

The Highland Council**Nairnshire Committee
20 February 2017**

Agenda Item	6
Report No	N/2/17

Nairn River Fishings**Joint Report by Head of Corporate Governance and Inverness City Manager****Summary**

This report updates Members upon the outcome, to date, of the investigation undertaken into the both the ownership and legal status of the River Nairn fishings. The report also invites Members to consider a petition seeking the establishment of a wildlife haven on the lower stretches of the River Nairn.

1. Background

- 1.1 The fishings on the River Nairn between the harbour and Howford Bridge are currently leased to Nairn Angling Club. The lease forms Appendix One to this Report. The most recent lease was agreed by Nairn District Council in 1995. The lease is for 99 years and the Angling Club have an option to extend the lease for a further 99 year period on 1st January 2094. There are no break provisions. The annual rental payable by the Angling Club is £50 + VAT. The rental income is paid in to the Common Good account. This rental is not subject to any form of review. The fishings attract an annual levy and this figure has been met from the Common Good account. The levy is currently £9100 per annum.

2. Investigation

- 2.1 The status of the fishings and, in particular, the financial impact upon the Common Good Fund of the payment of the levy have led some to question if the fishings are appropriately considered to form part of the Nairn Common Good. Officers within Legal Section, with the assistance of both the Ward Manager and Councillor MacDonald, undertook initial research into the position.
- 2.2 As the initial enquiries proved inconclusive Nairn Members asked that further enquiry be undertaken to seek to establish the legal and ownership position. This report advises Members of the enquiries that have been undertaken involving reference to and assistance from the Scottish Records Office, the Signet Library and the Archive Centre. The documents examined have included previous minutes of the Burgh and District Councils, files of the former District Council, Court papers and private Acts of Parliament. The investigation had two distinct strands- the first involved tracing the history of the respective title positions as far back as possible to try to establish the ownership history and secondly examination of the Minutes of the various local authorities to seek to trace the decisions made by the District Council and its

predecessors. It is of note that as the previous Minutes have no general index and only individual volumes from the later years of the District Council have indices it was impractical to peruse all records and hence the research to date has focussed on periods when there was existing evidence in the form of correspondence of fishings related activity - namely 1920-23, 1954-58, 1974-76 and 1993-96. Appendix 2 sets out a chronology of the fishings related minuted decisions identified in these periods between 1920 and 1995.

3. THE FISHINGS

3.1 a) Ownership

3.2 The fishings currently let to the Angling Club ostensibly comprise two titles:-

(1) Disposition by Millicent Lang Rose, with consent, in favour of the Committee of Riparian Proprietors of the River Nairn recorded 22nd April 1933 of the salmon fishings from the Howford Bridge to the Estuary less a part that was sold in 1923 to Provost Magistrates and Councillors of the Royal Burgh of Inverness

(2) Disposition by Major John Baillie Rose in favour of the Provost, Magistrates and Councillors of the Burgh of Nairn recorded Fifth July 1923 of the salmon fishings of the River Nairn from the Howford Bridge to a point 460 ft north of the Victoria Seaman's Hall

3.3 The two titles will be considered in turn:-

1) The title to the salmon fishings from Howford Bridge to the estuary, under exception of the fishings which form title (2) above, remain vested in the Committee of the Riparian Proprietors by virtue of the 1933 Disposition. The Committee was established by the Inverness Water and Gas Order Confirmation Act 1929. The fishings in question are not owned by the Highland Council whether that is the General Fund or Nairn Common Good Fund. The fishings were not owned by Nairn District Council.

3.4 The title position is confirmed by the Chronology. As early as 1932 these fishings were leased to the Burgh Council by the Committee of Riparian Proprietors and in turn sub- let by the Council to the Angling Association. This position continued for many years extending long beyond the disestablishment of the Committee of Riparian Proprietors following repeal of sections 12 and 13 of the 1929 Act by the Inverness Water Order 1940.

3.5 In 1976 the Clerk to the Nairn Fishery Board approached Nairn District Council stating that the Agents for the Nairn Riparian Proprietors requested to be relieved of the Assessment. The 1933 Disposition in favour of the Committee of Riparian Proprietors was delivered to the District Council and the Agents noted that there were now no members of the Committee. The District Council was asked to accept delivery of the Disposition and with it responsibility for the Assessment. The District Council agreed to accept delivery of the title and assume the responsibilities of said Proprietors. It is implicit in this decision that

the District Council agreed on the understanding that no title would be granted in their favour.

