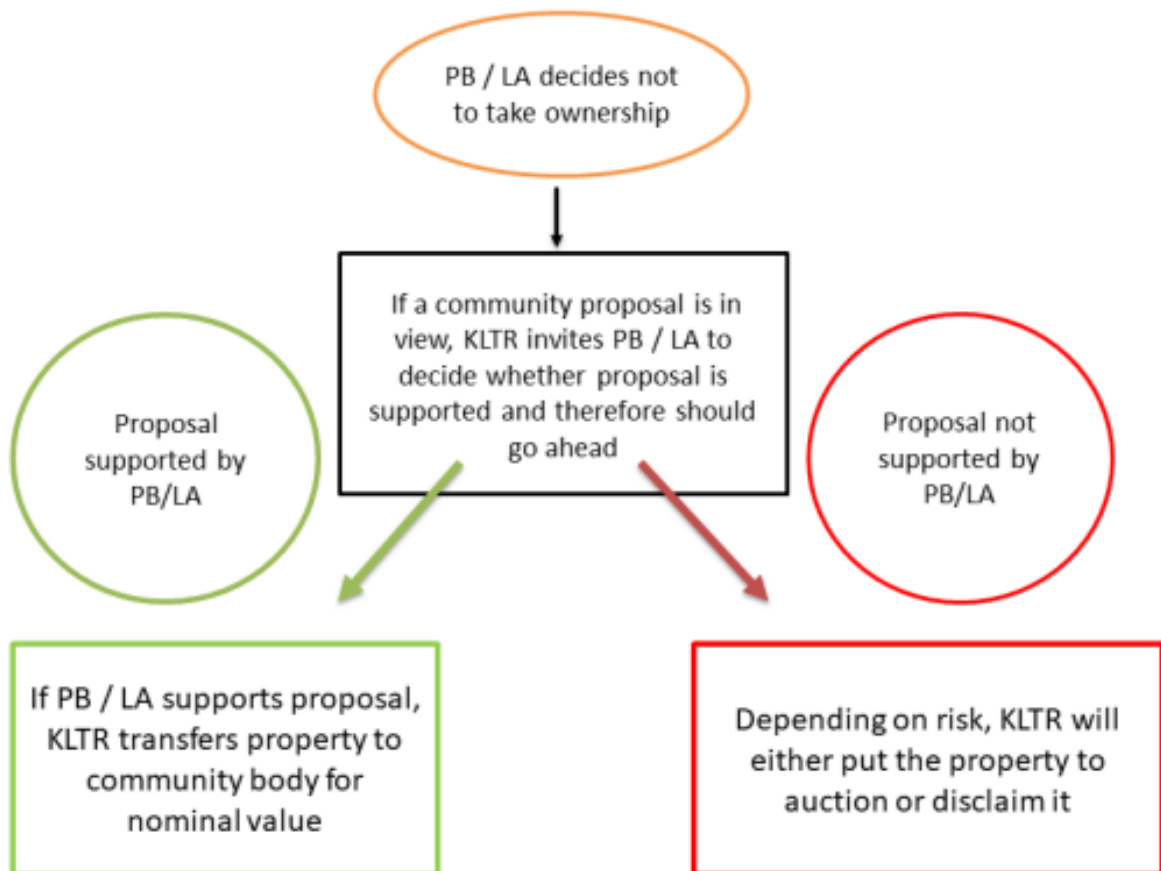
KLTR will advise local authority of any other interested parties at this stage. The draft scheme proposes that the KLTR will work collaboratively with Highlands and Islands Enterprise to identify potentially suitable community groups to purchase the property.

The flow chart below summarises Stage One of the scheme:



Stage Two

This stage would be undertaken by the KLTR where there is a community proposal for the property, but a public body or local authority does not intend to take ownership.



In this case, the KLTR would only transfer a property to a community body under the OPTS process where it has the support of the local authority or relevant public body. The KLTR would then transfer the property to the community body for nominal value, in line with the SPFM.

Where a community's proposal is not supported, the KLTR will decide whether to put the property to auction or to disclaim it. That will depend on the potential open market value of the site and liabilities associated with it.

Valuation and Transfer

The KLTR will make available any valuation, building, structural or condition surveys, title information and environmental reports to all parties involved in the OPTS process. This will not prevent any party from seeking their own valuation or title examination and would require to be discussed with the relevant funders. The draft scheme states that it intends that any survey provided for the KLTR should be sufficiently independent to avoid unnecessary duplication of costs, particularly for public funders. This aims to ensure that the OPTS process is as cost-effective as possible for all involved.

