

Agenda Item	<b>7.</b>
Report No	<b>CC/15/23</b>

## THE HIGHLAND COUNCIL

**Committee:** Caithness Committee

**Date:** 21 August 2023

**Report Title:** Thurso Common Good Fund – Asset Register

**Report By:** Acting Executive Chief Officer – Performance and Governance  
Executive Chief Officer – Communities and Place

### 1. Purpose/Executive Summary

- 1.1 This report details the outcome of the public consultation that has taken place under section 102 Community Empowerment (Scotland) Act 2015 in respect of the list of property proposed to be included on the Common Good Asset Register for Thurso.
- 1.2 The report also covers the process for publishing the Asset Register, management and administration arrangements for Thurso Common Good Fund and proposals for forward planning.

### 2. Recommendations

- 2.1 Members are asked to:
  - i. Note the contents of the Asset Register in the format for publication (**Appendix 1**).
  - ii. Note the content of the document titled “Thurso Common Good property consultation representations and responses” (**Appendix 2**).
  - iii. Agree to the publication of the Common Good Asset register for Thurso.
  - iv. Agree to the reclassification of the property included in the Register and to the creation of a Common Good Fund for Thurso.
  - v. Note that Thurso Common Good property will continue to be maintained by Highland Council until such time as an income source is established to sustain Thurso Common Good assets.
  - vi. Note that the creation of a Thurso Common Good Fund, and its financial position, will be reported to the next meeting of Highland Council under the minutes of this meeting given that all Highland Councillors are custodians of Common Good Funds across Highland.

### **3. Implications**

- 3.1 Resource – there are financial implications in re-activating the Common Good Fund in Thurso. Currently, all Highland Common Good Funds bear a proportionate share of central overhead costs and manage and finance their own assets. The same would be expected of Thurso. Some of the identified assets are income generating but it will take time to build a sustainable income stream such as will allow Thurso Common Good to assume financial responsibility for maintenance of all of its assets. In the meantime, part of the central support costs for Thurso and maintenance of Thurso Common Good assets would need to be met by the other Highland Funds in accordance with the currently agreed formula.

The current existing Highland Common Good Funds undertake regular monitoring and reporting to Area Committees. Whilst Thurso Common Good is being re-established, reports will be brought to future Committee meetings as the financial position develops and to report and update as strategic plans are formulated.

The re-classification of assets may result in a change of rentals received/expenses charged as far as Council accounts are concerned. This is a matter which will need to form part of careful forward planning to allow Thurso Common Good to start to build funds, discharge its duties for its assets, whilst ensuring any expenditure on any assets re-classified are still supported appropriately.

- 3.2 Legal – the requirement to identify and publish a Common Good Register is contained in section 102 Community Empowerment (Scotland) Act 2015 supported by statutory guidance to which the Council must have regard. That guidance also recommends that the Asset Register is made subject to regular reviews which should take at intervals of no more than 5 years.
- 3.3 Community (Equality, Poverty, Rural and Island) – the duties contained in Part 8 of the Community Empowerment (Scotland) Act 2015 are designed to increase communities involvement in decisions affecting Common Good assets. In addition to the establishing of the Asset Register, it also includes consultation on disposal (by sale or long lease) or change of use of assets.
- 3.4 Climate Change / Carbon Clever – no implications.
- 3.5 Risk – The risk with reactivating any Common Good fund is the balance between assets and liabilities. The Council will still be responsible for costs related to Common Good property where there is no income to support the fund's assets. Where income is generated, this must offset any costs.
- 3.6 Gaelic – no implications.

### **4. Thurso Common Good Asset Register consultation**

- 4.1 The public consultation on the list of property proposed to be included in the Common Good Asset Register for Thurso opened on 15 February 2023 and closed on 12 May 2023. The consultation was advertised on the Council website and social media pages. The community council and a number of community bodies were also notified directly.

- 4.2 During the course of the consultation, 3 emails were received making representations regarding whether certain property should be included or to clarify aspects of the property included on the list being consulted upon. **Appendix 2** details the representations received and the responses to be made in respect of the same. This document will be published on the Council website and a copy sent to those that made representations.
- 4.3 If Members are content with the Asset Register, it will be published in the format at **Appendix 1**. The Asset Register is a living document, and it can be added to at any time if further Common Good property is subsequently identified. In any event, the Register will be kept under regular review to ensure it remains up to date.
- 4.4 Where Common Good funds such as Thurso are being re-established, the decision making process for approving the publication of the Asset Register is considered to be appropriate to be at Area Committee level as it falls within management of the fund but that the recommendations, particularly recommendation 5, should go to full Council as a starred item to reflect the fact that all elected Members of Highland Council are custodians of all Common Good Funds across Highland.