- 3.6 Subsequently, in 1995, the then Chief Executive of Nairn District Council described the District Council as ‘de facto proprietors of the estuarial fishings.’ However whilst it is unlikely that any person will seek to challenge the Council’s authority to administer the fishings, in strict legal terms the Council has no title to the estuarial fishings. It is believed that this lack of title led the District Council to adopt the non-standard wording of seeking to lease ‘ALL and WHOLE their entire ownership control or interest as now enjoyed...’ when granting the 1995 lease to the Angling Association.
- 3.7 Given the dissolution of the Committee, the absence of members and the passage of time it is likely that ownership of this element of the fishings now sits with the Crown as *ultimus haeres*. In order to seek to address the title uncertainty it is suggested that the Crown be approached and asked if they would be prepared to grant a title in favour of the Highland Council.
- 3.8 2) There is no uncertainty as to the ownership of the salmon fishings of the River Nairn from the Howford Bridge to a point 460 ft north of the Victoria Seaman’s Hall. These fishings were acquired by the Burgh of Nairn in 1923.

4. **b) Legal Status**

- 4.1 The question of the legal status of the fishings is in essence do the fishings form part of Nairn Common Good Fund? The question is simply stated but is far less simple to answer. There is no straightforward test that can be applied. Consideration requires to be given to the whole circumstances of the subjects concerned.
- 4.2 As an initial exercise searches were instructed to establish if the fishings had ever formed part of the Burgh Charter and thus the Common Good. The searches confirmed that the fishings on the River Nairn were previously owned by Brodie of Brodie and only came in to the Burgh Council’s ownership on their acquisition in 1923.
- 4.3 It is of note that the 1923 Disposition contains no indication that the fishings were being sold to the Provost, Magistrates and Councillors as trustees of the common good. Typically the words ‘for behoof of the inhabitants of said Burgh’ would be incorporated in to the title if the purchase was being funded by the common good.
- 4.4 Further evidence is found in the exchange of memoranda, dated 23 December 1994 and 12 January 1995 (Appendix 3), between the then Chief Executive of Nairn District Council and the then Director of Finance. The Chief Executive advised that title to the fishings in question had been taken in the name of the Council as the Burgh Council and not as Trustees for the Common Good Fund. This concern appears to led to the inclusion in Clause Ninth of the Lease the following provision ‘...*In the event of that the Angling Association*

should be wound up voluntarily or otherwise then the right to administer the subjects of let shall pass to the trustees of the Common Good Fund for the former Burgh of Nairn to the full effect presently enjoyed by the Landlords...' The Chief Executive explains that the *'the purpose of the residual clause transferring the lease to the Common Good, rather than the Highland Council is to accommodate the wishes of both the Angling Association and the District Council that the highest possible level of local control be exercised over the fishings to ensure their 'municipal' character is maintained.'*

4.5 Alternatively there is evidence which does appear to support the position that the fishings did form part of the Nairn Common Good and were treated accordingly. For example the 1923 Disposition does not identify any statutory purpose for the acquisition by the Burgh which might suggest the costs are being met by the Common Good Fund. There is also reference to acquisition by the Town that might be construed as reference to the Common Good. It is potentially of note that the justification for the purchase of the fishings in 1922 is the establishment of what are later described as fishings of a 'municipal character' for the benefit of the people of Nairn. Such a purpose is clearly one consistent with a use of the Common Good. The Burgh Council immediately sought to establish an Angling Association when contemplating the purchase and looked to the Association to manage their interests. It does appear that throughout the periods of lease the Angling Association has paid 'nominal' rental which is not related to the value of the fishings.

4.6 There are consistent references to the fishings being leased as part of the Common Good set within the chronology from 1974 until 2009 when it was confirmed to the Association by the then Ward Manager that the Common Good Fund would continue to pay the annual assessments.

4.7 Given there is evidence pointing in both directions it is not possible currently to form a definitive view on the status of the fishings and the implications that might follow. In the circumstances it is recommended that members agree to support further investigation and the instruction of an external legal Opinion. The Council has previously sought the assistance of Professor Robert Rennie to consider common good related issues in both Inverness and Wick.

5. **Petition - Creation of a Designated Wildlife Area on the River Nairn**

5.1 A petition has been received by the Council in relation to the above and has been deemed competent for consideration by the Depute Chief Executive in line with the Council's petitions procedure.

5.2 The Nairn Swans and Waterfowl Trust initiated a petition in November 2016 with regard to the creation of a designated wildlife haven on the River Nairn asking that the Highland Council recognise the area between the A96 road bridge and the Bailey Bridge at the harbour as a wildlife haven.

5.3 The petitioner had previously submitted a request for consideration by the Nairn Ward Members in September 2016. The Members gave due consideration to the request but took the view that what was proposed was not

an initiative that they could support taking the needs of all users into account. It was felt that as the river area is held for the general purposes of the community, restricting an area was not in accordance with the principles of and spirit of the Council's administration of the area. This remains the Members' position.