SPFM requirements will apply to all transfers under the OPTS and normally require property to be transferred at Best Value. The OPTS will provide opportunities for properties to be transferred to other public bodies at less than market value where it is in the public interest to do so and when the KLTR's Accountable Officer is content that the requirements and aims of

the scheme are being met.

The transfer value applied by the OPTS in such cases will, therefore, be nominal value or discounted value. Nominal value will normally be achieved on a cost recovery basis, with the KLTR recovering professional costs only, such as legal and valuation fees plus any additional expenses relating to surveys. This will not include administrative costs.

Where a property is then transferred from a public authority to a community body, Best Value principles will again apply. It will be for the public authority to determine the onward sale value under their own policies.

Nominal value will also apply to properties transferred direct from the KLTR to an appropriately constituted community body where a public body and/or local authority supports the proposals. Where there is no public authority support, the property will be put to auction or disclaimed.

Where a public body, local authority or another third party intends to use the property for purposes where the OPTS criteria are not deemed to be satisfied, then market value would apply. This will also apply where potential onward purchasers are private sector, where advertising on the open market or auction will be the preferred route. Private treaty may also be considered.

To ensure that public and local community interests are considered as a priority over commercial gain, the KLTR may consider placing conditions on the transfer of ownerless property, similar to those in section 14 of the Community Asset Transfer Guidance or those used in the planning system to ensure the intended use is complied with. He may also consider “clawback” or “overage” provisions where, for example, a proportion of any commercial financial gain is returned to the KLTR.

There will be a requirement to make annual returns placed on those receiving property through the OPTS. The KLTR’s solicitors will facilitate the transfer to the new owner at either stage. The draft scheme notes that the KLTR cannot provide legal advice to other parties.

Building (Scotland) Act 2003

The OPTS would not alter the Council’s responsibilities in relation to dangerous buildings under the Building (Scotland) Act 2003. Under Section 29 of the Act, the local authority has a duty to act should it become aware of a building that constitutes a danger to persons in or about the building, to the public generally or to adjacent buildings or places. The local authority must carry out such work (including, if necessary, demolition) as it considers necessary to prevent access to the dangerous building and to any adjacent parts of any road or public place which appear to be dangerous because of the state of the building. Any other work considered necessary for the protection of the public and persons or property in places adjacent to the dangerous building must also be carried out. This covers such matters as installing any necessary temporary shoring.

The local authority may recover from the owner of a dangerous building any expenses reasonably incurred in carrying out work in relation to the building. The normal methods of debt recovery apply. When a local authority has carried out such work, it may make a charging order and register it in the appropriate land register to help them recover their expenses. Under Section 45 of the Act, if the local authority has incurred expense but cannot find the owner to recover the costs it can seek authorisation from Scottish Ministers, via the Building Standards Division, to compulsorily purchase the building and/or its site. The costs

not recovered may be offset against the compensation that would normally be payable as a result of compulsory purchase. Also, where a dangerous building is demolished by a local authority, Section 46 of the Act permits the authority to sell the materials arising from the demolition.

Appendix Two: Response to Ownerless Property Transfer Scheme (OPTS) Consultation paper

Q1. Do you agree that Highlands and Islands Enterprise is the appropriate body to provide advice to the KLTR on potentially suitable community groups? If not, who would you suggest and why?

No. Whilst the team at Highlands and Islands Enterprise have substantial experience and resource, they do not have the necessary local relationships in place. National bodies are not best placed to understand the complexities and interdependencies of local community groups, or the long local narratives relating to property at a local level. Local authorities are better placed to provide the required local knowledge and advice.

Any proposals under the OPTS should align with the current processes in place through the Community Empowerment (Scotland) Act 2015. This would therefore benefit from the existing working relationships across Council Services including Planning, Communities, Business, Regeneration, Roads and Grounds Maintenance teams. The existing cross-Council working in relation to Community Asset Transfer (CAT) processes should be optimised.

Local authorities should be offered first refusal of ownerless assets within their administrative boundary to assess local needs in context of Local Development Plans. Where the assets are not required by the local authority, use should be made of existing approaches and processes like local authorities' published lists of surplus property, local networks and community partnerships and Community Asset Transfer. However, it would not be for local authorities to sell property which was ownerless or the burden of upkeep and associated responsibilities would be seen to transfer to them

The sites in question often carry significant responsibilities and requirements for ongoing maintenance, potentially for an indefinite period of time. The proposal does not identify funding for the preparatory legal and technical work for the OPTS process or ongoing funding for community groups to develop and implement proposals. This leaves the Public and Local Authorities exposed to the risks associated with potentially dilapidating buildings.