## **5. Actions upon or following publication of the Common Good Asset Register**

- 5.1 The finance service will be informed if approval to proceed to publication is given in order that the appropriate Common Good accounting and reporting processes can be put in place to ensure that the Common Good Fund for Thurso operates in accordance with the other Highland Funds. Initially until the financial position of the fund is established, this reporting is to be annual accounts only unless there is anything specific to report in respect of any asset.
- 5.2 Strategy and forward planning meetings will take place involving Members and relevant Officers regarding the movement of assets from the Council's General Fund to the Thurso Common Good Fund. The general Common Good policy contains an understanding that each fund will maintain its property assets. However, in respect of the existing Highland funds most have sufficient financial assets, income generating assets or reserves to allow them to do so. This will need to be established in respect of Thurso. Therefore, such forward planning meetings will need to consider carefully the financial implications involved in order to balance the need to allow the Thurso Common Good Fund to receive some income to start building funds alongside the need to assume responsibility for its assets. The Council will need to continue to retain some responsibility for certain expenditure/costs incurred in connection with assets until Thurso is in a position to take on the responsibility for its assets.

Designation: Paul Nevin, Acting Executive Officer Performance and Governance  
Allan Gunn, Executive Chief Officer, Communities and Place

Date: 13 July 2023

Author: Sara Murdoch, Common Good Fund Officer

Background Papers: Appendix 1 – Common Good Asset Register for the former Burgh of Thurso  
Appendix 2 – Thurso Common Good property consultation representations and responses

**Appendix 1****COMMON GOOD FUND ASSET REGISTER FOR THE FORMER BURGH OF THURSO**

<b>LAND AND BUILDINGS</b>		
Thurso was established as a Burgh of Barony on 27 July 1633.		
<b>Name of asset</b>	<b>Location</b>	<b>Description</b>
<p><b>Sir John's Square (formerly MacDonald Square)</b> including statue of Sir John Sinclair, and war memorial.</p> <p>The war memorial is located within the Common Good footprint of the Square.</p>	<p>Sir John's Square, KW14 7AN CAGUPRN: 130113086</p> <p>Amenity gardens bordered by roads named Sir John's Square, Princes Street and A9.</p>	<p>Total site area: 926.5m<sup>2</sup>.</p> <p><b>Title deed: Feu Charter by Sir John George Tollemache Sinclair of Ulbster to the Baillies and Councillors of the Burgh of Thurso dated 16 October 1879 but not recorded until 28 December 1977.</b></p> <p>Feu Charter specifies that the Square is not to be built on and is to be maintained as a garden "forever for behoof of the Community".</p> <p>The fountain and war memorial, although outwith the gardens, were originally constructed on land assessed as Common Good and retain that title.</p> <p>Inalienable.</p>
<p><b>The Mall</b> including The Mall shelter.</p>	<p>CAGUPRN: 130112993.</p> <p>Public open space lying between Janet Street and the River of Thurso. Bordered on the northeast by the bridge of Thurso, on the northwest by Janet Street, on the southwest by the northeast boundary wall of the property known as Camfield House and on the southeast by the river.</p>	<p>Total area: 13,200m<sup>2</sup> or thereby.</p> <p><b>Title deed: Feu Charter &amp; Deed of Gift by Sir John George Tollemache Sinclair of Ulbster to the Magistrates and Commissioners of the Burgh of Thurso recorded 25 October 1897.</b></p> <p>The deed to the Magistrates &amp; Commissioners is on behalf of the community of the Burgh and town. The deed specifies that The Mall is to be laid out as "pleasure grounds" and shall be retained forever "for behoof of the community" and "for their recreation and amusement only".</p> <p>Inalienable</p> <p>(This deed also includes 2 areas of land for use as footpaths providing access to the cemetery, these have been assessed as being used for statutory purposes and not common good).</p>
<p><b>The Glebe (part only)</b> – including caravan park, Gillock Park and Victoria Walk shelter</p>	<p>CAGUPRN: 130112706 (caravan park). Smith Terrace, KW14 7JY.</p> <p>CAGUPRN: 130113182 (Gillock Park).</p>	<p>Total area: 26,155 m<sup>2</sup> or thereby made up by:</p> <p>Caravan Park – 18,745m<sup>2</sup> or thereby</p>