- 5.4 It is not clear what is meant by a 'wildlife haven'. There is no determined need, and no other requests have been received with regard to such a designation. Such a designation would have no recognised meaning or legal status and would not afford additional protection or meaning to the site.
- 5.5 Advice has been sought from Council staff involved in habitat management. Committee is advised that wild birds in the area in question are protected by the Wildlife and Countryside Act 1981 and the Conservation (Natural Habitats etc) Regulations 1994. The regulations include a wide variety of offences relating to the killing or injuring of any wild bird, capturing or keeping any wild bird, destroying or taking eggs, or destroying, damaging or taking the nest of any wild bird whilst it is in use or being built.
- 5.6 It has been observed that the high concentrations of ducks, gulls and swans in the lower river are greatly above the carrying capacity of the river (i.e. the numbers of birds that would be able to live there naturally). It is held that the only reason so many birds can live in this area is because they are artificially fed.
- 5.7 Due to the heavy concentration of birds, concerns have been raised over contamination of the water due to both defecation and food that is not eaten by the birds. In turn, this pollutes the water and reduces water quality. Pollution upsets the invertebrate balance in the river and poses risks to the ecosystem. This will affect fish, otters, bats and other wildlife using the river. Salmonids, otters and bats are all European Protected Species and therefore have the highest level of protection, and on their habitats.
- 5.8 Concerns have also been raised over levels of vermin along the river area. Complaints have been received regarding in particular rats, which will eat the excess food and birds and will be able to survive in greater numbers than they would otherwise.
- 5.9 Members may therefore have to consider the need for a management plan for the river area given the high concentration of birds and the potential risks and issues raised.
- 5.10 Having given consideration to the petition request, whilst recognising the matter raised and appreciating the interest shown, taking into account the broader issues outlined it is not felt that the petition can be upheld.

6. Implications

- 6.1 There are no Equalities, Climate Change/Carbon Clever; Risk, Gaelic and Rural implications. The legal position is set out in the report and the costs of seeking an external opinion would fall to be met.

Recommendation

The Committee is invited to:-

- i. Note the progress to date on researching the history of the fishings;
- ii. Agree that the Crown, as ultimus heares, be approached to grant title to the estuarial fishings;
- iii. Agree that an external Opinion be obtained from Professor Rennie; and
- iv. Agree not to uphold the request set out within the petition to establish a wildlife haven on the River Nairn.

Designation: Head of Corporate Governance

Date: 10 February 2017

Author: Stewart Fraser

Background Papers:

APPENDIX 1

65/323

12 JUN 1995	
No.	00399
FEE	£: 122.00.

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LOD 183/95 LEASE 24

L E A S E

between

NAIRN DISTRICT COUNCIL

and

NAIRN ANGLING ASSOCIATION

EXTRACT

NO. 2

129

1994

Subjects:

NAIRN SALMON FISHINGS

EXTRACT

NO. 2

A M Kerr

Chief Executive

Nairn District Council

The Court House

NAIRN

2 #AS 12715

IT IS CONTRACTED and AGREED between the parties following, namely, NAIRN DISTRICT COUNCIL constituted under the Local Government (Scotland) Act 1973 and having their Offices at the Court House, Nairn (who and their successors as proprietors of the subjects aftermentioned are hereinafter referred to as "the Landlords").....ON THE ONE PART;

AND

Mr Charles Cunningham Black, President, residing at 8 Kilravock Crescent, Nairn and Mr Graeme Otway Symon, Secretary, residing at The Little House, Thurlow Road, Nairn as officer bearers of and Trustees for and on behalf of Nairn Angling Association (who and whose successors are hereinafter referred to as "the Tenants").....ON THE OTHER PART;

in manner following, that is to say:-

The Landlords in consideration of the rent and other prestations hereinafter specified hereby let to the Tenants but excluding assignees and sub-tenants except as aftermentioned ALL and WHOLE their entire ownership control or interest as now enjoyed over (First) the salmon fishings on the River Nairn extending from the Howford Bridge to the Harbour being the subjects referred to in the Disposition thereof in favour of the Provost, Magistrates and Councillors of the Burgh of Nairn recorded in the Division of the General Register of Sasines for the County of Nairn on the fifth of July 1923 and (Second) the salmon fishings including estuarial fishings on the same River Nairn from the Harbour to the sea as referred to in the Disposition in favour of the Committee of Riparian

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REGISTERS OF SCOTLAND
GENERAL REGISTER OF SASINES
COUNTY OF NAIRN
FICHE 26 FRAME 39
PRESENTED & RECORDED ON 12 JUN 1995

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Page Second

Proprietors recorded in the Division of the General Register of Sasines for the County of Nairn on the twenty-second of April 1933 ; (which fishings hereby leased being hereinafter referred to as "the subjects of let"). For the avoidance of doubt it is hereby declared that the basin of the Nairn Harbour is excluded from the terms of this Lease. But these presents are granted always with and under the following provisions, declarations, conditions and other namely:-

FIRST)
PERIOD OF LET

The let shall be for a period of 99 years from the First of January 1995 which is declared to be the date of entry and vacant possession hereunder notwithstanding the date hereof. The Tenants, at their sole option shall have an option to renew the Lease for a further term of 99 years from and after the first of January 2094 on the same terms and conditions as are contained in this Lease.