It is noted that the OPTS process does not intend to place the KLTR in conflict with local decision making or effectively acting as a route of appeal. Local authorities do not have the time, statutory responsibility or resources to resolve competing interests over ownerless assets. They cannot be both the key administrator and the appeals body. Consideration should be given for the mechanism for appeal for example via an arm's length, neutral advisory body to the process.

It would be beneficial if the KLTR recorded and published a list of ownerless property and any properties disclaimed across local authority areas. This would help to inform and support the OPTS process.

Q2. Do you agree that a valuation and other reports undertaken by the KLTR are sufficiently independent to avoid duplication of cost for all involved in the OPTS? If not, why not?

No, this method of valuation does not take account of the actual Market Value. The cost recovery value is defined as the total of the costs incurred by the KLTR in relation to the asset prior to the transfer date. To ensure compliance with our Best Value obligations, North Ayrshire Council would still require an independent valuation to be completed at Market Value to ensure that the Cost Recovery Valuer does not exceed the Market Value.

It is noted that where the criteria for the OPTS have been met a transfer may be made at nominal value, however the KLTR's costs may in some cases exceed the market value of the property. North Ayrshire Council would therefore need to be satisfied as to both the market value and the costs incurred by the KLTR in order to ensure that proceeding with the acquisition accorded.

Q3. Do you think three months for the local authority to decide whether or not it wishes to take ownership of an ownerless property is reasonable? If not, how long would you suggest and why?

No, 5 months potentially would be more appropriate. The acquisition of land would have to be considered and approved by Cabinet and 3 months is insufficient to obtain the necessary permissions.

Q4. Do you agree that the above process is reasonable and workable? If not, how would you improve the process?

Yes, however sufficient scope and flexibility for review and amendment of any implemented process will be required.

Q5. Do you agree that the property transfer value for OPTS should be at “nominal value” as described above? If not, what value do you think should apply and why?

We agree that it would be beneficial for communities to have the opportunity to transfer land at a nominal value directly from KLTR.

A potential challenge is around the transfer value where there is not a Public Authority or Local Authority supportive and the mechanics of demonstrating best value. Further guidance would require to be issued to address these circumstances.

Q6. Do you think the KLTR should place conditions on the transfer of OPTS property to ensure the intended benefits to local communities are delivered?

Where property is transferred to a community body it may be appropriate to place conditions on the transfer to ensure that the intended benefits are delivered. The Scheme needs to be clear on the mechanisms for this for example using conditions similar to those already used in the Community Asset Transfer process or the planning system to regulate the use of a property. This could include entering into a clawback agreement whereby if the community group or a subsequent owner sells the property onward for a profit, then a share of that profit would be payable to the KLTR. This could be achieved by securing a standard security against the property. Such conditions are already used in other situations and should not deter a community group from acquiring a property for community benefit.

North Ayrshire Council would not expect conditions to be necessary where property is transferred to a local authority, given that there is democratic oversight of the local authority's decisions. Once property has been transferred to a local authority it is to be expected that the property shall be used to benefit the local community. It is not envisaged that oversight by the KLTR of the local authority should be required to achieve this.

Q7. Do you think a recognised public authority should retain a property to allow an appropriately constituted community body to raise the necessary funds, etc.? If so, should a timescale be set for raising the funds?

It is noted that a mechanism to facilitate additional time for community organisations to raise funding would be beneficial as this has proved a challenge to date. However, the proposed solution of transferring ownership of the property to a recognised public authority (or indeed to a local authority) would create several challenges.

The proposal to transfer property to a different recognised public authority would result in additional legal costs associated with the transfer. The receiving authority would acquire liability for any costs associated with the property while the community body is raising funds. It is not clear from the consultation paper how these costs would be financed given the restricted resources available to the KLTR and the constraints on public authority budgets. Some form of indemnity or funding would be required to cover any costs associated with the property during this time. If the community body failed to raise the required funds or if the proposal fell through for any other reason, then the public authority may continue to be responsible for any liabilities associated with the property. It may not be possible for the public authority to identify another interested purchaser. A mechanism whereby the public authority could transfer the property back to the KLTR would be required to address this.

Given the cost implications of each transfer of property North Ayrshire Council considers that a more appropriate solution to the disclaimer time limit would be for a legislative amendment to extend the time limit for the KLTR disclaiming property in certain circumstances. The KLTR is the only body we are aware of with the power to disclaim an interest in property and it would therefore seem appropriate that the KLTR be given additional powers to enable it to carry out the function of holding property for long enough to facilitate the OPTS.

Q8. Do you think the OPTS should apply to all properties as described or should it be restricted to certain types of properties? If the latter, which types?

