Our Ref: DM/CY

Your Ref:

16 January 2023

**BY EMAIL ONLY**

OPTS Consultation

KLTR Policy Team

Scottish Government Building

Area 1F North

Victoria Quay

Edinburgh

EH6 6QQ

Dear Sirs,

**Ownerless Property Transfer Scheme (OPTS) Consultation**

I refer to the public consultation on the Ownerless Property Transfer Scheme that commenced on 23 September 2022, and to my conversation with your Richard Frew on 22 December 2022.

Whilst I note that the public consultation period formally ended on 16 December 2022, it was agreed during the above conversation that the Council could still respond to the consultation, albeit out with the initial consultation period, by the middle of January 2023.

I have now had the opportunity to meet with relevant Council officers to discuss the terms of the public consultation document, and having noted that a copy of the electronic response form is no longer available to use, I would propose to respond to matters posed by the consultation that have a particular relevance to the Council, rather than respond to all the questions posed.

At the outset, we agree that Highlands and Islands Enterprise, as a delivery partner for the Scottish Land Fund, is the appropriate body to provide advice to the King’s and Lord Treasurer’s Remembrancer (KLTR) on potentially suitable community groups. They have experience in identifying, dealing with, and supporting community groups take on assets and would be well placed to provide a consistent approach to community awareness of OPTS opportunities within this local authority area, and more generally across Scotland.

We welcome the fact that the KLTR will provide transparency to the OPTS process by making available any valuation, structural, building or condition surveys, title information and environmental reports to those involved in the process as this may prevent duplication of cost. However, there require to be sufficient discretion and timescales built in to the OPTS process to ensure that the local authority/public body or community group can undertake their own due diligence and seek further reports/valuations, if required, having regard to the particular circumstances arising from relevant sites or properties.

We agree that the OPTS should ensure that the wider public interest is considered before private interest for the reasons stated in the consultation. Further, the process should take a high level approach to sustainable development issues, leaving the detail relating to local authorities to assess given their local knowledge and interests.

We also consider that three months for a local authority to decide whether or not it wishes to take ownership of an ownerless property is reasonable, having regard to our governance arrangements and committee cycle. However, if the intention is that a local authority will take ownership of an ownerless property as an intermediary for transfer to a community group, we believe that a longer period of time will be required in order to assess the purpose and viability of the use that a community group proposes to make of the property. We therefore believe that whilst the process adopted by a local authority can be similar to existing community asset transfer arrangements, it could be streamlined to reduce the period of time that a proposal is considered. Notwithstanding this, a period of 9 months may still be required. However, given the statutory time periods that the KLTR requires to work towards, the proposed periods suggested should not impact on them. Accordingly, if the intention is for a community group to take ownership of a property, it may be more effective for the KLTR to dispose of such properties direct to relevant groups as we are unsure of the value added by the local authority acting as an intermediary particularly when it is also likely to incur property holding costs at a time of reducing budgets.

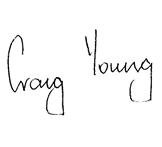
Whilst further information is required on the operation of OPTS, in principle, we agree that the process by which properties will be transferred is reasonable, and that it should apply to all properties described in the consultation. The OPTS criteria and information that will be required is similar to the requirements of the Council’s Community Asset Transfer scheme. We therefore agree that the requirements put forward in the consultation should apply.

We appreciate that the properties dealt with under OPTS may have issues associated with them. We therefore agree that in principle, the nominal value should be as stated. However, depending on the issues associated with the particular property, there should be discretion built in to the process for the nominal value to be waived. Further, any conditions attached to the transfer of the OPTS property should be minimal and should only relate to any material change in use that results in an uplift in value. We also appreciate that a project or scheme may be unable to proceed, continue or may be subject to change, for example, in relation to the potential environmental remedial costs that may be associated with some of these properties. In those circumstances, we agree that penalties for non-delivery of aspirations are unnecessary and may be a potential barrier/disincentive for community groups to come forward.

Finally, given the statutory time limits imposed on the KLTR, we believe that whilst a property remains within its 6 year restoration window, it should only be those properties where interested parties have made early contact regarding a company’s restoration that should be excluded from the OPTS process. All other properties should be included and should be subject to the KLTR’s approach to liability and risk as set out within the consultation paper.

Having set out the Council’s consultation response, I would confirm that I have no objection to it being published in its entirety, including with my name.

Yours sincerely,

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Chief Governance Officer