

* Notes to Accompany Protocol for Negotiated Sales Flowcharts

The protocol as it is set out in the flowcharts and the accompanying notes below is an agreed guide to best practise, but local circumstances demand reasonable flexibility in interpreting whether every step, or adjusting the steps is appropriate and any alteration as such would not of itself invalidate the protocol where the parties are open about and where appropriate agree any deviations

Notes that apply to both landowner and community initiated voluntary sales

The voluntary negotiated sales process should be entered into in good faith by both parties with the intention that there should be a positive dialogue about reaching a mutually agreed sale. Should a sale not proceed this should not prejudice other forms of arrangements between the parties or affect the parties' rights in law.

When considering the terms of any sale landowners should note that communities will only be able to secure funding for the capital purchase of land/ assets from the Scottish Land Fund on the basis that that the "title is good and marketable with no burdens, wayleaves, conditions, or leases which would prevent full and continuous project delivery throughout the period of the grant agreement". This wording has been provided by the Scottish Land Fund team.

Both parties where possible should respond to requests from the other party as quickly as possible, or where there will be a delay inform the other party in writing of the timescales that will be applied giving reasons for any delays.

It is recognised that maintaining good communication links and trust will be important throughout this process. If for any reason there is a breakdown in either communications or trust then either party can seek external facilitation. It is proposed that this would be established by Community Land Scotland and Scottish Land & Estates working in partnership with both parties to find a mutually agreed facilitation process.

No guidance has been given on the timescales that will apply to the negotiated sale process although it is recommended that all communications are dealt with promptly. The timescale of the process from start to finish will vary considerably depending on the complexity of the land and/or assets in question and whether it is a whole or partial estate sale. It is not unreasonable to expect the process to take in the region of 12-24 months although some very simple sales could take considerably less time and some more complex sales could take longer. In some circumstances where a landowner requires to expedite a sale to address liabilities elsewhere or for family settlements it may be possible for all parties including the community, professional advisors and funders to compress the completion of the process but this would only happen in exceptional cases.

Notes that apply to landowner initiated sales

- L1. When a landowner decides that they wish to dispose of land and/or built assets whether they form all or part of their property holding, for whatever reason, they should consider offering it to the community before it is placed on the open market. The community may already have plans in place for a range of development activity that the landowner is unaware of and an early approach will avoid issues around a potential late registration of an interest in land under 'community right to buy'. Refer to **Summary of Community Rights in Law to Seek to Purchase Land Section**.
- L2. Before approaching the community the landowner should seek to take advice from the Scottish Government's Community Land Team and/or Scottish Land & Estates (SLE) (refer **Contacts and Resources Section** for details). These organisations will be able to provide advice on how to proceed.
- L3. The landowner should seek to identify the appropriate community organisation. It isn't always apparent what the most appropriate community organisation is and it should not be assumed that the community council is the correct route in every situation. In addition, the land/asset may be of interest to more than one geographical community (i.e. it may lie between two or more towns or villages), there may be several active community organisations within a community who could potentially take the lead or it may be that there are no obvious community organisations or contact names available. It is extremely important that the approach to the community is made in the right way as if this is not handled properly then the community could seek to make a case for a late registration of interest in the land under the Community Right to Buy, part of which might be based around being consulted in an appropriate way should the property be placed on the open market. For example an informal conversation with an individual who is involved with a single community organisation would not constitute a recognised approach to the community. Refer to **Summary of Community Rights in Law to Seek to Purchase Land Section**.
- L4. The landowner should approach Community Land Scotland (CLS) (refer **Contact and Resources Section** for details) either once they have identified the appropriate community organisation to confirm that this is the right body to approach or if there is any doubt to seek guidance on which is the right community organisation/s. This will also ensure that CLS have been informed that the Protocol for Negotiated Sales has been initiated.
- L5. Once the landowner is clear about which community organisation/s to approach then they should write to them setting out the details of which land/ assets are to be sold and any terms relating to the sale. The letter should also set out the desired timescale for the community's initial response but should recognise that the co-ordination of a community meeting to discuss the proposal could take a couple of months by the time the community takes advice, books a venue and advertises the meeting. Initiating the negotiated sale protocol at particular times of year (e.g. lambing, school holidays etc.) may also lead to delays. It is recognised that if there are existing and sufficiently strong relationships between the landowner or their representative and the community organisation concerned, that informal notification that a letter was to be sent would be appropriate.
- L6. When in receipt of a proposal from a landowner the relevant community organisation should write to the landowner as soon as practicable, both acknowledging receipt and setting out the next steps they intend to take and the timescale within which they will respond indicating the community's interest in exploring the possibility of a sale or not. The community may wish to consult with CLS on the steps they are proposing.
- L7a. The community should make every effort to engage with the landowner and their agent to fully understand which land/ assets are being potentially offered for sale and what, if any, terms are being applied to the sale.