Yes – all types of land and properties should apply. Working through Local Authorities means that a strategic and partnership approach can support the best outcome for local communities. The inclusion of an ownerless town centre property, for example, can be incorporated into Strategic Housing Investment Plans while still offering Housing Associations the opportunities to take ownership for conversion to social housing. Each opportunity to bring back an ownerless asset into purposeful community use is individual and needs to be taken forward within a consistent local approach, bringing together local partnerships to find the right solution.

Q9. Do you agree that the above proposals provide an opportunity for ensuring community interests are considered as early as possible? If not, why not?

Working through Local Authorities is the best way of ensuring that communities are made aware of the opportunities regarding local ownerless assets. This utilises the existing networks for communication, such as Community Councils, Locality Partnerships, community organisations and local social media.

Q10. Do you agree that the above criteria should apply to the OPTS? If not, what criteria do you think should or should not apply and why?

Yes, however it would also be beneficial to consider the nature of the community organisation for example: when it was established; if it is constituted; its level of membership; and its purpose and main objectives to ensure that it aligns with the purpose of the redevelopment of the property. It would also be beneficial to establish the extent of interest in the asset such as the proportion of the asset that the organisation wish to acquire. Consideration should also

be given to whether or not there are any other organisations interested in ownership or affected by its ownership. The extent and nature of the support for the request from the local community should be considered. Restrictions on or the impact of development of the asset should also be considered for example for any environmental or biodiversity implications.

Q11. Do you agree that the OPTS should ensure the wider public interest is considered before private interest? If not, why not?

Advice should be taken from the local authority on competing private and public interests. Local authorities are best placed to advise on resolving the issue of ownerless assets within their area boundary that can best contribute to improving social, environmental and economic wellbeing locally. This depends on an assessment of local needs in context of community planning, locality planning, local place plans and the Local Development Plan. Resolving competing interests in assets is difficult and time-consuming and clear processes, with a right of appeal need to be put in place, along with timescales and funding for the full cost-recovery of officer time for this new area of responsibility.

Q12. Do you think the public interest is defined reasonably for the purposes of the OPTS? If not, how should it be defined?

The current proposals do not contain a definition of public interest. Given the KLTR's desire to take a high level approach, The North Ayrshire Council would expect there to be limited and clearly defined circumstances in which the KLTR would substitute its own view of the public interest for that of the relevant local authority. The KLTR should only substitute its own view of what is in the public interest in very limited circumstances. It may be preferable for the KLTR to publicise guidelines of what would not be considered to be in the public interest, given the emphasis on the importance of local knowledge.

The criteria used by the KLTR in assessing whether a proposal is in the public interest should be sufficiently clear to allow local authorities to anticipate with reasonable certainty whether their assessment of the public interest for their local area in any given case will be accepted by the KLTR.

Consideration must also be given to the approach to be taken in circumstances where only part of a title could be utilised in the public interest. It is our understanding that the KLTR's default position is that a title should only be transferred in its entirety. North Ayrshire Council has experienced situations in the past where land could not be utilised in the public interest because it formed part of a wider title which was associated with significant liabilities which the local authority could not take on. Due to KLTR's policies, this resulted in the entire expanse of land remaining ownerless and the potential public benefit was wasted. To truly facilitate the transfer of land in the public interest it is submitted that a more flexible approach requires to be taken by the KLTR to disposing of part of a larger title.

Q13: Do you agree that the KLTR should take a high-level approach to sustainable development issues, as above, in order to allow further scrutiny and transparency at local level? If not, why not?

Agree. The KLTR's role in sustainable development should be high level and the local authority process will scrutinise economic, social and environmental benefits for the longer term. This will be aligned to Scottish Government's sustainable development goals as Planning, Regeneration, Connected Communities and Business Support and Development teams are all working within that overarching context.

Q14: Do you consider there are specific circumstances in which the KLTR should never deal with dissolved company property when a company remains within its 6-year restoration window?

As there is no intention of passing on the risk under s1034 of the Companies Act to the donee, The North Ayrshire Council considers that this would be a matter for the KLTR.

Q15. In addition to the above, do think any other financial controls or safeguards are required? If so, please describe how and why.

Information about the KLTR's fees should be provided upfront to enable the local authority to assess whether the price to be paid is equal to or less than the market value of the property, to allow compliance with Best Value obligations.

The aspiration of KLTR to have a 'light touch' approach around monitoring is understood however a lack of 'penalty' in some areas of the Community Empowerment Act has led to poor outcomes for communities and local authorities alike. The use of clawback conditions or similar could offer a good approach to ensure successful delivery.

