



**Nairn West and Suburban Community Council  
Jointly with Nairn River Community Council**

4<sup>th</sup> October 2021

Councillors: T.Heggie, L Fraser, L MacDonald, P Sagers [By email:](#)

Dear Councillor and Trustee of Nairn Common Good

**NAIRN COMMON GOOD: CONSULTATION ON DISPOSAL OF SANDOWN LANDS**

At our regular meeting on 27 September, the Community Council discussed the latest position regarding consultation about possible disposal of the Sandown Lands.

It is widely accepted that decisions on the management and use of the Sandown lands, the largest and most valuable asset within Nairn's Common Good, are hugely important for the town and the community. As a Community Council we are acutely aware of the significance of the decisions being made. For that reason we have reflected very fully on the present situation and the proposals that are now being put forward.

We are firmly convinced that a further, or "additional" consultation exercise is inappropriate, unjustified and unacceptable, especially if it is to be steered, managed and directed as proposed.

This letter sets out the basis for our carefully-considered view.

***1) The consultation already conducted was fair, and conclusive***

It is on record that both Community Councils expressed concern about the holding of such an important consultation at a time last winter when the community and the whole country were under Covid-related restrictions, public meetings were prohibited and normal social contact not possible. However when the Council decided nevertheless to go ahead, we did our utmost to ensure that the information was disseminated as widely as possible; and we welcomed the decision to agree our requests to extend the period for responses.

The consultation conducted over 15 weeks from Nov 2020 to Feb 2021, in line with the requirements of the Community Empowerment Act (CEA), was a well-publicised, widely-reported and extensively-discussed exercise. It was publicly announced and promoted and given significant coverage in the press, on websites and in social media. Briefing material was circulated and posted online. The subject was vigorously debated at online community council meetings and in other forums. So there was ample, full and fair opportunity for all sectors of the community and all local residents to reflect and respond.

The response (for a survey-exercise of this kind) was substantial. The outcome – set out in Council report NC/12/21 – was unequivocal. 86% (85 out of 96 respondents) were opposed to disposal, with 10 making comments for and against, and just 3 in support. Equally relevant, in reviewing the report at their 23 June meeting, Councillors accepted the validity of the exercise:

*“.... Members highlighted that this was a very comprehensive consultation with a good extension of time to it that allowed as many people to participate in it as possible.”*

In our view, this is a conclusive result. It has delivered a clear verdict (not, for example, a close-run 51/49% split which might justify a re-run). It has been endorsed by Councillors as allowing and reflecting comprehensive participation.

## ***2) A further round of consultation is unacceptable, manipulative and intellectually dishonest***

Against that background, the subsequent proposal to conduct a second round of consultations is not only unjustified: it implies – contrary to the evidence and Members’ own views – that the exercise already conducted was somehow unsatisfactory. More seriously, it gives rise to concerns that the proposal is a cynical exercise motivated by a desire to secure a different verdict.

The arrangements now proposed for a further round of consultation are fundamentally undemocratic. The essence of a consultation is that there should be a level playing field: an open opportunity for all, on the same basis, without fear or favour, and without any selective prompting, to offer their views freely. This was indeed the approach last year, and it produced a clear outcome.

The approach as now outlined – in report NC/15/21 and in further official briefing at the recent Community Planning Partnership (NCCPP) meeting – is clearly intended to manipulate the process in particular ways. It represents a deliberate strategy to mobilise and encourage comment for the proposed disposal plan by prompting and soliciting feedback from selected and targeted groups who have thus far shown neither knowledge nor interest. This is selective and discriminatory. It is profoundly disrespectful of all those – including the Community Councils – who devoted thought and time to understanding the issues engaging with constituents, and responding to the consultation in December 2020. To assert that people “misunderstood” is a patronising insult.

As a matter of basic principle, it cannot be right to target or canvass for views on a matter of community-wide importance from particular groups on the basis of social or economic status, personal circumstance or indeed any other such criteria. The rationale for choosing whose views to seek, and how, is unclear. The idea (in Council report NC/15/21) that “...*trusted individuals...*” might be expected to “...*assist with the completion of responses...*” is quite extraordinary. And it is particularly inappropriate to identify specific client groups of the Council (such as tenant associations) or of the CAB, or schools and nurseries (!) as having a privileged or preferential right to comment.

Scrutiny of this notion reveals how absurd it is. It could reasonably be asked why other groups or categories of local residents should not be similarly targeted – whether care-home residents, commuters, retirees and pensioners, schoolchildren, shift workers, churchgoers, social security claimants, university students, second-home owners, Gaelic speakers or any other arbitrarily-chosen sector of the local community!