It is particularly important if the land/assets are only part of an estate to understand the landowner's plans for the remainder of the estate as this may have a bearing on the scope of the community's plans.

- L7b.** The community should also at this stage make contact with both Scottish Government's Community Land Team and Community Land Scotland for advice (refer **Contacts and Resources Section** for details). These organisations will be able to advise the community on what their rights are in law and on what the next steps would be. They will also be able to signpost the community to other organisation's that could provide support and advice including the Scottish Land Fund (SLF) (Big Lottery and Highlands and Islands Enterprise (HIE)) and existing community landowners who own comparable land/ assets. At this stage the community will likely be appointed a case officer by SLF/HIE.
- L8.** The community should at the earliest opportunity hold a public meeting to discuss the proposal from the landowner. It is advisable to consider the location, timing and promotion of this meeting carefully in order to ensure that it is as well attended as possible. A range of speakers should be invited to address the range of questions the community will likely have. Similar meetings held elsewhere have included speakers from Community Land Scotland, Scottish Land Fund/ HIE and a representative from another community landowner to talk about their experiences. Local Councillors, Council Officials and MSPs have also often been in attendance. At the end of the meeting it should be established whether there is support for further investigation of the proposal. This could be by a show of general assent or, by a vote in a secret ballot to ensure that those present do not feel in any way exposed personally. If there is a NO vote then steps should be taken to establish the reasons why the community voted this way. If there is support for proceeding then a Steering Group should be nominated to take the lead on behalf of the community going forward. The Steering Group members may be selected from those present but could also include community representatives to be approached out with the meeting to ensure effective coverage of geographical or sectoral interests. The Steering Group could be affiliated with an existing community organisation or could be established as an 'unincorporated association' in their own right.

The landowner could be invited to attend the meeting, if they so wish, but recognising that the presence of the landowner may impact the ability of some community members to express their views openly they should depart at a mutually agreed juncture in the meeting.

- L9.** As soon as practicable after the community meeting a letter should be sent to the landowner setting out the community's position. If the community has chosen NOT to proceed they should set out the reasons why which could include that there is not enough community capacity at this time due to other commitments or perhaps the terms of the sale are not deemed acceptable. If the community has decided to investigate a possible purchase then it should set out the next steps it plans to take and the timescales it will be working towards.
- L10.** At this stage the landowner and community **may** wish to jointly enter into a Memorandum of Understanding (a model MoU is available from either CLS or SLE on request) which will set out their respective roles in concluding the negotiated sale process. An MoU may only be considered appropriate in whole estate or other complex acquisitions but it is for both parties to determine where it would be helpful. The MoU could cover exclusive rights to the community to undertake feasibility work, that both parties co-operate to determine the extent of the estate, joint instruction of the valuation, provision of information by both parties, timescales and who will meet the costs of valuation, mapping, site surveys etc.
- L11.** To aid the community in their investigations of the feasibility of purchasing the land/ assets in question the landowner should provide all relevant details pertaining to the subjects of sale. At the minimum this should consist of a detailed description of the land or asset in question which enables clear identification by the community; details of current use including details of any current wayleave agreements, tenancies or

occupancy agreements; details of recent or current planning applications relating to the land/assets (or neighbouring land and assets if relevant); any designations pertaining to the land/assets; any restrictions or conditions of use; any detail known to the landowner which could materially affect the valuation of the land/assets and other relevant information pertaining to the land/assets including details of any liabilities or burden. The landowner should also provide detailed maps. The landowner may also wish to supply the community directly with information on the current operating costs and income of the land/ assets being offered for sale or information on any development feasibility work they have previously undertaken but there is no obligation for them to do so.