SECOND)
RENT

The Tenants bind and oblige themselves to pay to the Landlords in name of rent £50 (FIFTY POUNDS) yearly in advance beginning the first payment of rent at the said rate on the date of entry for the period to the 31 December 1995 and so forth yearly and continually thereafter during the currency of these presents and to perform the whole other obligations of the Tenants hereinafter expressed.

THIRD)
FISHERY BOARD
REPRESENTATION

The Tenants shall be entitled to occupy a seat at the Nairn River Fishery Board as nominees of Nairn District Council, the proprietors of the fishings. The Landlords will, however, continue to meet all levies imposed by the Fishery Board.

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FOURTH)
PRESENTATION
ANGLING ASSOC.
COMMITTEE

The Landlords shall be entitled to nominate one of their members to sit as a full voting member on the Committee of the Angling Association. In the event of reorganisation of Local Government, then it shall be a condition of this agreement that the Local Authority representative nominated to a seat on the Angling Association Committee shall represent a ward within the geographical area presently covered by Nairn District.

FIFTH)
RATES ETC.

Except where this lease otherwise provides, the Tenants bind and oblige themselves and their successors to pay all rates, taxes, assessments and other impositions whether parliamentary, municipal, parochial or otherwise which now are or shall at any time hereafter during the currency of this Lease or extension therefor be charged, rated, assessed, imposed upon or in respect of the subjects of let or any part thereof; In addition the Tenants shall be responsible for the cost of all levies or outgoings relating to the subjects of let and incurred by the Tenants.

SIXTH)
ACCESS

It is understood that the tenants will continue to provide access to fishings to the general public at the lowest possible cost in recognition of the Landlord's desire to provide a municipal fishing facility for local residents as well as for visitors.

SEVENTH)
LANDLORDS
LIABILITY

The Landlords shall not be responsible for any claims arising whether it be for damage to property or injury to persons or otherwise arising from the Tenants' enjoyment of the subjects of let. The Tenants shall ensure that they arrange adequate insurance cover for public liability and such other risks as the Tenants may from time to time consider necessary and any Insurance Policy taken out by the Tenants in this connection will be exhibited to the Landlords on demand.

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(EIGHTH)
MAINTENANCE

The Tenants shall keep free from angling-generated litter at all times that area of ground within a radius of five yards from the Riverbank or Harbour and shall ensure that no nuisance, annoyance or injury to the amenity is created by their use of the subjects of let or the premises.

(NINTH)
TERMINATION

If at any time during the currency of this Lease the Tenants shall fail to comply with or shall contravene any of the conditions, provisions and restrictions hereinbefore contained or referred to or if the Tenants fail to pay any part of the said rent within one month after its due date then in any of these events the Landlords at their option by six months notice in writing may bring this Lease to an end reserving nevertheless the Landlords' claim in respect of any antecedent breach of the conditions of this Lease; Provided always that in the case of a breach non observance or non performance by the Tenants (including non payment of rent) which is capable of being remedied, albeit late, the Landlords shall not exercise such option of forfeiture unless and until they shall have first given written notice to the Tenants requiring the same to be remedied and the Tenants shall have failed to remedy the same within such reasonable period as shall be prescribed in the notice which in the case of non payment of rent shall be twenty-one days only.

In the event that the Angling Association should be wound up voluntarily or otherwise then the right to administer the subjects of let shall pass to the Trustees of the Common Good Fund for the former Burgh of Nairn to the full effect presently enjoyed by the Landlords.

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(TENTH)

The Tenants may assign this Lease without financial penalty on obtaining the prior written consent of the Landlords which consent shall not be unreasonably withheld or delayed.

(ELEVENTH)

We certify that this lease is not a lease which gives effect to an agreement for lease as interpreted by the Inland Revenue in terms of the guidance note dated 30:06:94 referring to Section 240 of the Finance Act 1994.

LASTLY

The parties hereby consent to registration hereof for preservation and execution: IN WITNESS WHEREOF these presents typewritten on this and the preceding three pages are executed as follows: they are sealed with the common seal of the Landlords and subscribed for them and on their behalf by John Harkness Cattanach and Norman Hamilton McCulloch, both members of the Council and by Allan MacDonald Kerr, a Proper Officer of the Council all together at Nairn on the Twenty Fourth day of May Nineteen Hundred and Ninety Five and they are subscribed for and on behalf of the Tenants by Charles Cunningham Black, President, and Graeme Otway Symon, Secretary, both as Trustees aforementioned, at Nairn on the Sixteenth day of May Nineteen Hundred and Ninety Five in the presence of William Robert John Maitland, Carpet Fitter, residing at 6 Grant Street, Nairn, and Robert MacKintosh, Hotelier, residing at the Albert Inn, Albert Street, Nairn.

