

Agenda Item	8
Report No	SR/13/21

HIGHLAND COUNCIL

Committee: Isle of Skye and Raasay Committee

Date: 30 August 2021

Report Title: Community Asset Transfer Request: Raasay Ferry Terminal

Report By: Executive Chief Officer, Communities and Place

1. Purpose/Executive Summary

- 1.1 The Community Empowerment (Scotland) Act introduces a right for community bodies to request to own, lease or use public sector assets at a discount on market value through a process known as Community Asset Transfer (CAT). Once a formal request is submitted, Local Authorities have 6 months to assess the application against a range of potential community benefits and determine whether to grant the request.
- 1.2 Following the Council's recent changes to governance of CATs, requests which relate to an asset with a market value of between £10,000 and £100,000, or a market rental value between £1,000 and £10,000 per annum, will come to Area Committee for a decision by local Members.
- 1.3 This report asks members to consider and agree a recommendation to vary a Community Asset Transfer (CAT) request from Raasay Development Trust relating to ownership of Raasay Ferry Terminal.

2. Recommendations

- 2.1 Members are asked to **vary** the Community Asset Transfer request for approval, as follows:
- A 99-year lease of Raasay Ferry Terminal to Raasay Development Trust, for £1 p/a if asked.

Terms of the transfer would include:

- The lease will be restricted to community use.
- The lease will be on a Full Repairing and Insuring basis (the tenant will be responsible for maintenance and insurance).

- Raasay Development Trust covers all reasonably incurred property and legal costs associated with the asset transfer – both the Council's and its own.
- Highland Council retains a right of access, maintenance and use of the harbour equipment store, on site.
- Rights of access, maintenance and usage of the harbour office are retained by Highland Council, for continued occupation by Caledonian Macbrayne.
- Toilets and waiting room facilities must continue to be made available for public use, including by ferry passengers.
- Transfer will be subject to evidence of leases for the seabed from Crown Estates Scotland, such as may be required for the proposed development to proceed.
- Any transfer will be subject to existing burdens / conditions in the Council's title to the property (e.g. 3rd Party access rights, etc.). The Council may also impose further burdens / conditions if they consider this expedient (e.g. economic development burdens, etc). The Council will only transfer property for which it has title to do so.
- Any other terms to be agreed by the Executive Chief Officer Communities and Place in consultation with the Chair of Communities and Place Committee.

3. Implications

- 3.1 **Resource implications:** the resource implications are set out in the report. The asset has been valued at £40,000 for purchase, or a market rental value of £4,000 per annum. Approval of a discount on purchase or lease through CAT would require the Council to forego all or part of this capital value, or rental income in recognition of community benefit which can be delivered as a result of transfer. However, as noted in section 5 below, retention of the facility for Harbour usage, waiting facilities and toilets for ferry passengers is considered to be a greater priority than pursuing market sale of the asset.
- 3.2 **Legal implications:** Community Asset Transfer (CAT) is a legislative process set out in the Community Empowerment Act. Public bodies have the right to vary or refuse a CAT application on the grounds that greater community benefit will arise from current or alternative use. This is pertinent in the current case, where the recommendation is to vary the request to ensure a level of future protection over key facilities for a rural community but in a way which ensures the community body can pursue its aims and objectives which are considered to be of strong community benefit. However, community bodies have the right of review, first to the public body and then by appeal to Scottish Ministers.
- 3.3 **Community Impacts (Equality, Poverty and Rural):** Demonstrating community support for the proposed CAT is a crucial element to each asset transfer request. This CAT has demonstrated strong community support for the proposals and in turn has set out how this transfer would support the wider community through improving this local asset by making it more accessible, for wider community use including disabled access. The proposal also outlines how transfer would facilitate wider development of community-

operated pontoon facilities to support local capacity for increasing numbers of visitors to Raasay.

3.4

One of the Council's key strategic priorities within its Corporate Plan is:

Work to invigorate local democracy and put our communities at the heart of the design and delivery of services at a local level. We will also develop the capacity of communities to decide and deliver their local priorities.

3.5

This is supported by a number of outcomes targeted at increasing engagement, increasing and encouraging community led and run services and involving more people in local decision making. The CAT programme contributes to this strategic priority.

3.6

Climate Change / Carbon Clever Implications - Proposed redevelopment of the terminal as a result of CAT would lead to improved energy efficiency, reduced carbon emissions and reduced environmental impact of inappropriate waste disposal by visitors on-shore and off-shore.

3.7

Gaelic implications: There are not considered to be any Gaelic implications associated with this transfer.

3.8

Risk implications: There is a small but plausible risk specific to the request for ownership as the basis for CAT. An adverse implication of transfer of ownership would be the Council's inability to ensure retention or reinstate amenities for ferry passengers (toilet and waiting room service), should the facilities become closed while the Trust or a contracted private operator experience difficulty, or the Trust goes into dissolution. To mitigate this risk, and ensure facilities remain available to passengers, a long lease is recommended as a variation to the request, as outlined in this report. There are no further risk implications associated with this asset transfer. It is to the benefit of the community and the Council to transfer operation of this asset.