- L12.** The community will have to fully assess whether they wish to purchase the land and this will generally involve carrying out a range of investigations and consultations the scope of which will vary considerably depending on the nature of the land/asset under consideration. This work could include any of the following: property condition surveys, geotechnical surveys, housing needs surveys, habitat surveys, timber volume surveys, planning appraisals, community & stakeholder consultations and financial modelling. It is very likely that some form of feasibility study and/or Business Plan, incorporating the above survey work, will have to be developed. It may also be appropriate to undertake due diligence checks at this time. All of this work will require commissioning different types of consultants or advisors and will cost money. Some of the surveys listed above will require the landowner to provide access to the land/ assets in question. It is expected that the community should seek permission for access in writing and that this should be granted timeously by the landowner.

At this stage the community will have entered into discussions with a range of funders about both the preparatory stages and capital and post purchase revenue funding. Advice on what feasibility work will be required and financial assistance (up to £30,000) will be available through the Scottish Land Fund and possibly others. The community should already have been assigned a Case Officer by SLF/HIE and they will be very important at this stage. This case officer will guide and support the community throughout the process.

The community may also wish to identify and retain a range of professional advisors at this stage including a lawyer, an accountant and possibly a land agent who they can call on to offer advice either now or at later stages in the process and for which potential funding support is generally available.

This part of the process is the most difficult to gauge in terms of timescales and the community should provide regular updates to the landowner about what progress is being made. The feasibility could make a range of recommendations ranging from purchase of the whole of the land/ assets being offered for sale, purchase of part of the land/ assets or not to purchase. A partial acquisition may be the preferred route if there are limits to capital funding available or perhaps only the land (not built assets) is necessary to deliver community aspirations.

A summary of the feasibility study will be prepared which will be circulated to the wider community for consideration. The Steering Group however must retain the right to keep detailed information confidential at this stage in case it could prejudice future negotiations.

- L13.** As part of the feasibility investigations a value must be placed on the land/asset being offered. It is suggested that this valuation is undertaken either by the District Valuer (DV) or another independent RICS accredited valuer agreed by both parties. The valuer should be jointly instructed by both parties with the cost being split 50:50. Each party will have the opportunity to set considerations that they feel are material to the valuation and the valuer then comes to an independent position based on the information provided by both parties. Each party has the right to query the valuation and the valuer may choose to make adjustments. The agreed valuation then becomes the basis for the capital funding package developed in L22 and will feed into the development of the feasibility study in L12.

