**Response 012**

**Questions**

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

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| **Yes. However, we consider that other local or regional, public or third sector bodies may also be able to provide advice, and that HIE’s role should not be exclusive.**  |

**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?**

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| **Yes. Additionally, and where appropriate, the KLTR could give consideration to commissioning a joint valuation where there is community interest so that community bodies can use valuations to support funding applications.** |

**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?**

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| **Three months may be long enough in some cases, but this may depend on local authority capacity, and members committee scheduling. We would defer to local authority colleagues view on this timescale.**  |

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

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| **Yes. However, it may be useful to consider how the KLTR would approach a situation where community aspirations may be at odds with public body or local authority aspirations.**  |

**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?**

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| **Yes. This is particularly appropriate where sites have no commercial value, and thus there is no realistic expectation of a return, and/or where the site is to be used for community, amenity, or environmental purposes.** **However, the KLTR may wish to consider how onward transfer from public body or local authority to community group is achieved consistently across Scotland.**  |

**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?**

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| **No. We broadly view conditions or clawbacks of the type described as a restriction on future community (or local authority) aspirations – particularly where new value is derived wholly or mainly from community (or local authority) ingenuity, and where commercial operators have failed to recognise an opportunity previously. Instead, we would recommend the KLTR and partners are confident at the point of transfer that such a transfer is in the public interest.** **We would expect any planning considerations to be a matter for the Local Authority.**  |

**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?**

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| **Yes. We strongly support the use of an appropriate public authority as a temporary holder of land in such circumstances.** **Regarding a timescale, we would expect public bodies to draw on the Community Asset Transfer process, as well as the Commissions** [**Good Practice Programme.**](https://www.landcommission.gov.scot/our-work/good-practice/diversification-of-ownership-and-tenure-negotiating-transfer-of-land-to-communities) **As such we consider the KLTR does not need to develop a new timescale.**  |

**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?**

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| **Yes. We consider the OPTS should apply to all properties dealt with by the KLTR.**  |

**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?**

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| **Yes. We welcome such a proactive and collaborative approach.**  |

**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?**

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| **Yes.**  |

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

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| **Yes.**  |

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

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| **We would consider that any particular case dealt with by the OPTS would be unique, and that a fixed definition of the public interest, at any level, may risk unintended consequences. We are confident that a case-by-case approach, demonstrating a robust rationale, and ensuring clear record keeping, is sufficient for decisions to be consistently made in the public interest.**  |

**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?**

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| **Yes. We consider that the KLTR is best served by relying on local or regional partners to determine what best aligns with local or regional sustainable development.**  |

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

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| **No. We consider the KLTR should deal with all property, however, we acknowledge that the OPTS may not be most suitable in those cases where a disclaimer provides better safeguards.**  |

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

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| **No.**  |

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

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| **Yes. We also acknowledge the risks identified, and commend the KLTR’s leadership in developing this approach.**  |

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

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| **We support the proposals as outlined. We would also be happy to support monitoring over the longer term from outcome and culture/behaviour change perspectives, as well as how the OPTS could be refined and/or where any supporting policy or legislative recommendations could be developed.**  |

**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?**

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| **Yes.**  |

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

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| **None.**  |

**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?**

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| **No. We consider all properties should be in scope, however, and as noted in response to Q14, the OPTS may not be suitable in all cases, particularly where a disclaimer offers a better safeguard, but this should not prevent properties being dealt with.**  |

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

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| **No.**  |

**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?**

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| **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?**

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| **Yes. Our** [**research into vacant and derelict land**](https://www.landcommission.gov.scot/our-work/housing-development/vacant-and-derelict-land-taskforce)**, which is often ownerless, has shown clear benefits to young people of bringing sites back into productive use. In particular, our** [**Case Studies**](https://www.landcommission.gov.scot/downloads/5f0d8d68ed71e_VDL%20Case%20Studies_14.7.20%20smaller.pdf) **clearly demonstrate how bringing such sites back into productive use can meet a range of National Outcomes.**  |

**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)?**

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| **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?**

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| --- |
| **Yes. Our** [**research into vacant and derelict land**](https://www.landcommission.gov.scot/our-work/housing-development/vacant-and-derelict-land-taskforce)**, which is often ownerless, has shown clear benefits to the environment of bringing sites back into productive use. In particular, our** [**Case Studies**](https://www.landcommission.gov.scot/downloads/5f0d8d68ed71e_VDL%20Case%20Studies_14.7.20%20smaller.pdf) **clearly demonstrate how bringing such sites back into productive use can meet a range of National Outcomes.** |

**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)?**

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| **Yes. Our** [**research into vacant and derelict land**](https://www.landcommission.gov.scot/our-work/housing-development/vacant-and-derelict-land-taskforce)**, which is often ownerless, has shown that areas of high socio-economic disadvantage are more likely to host VDL sites, and communities to be more heavily impacted by the detrimental issues associated with such sites. Our research, and our** [**Case Studies**](https://www.landcommission.gov.scot/downloads/5f0d8d68ed71e_VDL%20Case%20Studies_14.7.20%20smaller.pdf)**, clearly demonstrate how bringing such sites back into productive use can meet a range of National Outcomes.**  |

**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?**

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| **No.**  |

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

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| **No.**  |

Please email to the KLTR Policy Team’s mailbox at **Policy@KLTR.gov.uk****.**
You can save and return your responses while the consultation is still open but please ensure that consultation responses are submitted before the closing date.

If you are unable to respond by e-mail, please print and complete the Respondent Information Form and send it by post to:

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