4. Lease of Raasay Ferry Terminal to Raasay Development Trust

4.1 Background and detail of the CAT request

Raasay Development Trust (RDT) requests ownership of Raasay Ferry Terminal for £35,000 (12.5% discount on £40,000 valuation). The Trust's CAT request comprises part of a wider community pontoon development, led by RDT in response to extensive community engagement which identified the pontoon as a priority to improve transport links and economic development opportunities for local business and to respond to growing demand for tourism.

4.2

The CAT request does not relate to the wider harbour and slipway, but to the terminal building, comprising the waiting room, toilets, store and office (approx. 48sqm in total), as well as approximately 12 parking spaces at the pier. The pontoon development is intended to provide 12 berths, two access bridges, facilities and services for visitors by boat, campervan and electric vehicle. Transfer of the ferry terminal building itself would enable redevelopment of toilets and showers, including disabled access and a renewed waiting room, with provision of a laundrette, electrical hook-ups and waste disposal.

4.3 RDT has indicated its long-term intention is to lease out the facilities to a private operator, while retaining charitable ownership by the Trust, as a revenue generating asset. RDT has also indicated it wishes CalMac to continue its tenancy of the terminal office and for the Harbourmaster to have continued rights of use and access to the harbour store, as necessary for harbour maintenance. While neither of these areas are proposed for redevelopment, both are requested within the CAT. Access and use for both CalMac and the Harbourmaster are important and would form the basis of any conditions of transfer.

4.4 Fig.1: Raasay Ferry Terminal building



4.5 **Summary of CAT Assessment**

4.6 **Community Benefit (outcomes):** Subject to transfer, the terminal building would be operated as part of the wider pontoon development - a community venture intended to boost marine tourism, increase visitor numbers, employment and income to local businesses. The Trust regards modernised and accessible terminal facilities as integral to benefiting from opportunities to market Raasay to a wider audience of visitors and outdoor enthusiasts.

4.7 Redevelopment of the terminal would provide not only disabled accessible facilities, but also improved energy efficiency and reduce the environmental impact of inappropriate waste disposal by visitors on-shore and off-shore. RDT also anticipate the project will generate local employment and an ongoing income stream for reinvestment in community development, by the Trust, to the wider benefit of the local community.

4.8 **Capacity to deliver:** RDT has demonstrated recent success with improvements to the community hall, shop and wood fuel initiative, and are currently working on ambitious plans for community hydro and housing. The Trust has model governance in place for Community Asset Transfer and has presented a thoroughly considered vision for development and operation of services from the terminal building, including cost projections and a phased approach to development. The project has been informed by a five-year development plan for the island, extensive engagement with

the local community and key stakeholders, with support from an HIE funded development officer, actively engaged board and extensive input from supporting professional services.

- 4.9 RDT's proposal for the community pontoon and terminal building is well supported by appropriate evidence of thorough project planning; including a feasibility study, business plan, options appraisal with detailed cost estimations and marine licence for the community pontoon, as well as a detailed design proposal for redevelopment of the terminal building. Feasibility and business plans prepared by external consultants support a case for viability of the pontoon as a community asset.
- 4.10 **Community support:** The CAT proposal has arisen in response to community engagement on local priorities for investment carried out during development of the National Islands Plan (by the Scottish Government and Scottish Islands Network). The Trust has also developed its proposal in consultation with key local stakeholders. Letters of support have been received from local tour operators, the Distillery and Raasay House community development company. These representations emphasise recent growth in interest in tourism to the island, as well as challenges for commercial tour boats and tourist boats feeling constrained by available anchorage and disembarkation conditions which can be challenging for less mobile visitors. The Community Council has also indicated support.
- 4.11 The Trust's engagement of local fishermen has brought forward concerns over technical feasibility of the pontoons to safely protect boats from high waves and strong tidal surges. The Trust has sought to allay associated concerns around water depth in arriving at contract specifications, following completion of a feasibility study for the pontoon.
- 4.12 **Sustainability:** RDT anticipates a net annual income of approximately £7k in year one will rise to almost £12k by year five, based on a gross income of approx. £45-54k pa. Headline financial projections for operation of the pontoon are informed by benchmarking of rates, income and expenditure at five other community pier and pontoon facilities on the west coast of Scotland. Projections for income from berths are based on an assumption of 40% occupancy over a 4-month period, by year 3. Income from other services has been estimated from figures on footfall for the existing toilet facility and operating costs provided by Council services.
- 4.13 Revenue projections for on-shore services (approx. £16.5 – £22.5k pa) represent roughly 60% of anticipated income (shower, laundry, toilets, campervan hook-ups), alongside an anticipated £28.5-£32k pa from pontoon berthing and water taxi fees (40% of income from off-shore activity). The Council's Harbourmaster has advised the Trust may need to adopt more conservative estimates for income from berths based on learning from similar schemes. Should the Trust adjust its projections accordingly, net revenue will be reduced significantly, but income from operation of the proposed community asset still appears likely to support a minor surplus for reinvestment.