- L14.** Once the feasibility and business planning work has been completed then a summary should be circulated to the wider community in advance of a public meeting. As with L8. It is advisable to consider the location, timing and promotion of this meeting carefully in order to ensure that it is as well attended as possible. There should be presentations from any consultants who have undertaken work and advisors such as SLF/HIE and CLS should be on hand to address any questions regarding the next stages. A vote should be taken at the end of this meeting to agree whether to proceed or not. As at L8 this could be by a show of general assent or, by a vote in a secret ballot to ensure that those present do not feel in any way exposed personally.
- Again as at L8, the landowner could be invited to attend the meeting, if they so wish, but recognising that the presence of the landowner may impact the ability of some community members to express their views openly they should depart at a mutually agreed juncture in the meeting.
- L15.** At this stage the landowner should be issued with the summary of the feasibility study and informed of the community's position at this time. If the community has agreed NOT to proceed then they will set out their reasons for doing so. If they are to proceed they will set out the next steps.
- L16.** Depending on the scale and type of asset to be acquired and the nature of the community SLF/HIE will stipulate what they require in terms of evidence of community support in order to secure capital funding for the purchase. The community must then undertake whatever activity is necessary to demonstrate the level of support required. This is best achieved by a whole community ballot unless that would be a disproportionate act relative to the scale of the asset. If the community decision making process shows that there is not the required level of support then the landowner should be informed in writing that they will not be proceeding, as per L15.
- L17.** Once the community has confirmed support then the Steering Group should inform the landowner of their decision in writing. Setting out whether they intend to purchase the whole land/ assets being offered for sale or specifying the details of any proposed partial acquisition and the reasons for their decision.
- L18.** The landowner at this stage should confirm in writing that they are still wishing to proceed with a sale to the community. If they are no longer willing to sell the land/ assets in question then they shall set out their reasons for doing so. Although landowners can of course choose to withdraw at this stage, withdrawal from an offer to sell the land/assets should be limited to cases such as a material change in the landowner's circumstances or in the case of a partial asset transfer if the landowner believes that the proposed post transfer use could have a detrimental impact on the remainder of his landholding. The landowner may also withdraw on the basis of the valuation, however it is recommended that this is only if he feels that his representation at stage L13 has not been taken into account.
- L19.** If the landowner is no longer willing to sell land/ assets then the community should take advice from Scottish Government and Community Land Scotland about what other routes may be available to them to potentially exercise rights they have in law.
- L20.** Before proceeding any further the community at this stage must establish an appropriate community organisation who will own the asset. There may be a pre-existing organisation that the Steering Group has been working under the umbrella of or this may require a new organisation to be established. Advice will be available from a range of sources on what form the community organisation should take.
- L21.** The community will need to secure the necessary capital funding to cover both the sale and the associated professional costs. The Scottish Land Fund will provide up to a maximum of £1million per application or 95% of eligible costs, whichever is the lesser. A maximum of £100,000 is available for professional/ post purchase revenue costs of which up to £30,000 can be obtained pre purchase (to meet costs outlined in L12). Note

these are maximum awards and it is expected that funds will be sought from other grant making bodies, from community fundraising and possibly through loans or a reduced sale price being agreed by the landowner which can count as a private contribution. It should be noted that securing adequate funding may take some time.

- L22.** If the community has not already secured professional advisors they should do so at this stage and instruct them to act on their behalf in the final negotiations and conveyancing of the sale. The landowners will likewise identify and instruct professional advisors to act on their behalf.
- L23.** The final stage of the process is the negotiation and completion of all necessary legal documents. This will also include the provision of maps acceptable to the Registers of Scotland which may require the commissioning of suitable maps and for crofting estates and built up areas this may be a complex exercise. Once this has all been agreed and all of the relevant documentation is in order then missives can be exchanged and the sale completed.
- Once a sale has been completed then the two parties should inform both Community Land Scotland and Scottish Land & Estates in writing.
- L24.** Once a sale has been completed then it is expected that in the situation where a landowner and the new community landowner become neighbours that both will adopt good practice in terms of maintaining constructive ongoing relations. It is expected that they would meet regularly (at least annually) to discuss forward plans identifying opportunities for collaboration and to resolve any issues that have or are likely to arise.

Notes that apply to community initiated sales

- C1.** A group of individuals within a community, possibly linked to an existing community organisation or possibly who have identified a community related development opportunity yet to be fully explored identify a possible need to secure specific land/ assets. Such a group is in effect acting as a 'preparatory group' to explore whether procuring land/ assets may be an option before developing their ideas further to take to the wider community. At this stage such a 'preparatory group' does not have a 'mandate' from the community. The more connected such a group is to existing representative organisations or open membership organisations within the community with a development focus, such as a Development Trust or Community Association or Community Council (if such exist), and are acting with the knowledge of such organisations, the better. Any idea for community developments has to start and develop somewhere and any such 'preparatory group' has legitimacy in exploring ideas, provided the clear intention is to take those ideas to the wider community in an open and participative fashion at an early appropriate juncture. Such a preparatory group may choose to operate as an unincorporated association, and this is to be encouraged.
- C2.** Before approaching the landowner the community 'preparatory group' should seek to take advice from the Scottish Government's Community Land Team and/or Community Land Scotland (CLS) (refer **Contacts and Resources Section** for details). These organisations will be able to provide advice on how to proceed. These organisations will be able to advise the community on what their rights are in law and on what the next steps would be. They will also be able to signpost the community to other organisation's that could provide support and advice including the Scottish Land Fund (SLF) (Big Lottery and Highlands and Islands Enterprise (HIE)) and existing community landowners who own comparable land/ assets. At this stage the community will likely be appointed a case officer by SLF/HIE.