REGISTER on behalf of the within named NAIRN DISTRICT COUNCIL and Charles Cunningham Black and Graeme Otway Symon as Trustees of NAIRN ANGLING ASSOCIATION in the Register of the County of Nairn.

Solicitor, Nairn
Agent

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Chronology of Fishings on River Nairn

1.	Nairn Burgh Council Extract from Minutes 30 September 1920	Submitted and read letter from Mr MacDonald , Solicitor, Inverness acting on behalf of Mr Brinkman of Culdachie intimating the purchase by Mr Brinkman from Brodie of Brodie of the fishings in and at the mouth of the River Nairn extending to Howford Bridge and proposing that a syndicate of the various owners of fishings in the River Nairn be formed to which Mr Brinkman would hand over the subjects. Remitted to the Finance and Law Committee.
2.	Nairn Burgh Council Extract from Minutes Finance and Law Committee 8 October 1920	Submitted and read the letter from Mr MacDonald, Solicitor, dated 20 th ultimo specifying the conditions under which the syndicate for the fishings on the River Nairn would be formed. A Committee...was appointed to consider the matter in all its aspects.
3.	Nairn Burgh Council Extract from Minutes Fishings Committee 4 November 1920	<p>Submitted letter dated 20th ult from Mr MacDonald, agent for Mr Brinkman stating that the expenses of repairs to weirs and intakes would fall to be paid by the Proprietors of the River and did not think an angling association would be suitable as one of the proprietors apart from any difficulty as to title.</p> <p>The Clerk was instructed to write Mr MacDonald again and enquire as to the liabilities in connection with and the probable outlay in respect of the fishings and also who are to be partners of the proposed syndicate , also whether the syndicate would accept an Angling association to be formed by syndicate with liberty to fish from Howford Bridge to the Sea the Association paying revenue therefor which would go towards expenditure.</p> <p>The Clerk submitted Statement of Brodie of Brodie's title to the fishings in the River.</p>

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Chronology of Fishings on River Nairn

4.	Nairn Burgh Council Special Meeting of the Council Extract from Minutes 27 January 1922	The Chairman explained that the meeting had been called in order to consider what steps should be taken with the view of purchasing the fishings on the River Nairn as far as the Howford Bridge, a favourable opportunity having presented itself...it was resolved that a Committee be appointed to deal with the matter
5.	Nairn Burgh Council Fishings Committee Extract from Minute 30 January 1922	The Committee having considered the best means of negotiating purchase of the fishings instructed the Clerk to interview Mr MacDonald, Solicitor, Inverness the agent of Mr Brinkman the present proprietor of the fishings in order that he might make enquiries with regard to same.
6.	Nairn Burgh Council Fishings Committee Extract from Minute 20 February 1922	Submitted and read letter dated 16 th inst from Mr MacDonald, agent for Mr Brinkman explaining the position of Mr Brinkman with regard to the fishings on the River Nairn from the mouth of the River up to Howford Bridge and indicating that Mr Brinkman might be prepared to let the Town take over his bargain provided he was not put to any expense in conveyancing. The Clerk was instructed to write to Mr MacDonald and ask him to communicate with Mr Brinkman to ascertain definitely if he would be willing to do this.
7.	Nairn Burgh Council Extract from Minute 10 April 1922	Submitted and read letter from Mr Forrest, C A, Inverness intimating that the affairs of Mr Brinkman were now in the hands of Mr Hunter, Agent, North of Scotland and Town and County Bank, acting along with Mr MacDonald. The Clerk ...instructed to interview these gentlemen at Inverness...and they were authorised to offer £800 for the fishings in the River Nairn up to Howford Bridge.