- 4.14 **Resourcing:** Capital cost estimates for development are based on detailed design and engineering consultancy by Wallace Stone. The Trust has planned for a 10% contingency and adopted a staged approach to development.
- 4.15 Highland Council has been a regular contributor and broker of funding in support of the Trust's proposal, including Regeneration Capital Grant Fund (£c.443k), Coastal Communities Fund (£73k) and Ward Discretionary funds towards valuation of the asset. This represents significant progress towards the projected £664k required for the development (including 10% contingency).
- 4.16 Potential savings to the Council from transfer of the toilet have not been quantified. However, it may be noted the Trust anticipates the toilets will be profitable following introduction of charging, based on footfall data provided by the Council and a compliance rate of 60%.

5. Recommendation to vary the request:

- 5.1 A risk specific to a transfer of ownership would be the Council's inability to ensure retention or reinstate amenities for ferry passengers (toilet and waiting room service), should the Trust or a sub-let private operator of the facility enter into difficulty or dissolution. Without retaining ownership of the terminal, the Council would have no legal basis to intervene to ensure that facilities are re-opened, maintained and operated, by Highland Council or otherwise for the benefit of the community.
- 5.2 In the unlikely event RDT were to have trouble ensuring terminal facilities are available to ferry passengers, a lease agreement would allow the Harbourmaster to seek to reinstate service provision under terms agreed in the lease.
- 5.3 As outlined in section 4, the proposal from RDT has been assessed positively against the core criteria and identifies significant benefits for the current facility and wider community through the potential transfer of the asset. It is therefore considered important to support the transfer whilst ensuring the potential future risk for a core facility is mitigated.
- 5.4 A 99-year lease arrangement has been discussed with RDT as an agreeable alternative basis for CAT. A lease agreement allows the development and associated community benefit to be realised and is compatible with key funding requirements for grant aid already committed for the proposed development.
- 5.5 A rental arrangement would mean the Council foregoes a capital receipt which could be realised from sale through CAT. Assessment by the CAT Officers Board considered ensuring a level of protection of the asset for the benefit of the community in the longer term to outweigh the benefit of the potential capital receipt. The recommended price of the lease at £1 per annum represents a level of discount on market value which is commensurate with the significant level of community benefit which is likely to arise from CAT, as outlined in this report. By foregoing a capital receipt and market rental value to agree a discounted long-term lease, the Council can empower significant investment in community-led development of a modern,

accessible terminal facility, while retaining ability to ensure terminal services are always available.

- 5.6 A lease arrangement is not compatible with Scottish Land Fund (SLF) financial support for CAT, which is specific to purchases / ownership. SLF support typically includes grant aid towards professional fees, such as legal costs. A rental arrangement may require the Trust to revisit funding in support of some costs – e.g. professional fees. RDT has been encouraged to consider application to Ward Discretionary Funds and forthcoming Coastal Communities Funding in support of any outstanding costs.

6. Overall Summary and Recommendation

- 6.1 The proposal has been evaluated and the scores suggest that the request for CAT should be **varied for approval**:

Community benefit: very strong
Capacity to deliver: very strong
Community support: very strong
Sustainability: moderate
Resourcing: strong - moderate

- 6.2 **Recommendation:**
To vary the Community Asset Transfer request by approving a 99-year lease of Raasay Ferry Terminal to Raasay Development Trust, for £1 p/a.

- 6.3 Terms of the transfer would include:
- The lease will be restricted to community use.
 - The lease will be on a Full Repairing and Insuring basis (the tenant will be responsible for maintenance and insurance).
 - Raasay Development Trust covers all reasonably incurred property and legal costs associated with the asset transfer – both the Council's and its own.
 - Highland Council retains a right of access, maintenance and use of the harbour equipment store, on site.
 - Rights of access, maintenance and usage of the harbour office are retained by Highland Council, for continued occupation by Caledonian Macbrayne.
 - Toilets and waiting room facilities must be made available for public use, including by ferry passengers.
 - Transfer will be subject to evidence of leases for the seabed from Crown Estates Scotland, such as may be required for the proposed development to proceed.
 - Any transfer will be subject to existing burdens / conditions in the Council's title to the property (e.g. 3rd Party access rights, etc.). The Council may also impose further burdens / conditions if they consider this expedient (e.g. economic development burdens, etc). The Council will only transfer property for which it has title to do so.
 - Any other terms to be agreed by the Executive Chief Officer Communities and Place in consultation with the Chair of Communities and Place Committee.

Designation: ECO Communities and Place

Date: 18-08-21

Authors: Ewen McIntosh, Localism & Engagement Coordinator
Alison Clark, Head of Policy