- C3.** The community 'preparatory group' should seek to identify the owner of the land/ assets and or their agent. This information may be known locally or may be available from the Registers of Scotland.
- C4.** The community 'preparatory group' should approach Scottish Land & Estates (SLE) (refer **Contacts and Resources Section** for details) either once they have identified the landowner and/or agent to confirm that this is the right person to approach or if there is any doubt to seek guidance on who should be contacted. This will also ensure that SLE have been informed that the Protocol for Negotiated Sales has been initiated.
- C5.** The community 'preparatory group' should seek to inform both the wider community and the landowner of an interest in exploring an option to purchase land/ assets at the same time. This is important in order to ensure that there is complete openness and transparency. The community should be informed through the advertising of the meeting which will take place at C7. The landowner should be informed through the formal notification by the community 'preparatory group' of an 'Expression of Interest' (Eol) under the terms of this protocol. The purpose of the 'Expression of Interest' is to simply signal that thought is being given and steps are being taken to explore with the community their potential interest in the possibility of buying land for potentially a variety of community and local development purposes. It should inform the landowner of the date of the community meeting which will be held to discuss the idea. A template Eol has been prepared by HIE and is available from them. This will have to be adjusted to meet local requirements and specific details of the land, community interest to date and proposed timescales for the next steps. The Eol letter should also set out the desired timescale for the landowner's initial response but should recognise that initiating the negotiated sale protocol at particular times of year (e.g. lambing/ harvesting, holiday periods etc.) may also lead to delays.
- C6.** When in receipt of an Eol from a 'preparatory group' within a community the landowner or their agent should write to the community as soon as practicable, both acknowledging receipt and setting out their initial thoughts at this stage, if any. The landowner may wish to seek guidance from Scottish Land & Estates before preparing their response.
- C7.** The community 'preparatory group' community should then hold a public meeting to discuss the proposal and to assess the community interest in pursuing a purchase of the land/ assets in question. It may be that they have yet to receive a response from the landowner but the meeting should be timed to allow the landowner adequate time to offer an initial response or at least an acknowledgement of the Eol. It is advisable to consider the location, timing and promotion of this meeting carefully in order to ensure that it is as well attended as possible. A range of speakers should be invited to address the range of questions the community will likely have. Similar meetings held elsewhere have included speakers from Community Land Scotland, Scottish Land Fund/ HIE, and a representative from another community landowner to talk about their experiences. Local Councillors and Council Officials and MSPs have often attended such meetings. At the end of the meeting there should be a vote taken to establish whether there is support for investigating a community purchase of the land/ assets being sold. This could be by a show of general assent or, by a vote in a secret ballot to ensure that those present do not feel in any way exposed personally.

If there is a NO vote then steps should be taken to establish the reasons why the community voted this way. If there is a YES vote then a Steering Group should be nominated to take the lead on behalf of the community going forward. The Steering Group members may be selected from those present but could also include community representatives to be approached out with the meeting to ensure effective coverage of geographical or sectoral interests. The Steering Group could be affiliated with an existing community organisation or could be established as an 'unincorporated association' in their own right.

The landowner could be invited to attend the meeting, if they so wish, but recognising that the presence of the landowner may impact the ability of some community members to express their views openly they should depart at a mutually agreed juncture in the meeting.

- C8.** As soon as practicable after the community meeting a letter should be sent to the landowner setting out the community's position. If the community has chosen NOT to proceed they should set out the reasons why. If the community has decided to pursue a possible purchase then it should set out details of the land/assets being sought, an outline of the reasons for wishing to purchase the land, the level of community support at the meeting, the next steps and the timescales it will be working towards.