Q16. Do you think the KLTR's approach to liability and risk is acceptable? If not, how could this be improved?

The liability and potential risks of the individual properties requires to be fully understood alongside any revenue obligations to inform the decision making process. Acquiring property even if at a low or nil cost can immediately present significant liability and direct costs in terms of making safe or other actions. It is noted that long term unoccupied land and properties in disrepair present an uninsured risk to the responsible party.

Q17. Are there any other ways you think the OPTS may be monitored? If so, in what way?

The monitoring role for local authorities and communities to raise concerns should be addressed by the working group and contribute to KLTR's monitoring. There may be a need to think about how concerns are raised directly with KLTR, in the event of a stakeholder working group failing to be representative of local views.

Q18. Do you agree that penalties for non-delivery of aspirations are unnecessary, as above, and that local accountability should be sufficient to ensure delivery of agreed aspirations?

Local government enforcement resources are stretched at present. If local accountability is the only means of ensuring delivery, these need to be financially supported to a proportionate level.

Q19. Which of the further measures above do you think should be applied to the OPTS?

Adding further measures may prove limiting and disincentivise the process, reducing the potential to achieve the overall objective of bringing ownerless assets back into productive roles in communities. The interest in Community Asset Transfer has demonstrated an appetite for a wide variety of assets. The scale of the projects varies, so setting an arbitrary cap on value would be counterproductive. The key for community ownership is securing sufficient capital funding, without annual spending restrictions, which makes aligning the

multiple funding packages required for larger projects challenging.

Q20. Do you think properties within the 6-year restoration window should be excluded from OPTS or do you agree that a criteria-based policy approach, as described above, is the best way of addressing this?

A balance requires to be achieved between frustrating the overall objective and managing risk, so support and monitoring mechanisms need to be in place to do that, rather than a blanket exclusion.

Q21. Are there any other measures you think should be taken to safeguard those involved in the OPTS process?

The checks and balances within a healthy democracy mean that a fair and transparent right of appeal process should be put in place. Local authorities do not have the time, statutory responsibility or resources to resolve competing interests over ownerless assets. They cannot be both the key administrator and the appeals body. Careful consideration needs to be given to the timescales for the processes so that assets do not lie neglected or to hold up the use of time-critical funding. Public consultation should form an obligatory part of the initial decision by a local authority or community group to take on ownership of an asset and the appeals process.

Q22. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities in a way that is different from the impact on mainland areas?

No

Q23. Are you aware of any examples of particular current or future impacts, positive or negative, on young people, (children, pupils, and young adults up to the age of 26) of any aspect of the proposals in this consultation?

No

Q24. Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on those with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?

No

Q25. Are you aware of any examples of potential impacts, either positive or negative, that you consider any of the proposals in this consultation may have on the environment?

No

Q26. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on groups or areas at socioeconomic disadvantage (such as income, low wealth or area deprivation)?

No

Q27. Are you aware of any potentially unacceptable costs and burdens that you think may arise as a result of the proposals within this consultation?

Where property is to be transferred on a costs recovery basis, we are concerned that it may not be possible for a local authority to accurately anticipate at the outset of a transaction what these costs are likely to be. Without this information upfront it would be impossible to assess whether proceeding with the acquisition adheres to Best Value obligations, as the costs may exceed the value of the property, particularly if there are significant liabilities associated with the property and/or a significant level of professional input is required. This risk may be mitigated by the KLTR confirming a fixed fee for a transaction at the outset of the process.

There could be significant resource implications for local authorities in meeting their proposed obligations under the Scheme. While local authorities are not obliged to acquire land in their area, they are required to consider community proposals for land use and reach a decision as to whether to support any of the proposals. This function could result in a significant administrative and potentially financial burden. Resources would require to be invested in developing robust decision-making procedures to limit a local authority's potential exposure to judicial review proceedings if a community body disagrees with the decision made.

Before a property can be considered for the OPTS it is necessary for the notifying person to gather and provide evidence that a property is ownerless. There can be significant costs associated with collating this evidence. Based on our understand of the proposals, a local authority or community body may invest resources in collating such evidence with a view to acquiring property through the OPTS only for the property to be acquired by another public body, or for their proposal to be refused by the KLTR as not meeting the relevant criteria. Consideration should be given to how these risks can be minimised, for example by facilitating early communication between the notifying party and the public bodies who will be given the first right of refusal, and by developing an advance authorisation process to reduce the risk of outlays being incurred only for a proposal to be rejected by the KLTR.

Q28. Are you aware of any impacts, positive or negative, of the proposals in this consultation on data protection or privacy?

No