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8.	<p>Nairn Burgh Council Fishings Committee Extract from Minutes 28 April 1922</p>	<p>The Clerk read the whole correspondence with regard to the negotiations for the purchase of the river fishings including the letter dated 26th inst from Mr Donaldson, solicitor intimating that Major J B Rose, Holme Rose had acquired the fishings in the estuary and in the river up to the Howford Bridge and enclosing offer therein referred to sell the fishings from the Nairn Bridge up to the Howford Bridge for the sum of £200.</p> <p>It was resolved to ask Mr Donaldson to meet the Committee with a view to coming to an arrangement as to the lower boundary of the fishings to be purchased, rights of netting etc.</p>
9.	<p>Nairn Burgh Council Fishings Committee Extract from Minute 3 May 1922</p>	<p>The Committee discussed with Mr Donaldson the conditions of the proposed sale of the fishings in the River Nairn by Major Rose to the Town and asked him to bring the following suggestions before his client, viz:-</p> <ol style="list-style-type: none"> 1. That the part to be sold should include the river from the Nairn Bridge to a point opposite the inlet to the creek 2. That the mouth of the river should not be netted unnecessarily but only insofar as considered beneficial to the interests of the upper proprietors 3. That in the event of Major Rose wishing at any future date to dispose of his remaining fishings he would give the Town of Nairn the first chance of purchasing the same. <p>Mr Donaldson agreed to bring these matters before his client and to communicate his reply immediately.</p>

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10.	Nairn Burgh Council Fishings Committee Extract from Minute 8 May 1922	Submitted letter of this date from Mr Donaldson, Solicitor on behalf of Major J B Rose of Holme Rose, in reply to the Clerk in which it was stated (1) that Major Rose agreed to extend the limit of the fishings to be sold downwards to the inlet to the creek, the boundary being a line drawn across the river at right angles to the stream from the lower post marking the entry to the creek (2) that Major Rose having secured control of the estuary so that it would not be fished in a manner prejudicial to the fishings in the upper part of the river would have this in view in making any arrangements as regards netting (3) that Major Rose, while not prepared to give a binding obligation as to give the Town Council the first option of purchasing the estuary rights in the event of his desiring to dispose of them would give consideration to any desire the Town Council might have to acquire them. The letter also enclosed an amendment of the original offer as regards the allocation of feu duties etc. ...it was resolved to recommend the Town Council to accept the offer of Major Rose.
11.	Nairn Burgh Council Extract from Minute 8 May 1922	...it was agreed to accept the offer of Major J B Rose to sell the fishings on the River Nairn from Howford Bridge to a point opposite the inlet to the creek for the sum of £200...
12.	Nairn Burgh Council Fishings Committee Extract from Minute 30 July 1922	...it was agreed to call a public meeting for the purpose of forming an Angling Association. The Clerk was instructed to prepare beforehand a statement of probable charges in order to enable the rental payable by the Association to the Burgh to be ascertained.

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13.	Nairn Burgh Council Fishings Committee Extract from Minute 28 December 1922	The Clerk submitted statement showing the annual burdens on the fishings in the River Nairn purchased by the Town to amount to approximately £27-10/ It was agreed to recommend the Town Council to call a public meeting for the purpose of forming an Angling Association to which the fishings would be let at a yearly rental of £30.
14.	Nairn Burgh Council Fishings Committee Extract from Minute 11 May 1954	..Hon Secretary pointed out that, as the Association had now got a lease of the upper stretches of the River , the lower stretches from Howford Bridge to the Harbour were not so valuable, and requested that the Council might consider reducing the rent. After consideration it was resolved that the rent payable be revised from £30 to £20 for the current year only and that the rent payable be revised at a later date, the Angling Association being requested to furnish a statement of accounts at the close of their season.
15.	Nairn Burgh Council Extract from Minutes 11 July 1955	Fishing Rights in Harbour Basin etc. - ...raised the question of fishing rights in the Harbour Basin and at the mouth of the River , regarding which there appeared to be some uncertainty as to the actual position. Bailie Whitelaw agreed to make certain inquiries as to the nature of the rights transferred to the Nairn Angling Association...
16.	Nairn Burgh Council Fishings Sub-Committee Extract from Minutes 21 July 1955	The Clerk stated that the fishing rights in the River Nairn above a line drawn across the River in the vicinity of the Gas works as far as the Howford Bridge had been acquired from Major John Baillie Rose of Holme Rose in May 1922 and he produced the disposition thereof and plan annexed....He reported further that the fishings rights had been let by the Town Council to the Nairn Angling Association after purchase in consideration of a rent of £30 per annum. In July 1932 negotiations were begun for the purchase of the fishings at the mouth of the River Nairn to the effect of extending the Council's fishing rights from the line across the River above mentioned northward to a line between the north end of the East and West Pierheads , the reason for the request being that it was suspected that fish were being taken by