It should be noted that a properly constituted community body has at any time a right to seek to 'register an interest in land' under the terms of the Land Reform Act and upon application to the Scottish Government. It is a matter of choice and judgement as to whether a community wishes to do this in their particular circumstances. Applying to formally register an interest in the land is nothing more than it says, it simply registers a community interest in the possible purchase of the land and if and when the land comes to the market for sale and when they would then have the first right to purchase the land. Registering an interest in the land is not incompatible with or invalidates the purpose and function of this protocol, and nor is it necessary under the protocol. See the *Summary of Community Rights in Law to Seek to Purchase Land Section* for more information.

- C9.** The landowner at this stage should consider the proposals set out by the community and confirm in writing whether they are willing to proceed to enter discussions with a view to a potential negotiated sale of the land/assets in question. If the landowner does not wish to sell the land/ assets then they should advise the community of their reasons for their decision. Reasons for doing so may include potential development which the landowner wishes to progress on the land or the impact of a partial asset transfer on either the financial viability or operation of the landowner's business.

- C10.** The landowner should make every effort to engage with the community and their advisors to fully understand what land/ assets are being sought for purchase and for what purpose (although recognising that full details may not yet be available). It is particularly important if the land/assets sought are only part of an estate to understand the community's plans as this may have a bearing on the scope of the landowner's plans for the remainder of their estate.

- C11.** If the landowner is no longer willing to sell land/ assets then the community should take advice from Scottish Government and Community Land Scotland about what other routes may be available to them to potentially exercise rights in law.

- C12.** At this stage the landowner and community **may** wish to jointly enter into a Memorandum of Understanding (a model MoU is available from either CLS or SLE on request) which will set out their respective roles in concluding the negotiated sale process. An MoU may only be considered appropriate in whole estate or other complex acquisitions but it is for both parties to determine where it would be helpful. The MoU could cover exclusive rights to the community to undertake feasibility work, that both parties co-operate to determine the extent of the estate, joint instruction of the valuation, provision of information by both parties, timescales and who will meet the costs of valuation, mapping, site surveys etc.

- C13.** The landowner, on the basis that they are a willing seller and will achieve market value for the sale should provide all relevant details pertaining to the subjects of sale. At the minimum this should consist of a detailed description of the land or asset in question which enables clear identification by the community; details of current use including details of any current wayleave agreements, tenancies or occupancy agreements; details of recent or current planning applications relating to the land/assets (or neighbouring land and assets if relevant); any designations pertaining to the land/assets; any restrictions or conditions of use; any detail known to the landowner which could materially affect the valuation of the land/assets and other relevant information pertaining to the land/assets including details of any liabilities or burden. The landowner should also provide detailed maps. The landowner may also wish to supply the community

directly with information on the current operating costs and income of the land/ assets being offered for sale or information on any development feasibility work they have previously undertaken but there is no obligation for them to do so.

- C14.** The community will have to fully assess whether their proposals to purchase the land/ assets are viable and this will generally involve carrying out a range of investigations and consultations the scope of which will vary considerably depending on the nature of the land/asset under consideration. This work could include any of the following: property condition surveys, geotechnical surveys, housing needs surveys, habitat surveys, timber volume surveys, planning appraisals, community & stakeholder consultations and financial modelling. It is very likely that some form of feasibility study and/or Business Plan, incorporating the above survey work, will have to be developed. It may also be appropriate to undertake due diligence checks at this time. All of this work will require commissioning different types of consultants or advisors and will cost money. Some of the surveys listed above will require the landowner to provide access to the land/ assets in question. It is expected that the community should seek permission for access in writing and that this should be granted timeously by the landowner.

At this stage the community will have entered into discussions with a range of funders about both the preparatory stages and capital and post purchase revenue funding. Advice on what feasibility work will be required and financial assistance (up to £30,000) will be available through the Scottish Land Fund and possibly others. The community should already have been assigned a Case Officer by SLF/HIE and they will be very important at this stage. This case officer will guide and support the community throughout the process.

The community may also wish to identify and retain a range of professional advisors at this stage if they have not already done so, including a lawyer, an accountant and possibly a land agent who they can call on to offer advice either now or at later stages in the process.