The only credible alternative to an open, free and fair consultation such as that which has already taken place, is to arrange a mandatory, compulsory, referendum vote in which all residents irrespective of social or economic status and personal circumstance, are obliged to respond. This has indeed already been mentioned by one Councillor. It is however unrealistic in both political and practical terms. It would not only be a major logistical and administrative exercise, and expensive in time and resources; it would also be at odds with the principle of democratic expression and freedom of choice which underpins our political system and is embodied in the Community Empowerment Act.

### **3) the NNCPP has no remit on Common Good matters**

The suggestion that somehow the NNCPP should provide the mechanism for conducting or advising on this further extended and selective process – by means of a ‘reference group’ whose membership and terms of reference are totally undefined – is entirely inappropriate.

The NNCPP has no remit to manage, intervene in, or administer any matters relating to Common Good. It is not qualified to do so. It is not an elected body. Its members are appointed or *ex officio* representatives – mainly of service-delivery public agencies and funding bodies. Most of its members are not residents of the burgh of Nairn. The idea that a ‘reference group’ involving people from outside the burgh should manage, direct or “massage” the process of local consultation about Sandown or any other Common Good matter is a nonsense.

### **4) the invocation of the 2013 development brief is misleading**

The argument that people should be consulted or asked to respond on the basis of the 2013 development brief for Sandown is misleading and dishonest. The question that was – and is – being posed in the consultation is only on the principle of disposal of the land. Nothing further. The consultation does not set out (and cannot ensure) specific uses. Nor does it present options for comment on how the land might at some point be developed or by whom.

The 2013 development brief is indeed on the table. But it is out-of-date. Moreover it has no legal or binding force. It is not a “manifesto” or a policy document. It is no more than guidance for potential developers, and is susceptible to change. So to imply that the consultation is seeking consent for what is outlined in that development brief is wrong. It is only one illustration of development potential. To use that document to incentivise people or promote a specific response is political arm-twisting. If the land is disposed of, there is no assurance – and certainly no guarantee – that whatever is indicated in any development brief will in the event be realised.

It would perhaps be reasonable – and desirable – to have a wide-ranging public debate about how the Sandown Lands might best be used, managed and developed for the benefit of the people of Nairn. But this has not happened. And it is not what the current consultation is about.

The consultation seeks an absolute and simple “Yes or No” answer to the core question as to whether this “inalienable” land should be disposed-of. It seeks to grant the Council absolute power and discretion to apply to the Sheriff Court to dispose of the land as and when they see fit at some unspecified time in the future and at whatever price and for whatever purposes they choose. Effectively it is giving consent to the Council’s appropriation of the asset. It amounts to granting Councillors a ‘blank cheque’. That is unacceptable.

If indeed a further consultation were to be launched, and if the aim is to promote debate and collate views on the eventual use of the land rather than just its disposal [by sale], then this would have to be a new and separate exercise. It could include – but should not be limited to – the elements indicated in the 2013 development brief. If change of use is envisaged, court consent would be required. But any such exercise should as a very minimum set out, objectively and dispassionately, a full range of possible options – each one supported by a carefully worked-out business case.

These could range from retention as a capital asset, to long-term lease to generate an income stream (as with the Inverness CG land at the Longman Estate), to partial and phased disposal for specified community facilities, to creation of a recreational area, a wetland reserve, a green corridor, a range of housing units, or indeed any other possibilities that the local community might regard as beneficial. But this is an entirely different proposition which would have to be tackled separately.

## 5) Conclusion

Our view is clear: the consultation required by the CEA has been carried out. A clear outcome has been delivered. There is no case for a “re-run” or a second round, or further canvassing of particular sectors or categories of residents on a selective or arbitrary basis. We therefore oppose any such proposal.

There is one more point which emerges from this and previous discussions:

## 6) The need for a proper, local, representative, Nairn CG management structure

This entire saga has underlined the case, which we have long argued, for a properly representative, inclusive, local Common Good management group or committee – consisting of elected representatives from community bodies within the burgh of Nairn. It should have a formally-defined responsibility to comment, advise and make recommendations on all aspects of the management and administration of Nairn’s Common Good. It would not be an “economic” entity. Nor is it about delivery of services. So the idea that the NNCPP, or some kind of ill-defined or self-appointed “reference group” within it might fulfil such a role is misguided.

There are models and examples of best practice elsewhere in Scotland. We therefore also urge early action aimed at establishing such a group.

This letter is copied to relevant Council officials; to the Chair of the NNCPP; and to our MSPs. It will be published on our website as a record of action decided at our 27 September meeting, and so will be available to the press and the wider public.

Yours sincerely,

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