Common Good Asset Register for the former Burgh of Thurso

	<p>Odrig Street, KW14 7JA.</p> <p>Total area bounded on the northeast by Victoria Walk along the sea front, on the southeast by a foot path leading from Victoria Walk to Smith Terrace (A9), on the southwest by Smith Terrace (A9) and on the northwest by a footpath between the caravan park and farmland linking Smith Terrace back to Victoria Walk.</p>	<p>Gillock Park &amp; shelter – 7,410m<sup>2</sup> or thereby.</p> <p><b>Title deed: Feu Charter by The Church of Scotland General Trustees in favour of The Provost, Magistrates &amp; Councillors of the Burgh of Thurso registered 15 October 1934.</b></p> <p>Deed relates to 3 parcels of land of which 2 were conveyed for housing but the 3<sup>rd</sup> (which includes the current caravan park site and Gillock Park) was conveyed for the use “as recreation ground only”. This condition was waived in 1988 to allow for use as a caravan site.</p> <p>Inalienable.</p>
<p><b>Sir George’s Park</b> – including Sir George’s Park Pavilion &amp; Sir George’s Park Old Pavilion</p>	<p>Castletown Road, KW14 8HL. CAGUPRN: 130113087.</p> <p>Bordered on the northwest by Park Lane and a footpath leading to Sir Archibald Road opposite number 5, on the east and southeast by Sir Archibald Road and Castletown Road and on the west by the rear of retail premises at Bridgend.</p>	<p>Area: 26,594m<sup>2</sup> or thereby.</p> <p><b>Title deeds:</b></p> <p><b>1. Feu Charter or Deed of Gift by Sir John George Tollemache Sinclair in favour of the Magistrates and Councillors of the Burgh of Thurso recorded 30 August 1871.</b></p> <p><b>2. Feu Charter or Deed of Gift by Sir John George Tollemache Sinclair in favour of the Magistrates and Commissioners of Police of Thurso registered 21 July 1896.</b></p> <p>Both deeds note the areas of ground are to be used by the community of the Burgh and Town for “the purposes of recreation and amusement”.</p> <p>Inalienable.</p>
<p><b>Thurso Burgh Chambers and car park</b></p>	<p>Rotterdam Street, KW14 8AB. CAGUPRN: 130106487.</p> <p>Located between Rotterdam Street and Meadow Lane and adjacent to the northeast side of 12 Rotterdam Street.</p>	<p>Total area as stated in title deed: 0.276 acres (1117m<sup>2</sup>).</p> <p><b>Title deed: United Kingdom Atomic Energy Authority in favour of Provost, Magistrates and Councillors of the Burgh of Thurso recorded 30 August 1963.</b></p> <p>Burgh land not acquired for statutory purpose or held on special trust. Therefore, assessed as Common Good.</p> <p>Inalienable.</p>
<p><b>Amenity land at George Crescent</b></p>	<p>Semicircular amenity ground adjacent to 12 Clarence Street and 15 George Street and following the curve of George Crescent.</p>	<p>Total area as stated in title deed: 0.184acres (745m<sup>2</sup>).</p> <p><b>Title deed: Disposition by Factor &amp; Commissioner for the Right Honourable Viscount Thurso of Ulbster in favour of</b></p>

Common Good Asset Register for the former Burgh of Thurso

		<p><b>Provost, Magistrates &amp; Councillors of Burgh of Thurso recorded 18 April 1960.</b> Burgh land not acquired for statutory purpose or held on special trust. Therefore, assessed as Common Good. Inalienable due to being public amenity land since acquisition.</p>
<p><b>Thurso Town Hall</b></p>	<p>High Street, KW14 8AJ CAGUPRN: 130112668 Located between the former Carnegie library building (which is not Common Good) and the retail unit at 27-29 High Street.</p>	<p>Area: 625m<sup>2</sup> or thereby. <b>Title deed: Disposition by William Durran &amp; others, Trustees of Town Hall Buildings, Thurso in favour of Provost, Magistrates &amp; Councillors of the Burgh of Thurso registered 16 July 1904.</b> The Town Hall site was originally held on trust for the benefit of the inhabitants of the Burgh of Thurso. However, this prevented the vesting of the site in the Town Council and fettered due administration. A Petition was submitted to Court and the above referenced disposition was approved and the trust closed. Building currently forms part of the NC500 Visitor Centre. Inalienable.</p>
<p><b>Thurso Golf Club</b></p>	<p>Newlands of Geise, KW14 7XF. CAGUPRN: 130072931. Located in Newlands of Geise area to the west of Ormlie Road and the northeast of the road leading to Janetstown Industrial Estate.</p>	<p>Total area: 56.571 hectares or thereby. <b>Title deeds:</b> <b>1. Disposition by Robert Dawson Sutherland &amp; David Murdoch Sutherland in favour of Provost, Magistrates &amp; Councillors of the Burgh of Thurso registered 13 July 1914.</b> <b>2. Disposition of Sinclair Family Trust Ltd in favour of Provost, Magistrates &amp; Councillors of the Burgh of Thurso recorded 6 November 1974.</b> Both deeds are simple dispositions to the Burgh – the subjects were not acquired for statutory purposes nor held on special trust. Therefore, the property is assessed as Common Good. The property is also considered to be inalienable due to the public and recreational nature of its use. It is subject to a lease. (There is an area of 0.78 hectares adjacent to the Thurso/Shebster Road which, as</p>

