

Our ref: CATS17-18-02

Forest Enterprise Scotland

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Simon Hodge
Chief Executive

ASSET TRANSFER UNDER THE COMMUNITY EMPOWERMENT ACT

COMMUNITY ASSET TRANSFER SCHEME FOR THE NATIONAL FOREST ESTATE

DECISION NOTICE - AGREED

To: Minginish Community Hall Association
Minginish Community Hall, Portnalong, Isle of Skye

3 November 2017

This Decision Notice relates to the asset transfer request made by **Minginish Community Hall Association** on **16 August 2017** in relation to **12.3 ha of land at the Fairy Pools Car Park, Isle of Skye**.

Forest Enterprise Scotland has decided to **agree to** the request.

The reasons for this decision are as follows:

- the public benefit is substantial compared to the relatively low value of the asset;
- a conservative estimate of financial benefits in terms of jobs and public sector cost savings is quantifiably in excess of the discount of £27,500.
- the ongoing benefits in terms of jobs and maintaining the facility will be entirely funded by the new income stream generated by the car park;
- there is a high degree of certainty that the benefits will be realised almost immediately: MCHA has permissions and core funding in place, the projected income is supported by monitoring data on visitor numbers and evidence of support from key public and private sector partners;
- the request will make a significant positive contribution to Forest Enterprise Scotland's KPIs and Scotland's National Outcomes.
- the asset transfer will significantly reduce risk and costs for Forest Enterprise Scotland, and other public bodies and resolve a long-standing issue which has involved multiple public bodies, elected Members, the community and the emergency services.

The attached document specifies the terms and conditions subject to which we would be prepared to **transfer ownership** of the land to you. If you wish to proceed, you must submit an offer to us at the address above by **4 May 2018**. The offer must reflect the terms and

conditions attached, and may include such other reasonable terms and conditions as are necessary or expedient to secure the transfer within a reasonable time.

Right to appeal

If you consider that the terms and conditions attached differ to a significant extent from those specified in your request, you may appeal to the Scottish Ministers.

Any appeal must be made in writing by **1 December 2017**, which is 20 working days from the date of this notice, to:

Community Land Team
D Spur
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Email: CRTB@gov.scot

Guidance on making an appeal is available at
www.gov.scot/Topics/People/engage/AssetTransfer.

TERMS AND CONDITIONS

The terms and conditions subject to which we would be prepared to transfer ownership of the 12.3 ha of land at the Fairy Pools Car Park, Isle of Skye to Minginish Community Hall Association are:

1. Purchase price is to be £2,500.00 exclusive of any fees and/or taxes.
2. A Clawback Agreement will be put in place whereby should planning approval be granted for a commercial and/or residential end use not identified in the Business Plan supporting the application then Forest Enterprise Scotland will be entitled to 75% of the uplift in land value created by that permission. The Agreement will subsist for 15 years following date of transfer.
3. Forest Enterprise Scotland require a Right of Pre-emption such that should 1) the proposed works have not begun within 5 years, or 2) the land transferred (or any part thereof) is offered for re-sale at any time or 3) the project fails and the assets are to be sold as part of a winding up process then Forest Enterprise Scotland (or its successors) will have the option of first refusal to purchase back the land.
4. Should the public benefits not be substantially delivered in accordance with the Business Case presented, or the land is subsequently sold at a price higher than £30,000 (and Forest Enterprise Scotland have not exercised their right of pre-emption) then Forest Enterprise Scotland will have the right to reclaim the discount on the land price offered as part of the transfer. This right will continue for 5 years following date of transfer.

Making a Legal Offer Under the Community Asset Transfer Scheme

If you wish to proceed, you must submit an offer via Registered Post to us by **4 May 2018**.

Under Scots law the offer must be prepared by a firm of solicitors, and the offer should be addressed to:

Head of Acquisitions and Disposals
Forest Enterprise Scotland
Silvan House
231 Corstorphine Road
Edinburgh EH12 5EH

The offer must contain the following:

1. The name of the subjects on which the offer is made
2. The name of the Community Transfer Body
3. The date of the Decision Notice
4. Confirmation that available funding will be in place at point of transfer
5. Confirmation of permissions (planning, environmental etc) in place and any that remain outstanding at the time of offer
6. Confirmation that the specific terms and conditions under which the Decision Notice was issued are acceptable.

An appeal process to the Scottish Ministers is available for any request to extend the deadline for an offer to be received or completion dates and further details on this may be found Guidance on making an appeal is available at www.gov.scot/Topics/People/engage/AssetTransfer. Any appeal must be made in writing by **1 December 2017** to the address given in the Decision Notice above.

Following receipt of the formal offer it is expected that the asset transfer will be concluded within 6 months. If **Minginish Community Hall Association** cannot conclude the transfer within 6 months then a request for an extension should be made as soon as possible.