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		<p>unauthorised persons on that portion of the River. These negotiations were ultimately brought to a successful conclusion in November 1932 when it was agreed that the Nairn Riparian Proprietors would purchase the estuary fishings from the Moray Firth Salmon Fisheries Company and that a lease should be granted by the Riparian Proprietors to the Town Council for a period of five years at a rent of £1:10/- per annum.</p> <p>After expiry of the foresaid period of let the fishings continued to be let on a year to year tenancy from the Riparian Proprietors at the same rent.</p> <p>It was reported that enquiries had been made as to whether it would be possible to extend the privilege of rod and line fishing to visitors to Nairn free of charge but it was unanimously agreed that such an arrangement could not be made. It was further stated by Mr Lewis that any such concession would involve a serious risk of termination of the lease by the Riparian Proprietors.</p> <p>Complaints had been made that there was a considerable amount of illegal fishing going on at the river mouth by spinning and it was resolved that the Angling Association be authorised to erect notices on each side of the River at a point in the vicinity of the Harbour Master's Office and at a point opposite on the right bank of the River to the effect that permits for rod and line angling for salmon and sea trout could be obtained from the Angling Association on payment of a fee of 5/- ...</p>
17.	<p>Nairn Burgh Council</p> <p>Finance and Law Committee</p> <p>Extract from Minute</p> <p>3 June 1958</p>	<p>Submitted and read correspondence passing from Messrs. Stewart Rule & Co, Solicitors, Inverness with reference to the fishings in the estuary of the River Nairn belonging to the Nairn Riparian Proprietors. Messrs. Stewart & Rule having enquired whether the Council would be prepared to purchase those fishing rights or enter in to a lease at a more reasonable rent than the present £1:10/ per year. It was agreed that the Clerk write and ask what would be expected for the fishings and also what would be considered a more reasonable rent.</p>

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18.	Nairn Burgh Council Finance and Law Committee Extract from Minute 8 July 1958	Submitted and read letter of 9 th ult. From Messrs. Stewart Rule & Co, S, Inverness suggesting that the Council might indicate what price they were prepared to pay for the rights of the Riparian Proprietors in the Estuary Fishings of the River Nairn. It was agreed to offer a rent of £5 per annum on a ten year lease, the rent to be recovered from the Nairn Angling Association.
19.	Nairn District Advisory Committee on the Reform of Local Government in Scotland Extract from Minute 4 February 1974	It was noted that the main responsibilities of Nairn District Council when appointed are likely to be as follows:-... General Purposes. Licensing- Hotels, Public houses and Bingo halls; Ceremonial and Hospitality; Publicity and provision of holding entertainments. Charitable Bequest Funds. Common Good – Dunbar Golf Course, River Fishings, Meteorological Station, Sandown Lands, War Memorials, Investments etc.
20.	Nairn District Council Extract from Minute 29 April 1975	(k) It was reported that Nairn District Fishery Board were concerned about costs and requested the District Council's views with regard to continuance of the Board after May 1976. It was explained that the River fishings formed part of the Common Good Fund and that the Council would become proprietors of the stretch from the entrance to the Harbour Basin to Howford Bridge and would hold the stretch from the point of the Pier to the entrance to the harbour basin on lease from the Nairn Riparian Proprietors per Messrs MacArthur & Co. Solicitors, Inverness at an annual rent of £6. Both stretches were let on a seasonal basis at a nominal rent to Nairn Angling Association who undertook the management of the fishings. The main expense incurred was the employment of a Water Bailiff. It was agreed that further consideration be deferred...

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21.	Nairn District Council Extract from Minutes 24 June 1975	<p>...there was submitted a letter from the Secretary of Nairn Angling Association stating that because of rising costs the Association may shortly have to decide to rent only as much of the River Nairn fishings as could be patrolled by one Bailiff, but at present paid the wages and car allowance for an Assistant to the Nairn Fishery Board Bailiff for the months of May to September. The Association requested the Council to support the continuation of the Board and the maintenance of the services of Water Bailiff</p> <p>It was agreed that the Council continue to pay the assessment and support the continuance of the Board and the employment of the Water Bailiff..</p>
22.	Nairn District Council Policy and Resources Committee Extract from Minutes 6 October 1976	<p>Letter from Clerk to the Nairn Fishery Board stating that the agents for the Nairn Riparian Proprietors requested to be relieved of the Assessment. There was submitted a Disposition, with consent of the Moray Firth Salmon Fisheries Company Ltd, in favour of Angelo Morganti and others (Committee of Riparian Proprietors) recorded in 1933. It was further stated that there were now no members of the Committee but suggested that the District Council accept delivery of the Disposition and responsibility for the Assessment.</p> <p>It was agreed to recommend that the Council accept delivery of the title and assume the responsibilities of said Proprietors.</p>
23.	Nairn District Council Policy and Resources Committee Extract from Minute 11 January 1977	<p>Common Good Fund -The Treasurer submitted reports on the common good fund....It was stated that capital income from the sale of assets was normally reinvested in short to long term Government securities as may be decided from time to time and that revenue expenditure was partly committed to management and upkeep of common good properties such as Putting Green, House Properties, Laing Hall, Sandown Lands, River Fishings, Dunbar Golf Course, Meteorological Station.... .</p>