Common Good Asset Register for the former Burgh of Thurso

		former County Council land, is not considered Common Good.)
<b>ART AND ARTIFACTS</b>		
<b>Name of asset</b>	<b>Location</b>	<b>Description</b>
No assets have yet been identified.		
<b>COMMON GOOD FUND</b>		
The Thurso Common Good Fund is in the process of being re-established therefore, as yet, there are no Annual accounts or monitoring reports available.		

## Appendix 2

### THURSO REPRESENTATIONS AND RESPONSES

REPRESENTATIONS RECEIVED	RESPONSES
<p><b>The Esplanade</b> Should the Esplanade, land adjacent to it and area of land at the breakwater be included?</p>	<p><b>The Esplanade</b> Expert title searchers investigated the area on and around the Esplanade. Some areas of land towards the east end of the Esplanade are included in titles the Council acquired for housing purposes. As these are statutory purposes, those areas of land cannot be Common Good. As far as the Esplanade and beach is concerned, there is no title confirming it to be owned by the Council. In the absence of such a title, it is likely that the land remains a remnant of the Estate of Ulbster or, in the case of the beach/foreshore, Crown land.</p>
<p><b>Lady Thurso Gardens</b> Should this be included? It is believed to have been gifted to the town as a Bleaching Green in 1872 by Sir Tollemache Sinclair but taken back in as the Council did not minute their thanks. It is believed to have been re-gifted and thanks recorded in 1874. Council considered erecting a public toilet there in 1922.</p>	<p><b>Lady Thurso Gardens</b> (AKA Rose Street Gardens/Lady Margaret Gardens) These have been extensively investigated by Council and archive officers with no title in favour of the Council being found. In 1949 the Council wished to lay out gardens on the bleaching green. The title superior (Estate) agreed in principle but wished sight of the deed of gift and any title conditions before making a definite decision. In 1950 the factors for Sir Archibald Sinclair confirmed no such Deed of Gift had been granted to the Council for the bleaching green. Their suggestion was the Council should advertise their intention to lay out the area as gardens in case there were any objections. The Council continued to lay out the gardens and have maintained them but do not appear to have acquired formal ownership. In the absence of a formal title deed, our view is that these gardens are not owned by the Council and are not Common Good.</p>



	<p>The toilets were erected in or about 1935, again on land not owned by the Council. Notwithstanding the fact the Council may have paid for the construction, the title to the toilets will follow that of the land.</p> <p>Agreement to maintain the land or the buildings thereon does not confer ownership.</p>
<p><b>Land at Riverside Road, adjacent to Harbour Court</b> Fishermen leave their boats there during winter. There have been mixed claims that it may be Council owned or may be privately owned. Council cut the grass until stopping prior to 2010. It was previously the site of a pavement works.</p>	<p><b>Land at Riverside Road, adjacent to Harbour Court</b> In 2012 the Council instructed a specific search of this area of land from Registers of Scotland. Registers confirmed that the land has not been registered however, after searching nearby areas within the Land Register and the older Sasine Register, they concluded that it is most likely to form part of the Lands and Estate of Ulbster as owned by the Sinclair Family Trust.</p>
<p><b>The Mall and Mall Shelter</b> The Common Good fund should be used for the Mall including shelter.</p>	<p><b>The Mall and Mall Shelter</b> Thurso will be a newly reactivated Common Good fund and, as such, it does not have an account containing income funds. Moving forward strategies will be developed to generate income which, in due course, will be available to be used for community benefit.</p> <p>The Mall including shelter is one of the property assets that will form part of the Thurso Common Good portfolio.</p>