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24.	<p>Nairn District Council</p> <p>Extract from Minute</p> <p>22 February 1977</p>	<p>...the Angling Association also requested that with a view to securing a reduction in rateable value of all fishings, the Council might agree to a small decrease in the rent payable for the stretch of water let under the Common Good Fund, namely from the point of the Pier to the Howford Bridge. The Financial Director stated that the current seasonal rent of £36 was nominal and not related to the value of the fishings and had remained unaltered for a considerable number of years.</p> <p>The Financial Director also stated that the Association met the liability of rates but the District Council relieved the Association of the annual Assessment to the Nairn District Fishery Board, which for the year 1975/76 amounted to £185. There was a financial statement showing that a loss of £582 had been incurred by the Association in the year to 30/9/76 but that a credit balance of £948 was held.</p> <p>It was accordingly agreed...that the rent for the fishings be not reviewed..</p>
25.	<p>Nairn District Council</p> <p>Policy and Resources Committee</p> <p>Extract from Minute</p> <p>15 March 1994</p>	<p>There was submitted correspondence from the Nairn Angling Association regarding District Council fishing rights. The Chief Executive advised members that a decision had been made by a previous Council that they would be prepared to sell on the fishing rights to the Association although the sale had not taken place as a result of the financial situation of the Association at that time. A similar approach had been made in subsequent years but the Council had not thought it appropriate at that time to sell the fishing rights. The present situation was that the Association was concerned about the long term future and thus requested the Council sell the rights to the Association.</p> <p>The Chief Executive reminded members that the Council attempts to make the fishing available at a reasonable cost to members of the community and visitors. After much discussion regarding the sale or lease of the fishing rights it was agreed to extend the existing lease to 99 years whilst including clauses to protect the municipal nature of the fishings together with other specific concerns of the Association. It was further agreed that a Minute of Amendment to the lease would be submitted for approval to a future meeting of the Council after appropriate discussion with the Association.</p>

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26.	<p>Nairn District Council Leisure and Recreation Committee</p> <p>Extract from Minute</p> <p>9 August 1994</p>	<p>There was submitted a report by the Chief Executive regarding the Nairn River Fishings. It was noted that the Council had previously agreed to enter into an agreement with the Angling association whereby the public nature of the fishing rights should be protected in the interests of the community of Nairn and visitors by way of an extension to the existing lease. The Chief Executive had discovered that the responsibility for the estuarial fishings had been taken on board by the District Council in the 1970's and since that time the District Council had been de facto proprietors of the estuarial fishings paying full levy. The Chief Executive reminded members that the Angling Association were concerned about the long term future of the fishing rights and after discussion it was agreed to grant the Association a 99 year lease with the option of purchase at a particular date prior to reorganisation in 1996..</p>
27.	<p>Nairn District Council</p> <p>Extract from Minute</p> <p>10 January 1995</p>	<p>There was submitted a draft lease between Nairn District Council and the Nairn Angling Association which lease, after discussion, was agreed.</p>

MEMORANDUM

*River
Fishings*

To: Chief Executive

From: Director of Finance

Subject: Angling Association Lease

Date: 23 December 1994

I have before me a copy of the Lease prepared and presented as an Agenda item with the Leisure and Recreation Agenda on 10 January 1995.

I am intrigued at the reference in Clause 9 dealing with termination, where in the event that the Angling Association should be wound up, the subjects of Let pass to the Trustees of the Common Good Fund. If the fishings are the assets of the District Council as is indicated by their being named as the Landlords in the frontispiece to the agreement, why are the subjects of let in these circumstances to be passed to the Common Good Fund?

Although I am learning that it is perhaps not as conclusive as I had once thought, the financial record accounting treatment of Nairn River Fishings is that these are Common Good Fund Assets. Is this correct?

The apparently contradictory position of this Lease is further confusing this simple soul, can you please throw some light on the subject?

M E M O R A N D U M

FROM CHIEF EXECUTIVE
TO DIRECTOR OF FINANCE
REF AMK/LR2.8/MMM
DATE 12 January, 1995

SUBJECTS:- ANGLING ASSOCIATION LEASE

With reference to your memorandum of 23 December 1994, I think I have discussed this with you recently. It is my understanding that the title to the "Howford Bridge to Bailey Bridge" fishings was taken in the name of the Council as the Burgh Council and not as Trustees for the Common Good Fund. The stretch from the Bailey Bridge beyond the Harbour-mouth is still in fact owned by the now defunct Committee of Riparian Proprietors although since the late 70's the District Council have taken over responsibility for payment of the levy and could be considered as "de facto" owners of that stretch.

The purpose of the residual clause transferring the Lease to the Common Good, rather than to the Highland Council, is to accommodate the wishes of both the Angling Association and the District Council that the highest possible level of local control be exercised over the fishings to ensure their "municipal" character is maintained.


Chief Executive