This part of the process is the most difficult to gauge in terms of timescales and the community should provide regular updates to the landowner about what progress is being made. The feasibility could make a range of recommendations ranging from purchase of the whole of the land/ assets being offered for sale, purchase of part of the land/ assets or not to purchase. A partial acquisition may be the preferred route if there are limits to capital funding available or perhaps only the land (not built assets) is necessary to deliver community aspirations.

A summary of the feasibility study will be prepared which will be circulated to the wider community for consideration. The Steering Group however must retain the right to keep detailed information confidential at this stage in case it could prejudice future negotiations.

- C15.** As part of the feasibility investigations a value must be placed on the land/asset being offered. It is suggested that this valuation is undertaken either by the District Valuer (DV) or another independent RICS accredited valuer agreed by both parties. The valuer should be jointly instructed by both parties with the cost being split 50:50. Each party will have the opportunity to set considerations that they feel are material to the valuation and the valuer then comes to an independent position based on the information provided by both parties. Each party has the right to query the valuation and the valuer may choose to make adjustments. The agreed valuation then becomes the basis for the capital funding package developed in C22 and will feed into the development of the feasibility study in C14.
- C16.** Once the feasibility and business planning work has been completed then a summary should be circulated to the wider community in advance of a public meeting. As with L8. It is advisable to consider the location, timing and promotion of this meeting carefully in order to ensure that it is as well attended as possible. There should be presentations from any consultants who have undertaken work and advisors such as

SLF/HIE and CLS should be on hand to address any questions regarding the next stages. A vote should be taken at the end of this meeting to agree whether to proceed or not. As at C7 this could be by a show of general assent or, by a vote in a secret ballot to ensure that those present do not feel in any way exposed personally.

As at C7 the landowner could be invited to attend the meeting, if they so wish, but recognising that the presence of the landowner may impact the ability of some community members to express their views openly they should depart at a mutually agreed juncture in the meeting.

- C17.** At this stage the landowner should be issued with the summary of the feasibility study and informed of the community's position at this time. If the community has agreed NOT to proceed then they will set out their reasons for doing so. If they are to proceed they will set out the next steps.
- C18.** Depending on the scale and type of asset to be acquired and the nature of the community SLF/HIE will stipulate what they require in terms of evidence of community support in order to secure capital funding for the purchase. The community must then undertake whatever activity is necessary to demonstrate the level of support required. This is best achieved by a whole community ballot unless that would be a disproportionate act relative to the scale of the asset. If the community decision making process shows that there is not the required level of support then the landowner should be informed in writing that they will not be proceeding, as per C17.
- C19.** Once the community has confirmed support then the Steering Group should confirm their proposal to the landowner setting out the extent of the land/ assets they wish to secure, at what price, and the purposes to which this will be put (in line with the feasibility summary already issued). The results of any community ballot or similar should be provided.
- C20.** The landowner at this stage should consider the proposals set out by the community and confirm in writing whether they are willing to proceed with a negotiated sale of the land/assets in question. If they are no longer willing to sell the land/ assets then they must set out their reasons for doing so. Although landowners can of course choose to withdraw at this stage, withdrawal from an offer to sell the land/assets should be limited to cases such as a material change in the landowner's circumstances or in the case of a partial asset transfer if the landowner believes that the proposed post transfer use could have a detrimental impact on the remainder of his landholding. The landowner may also withdraw on the basis of the valuation, however it is recommended that this is only if he feels that his representation at stage C15 has not been taken into account.
- C21.** Before proceeding any further the community at this stage must establish an appropriate community organisation who will own the asset. There may be a pre-existing organisation that the Steering Group has been working under the umbrella of or this may require a new organisation to be established. Advice will be available from a range of sources on what form the community organisation should take.
- C22.** The community will need to secure the necessary capital funding to cover both the sale and the associated professional costs. The Scottish Land Fund will provide up to a maximum of £1million per application or 95% of eligible costs, whichever is the lesser. A maximum of £100,000 is available for professional/ post purchase revenue costs of which up to £30,000 can be obtained pre purchase (to meet costs outlined in C14). Note these are maximum awards and it is expected that funds will be sought from other grant making bodies, from community fundraising and possibly through loans or a reduced sale price being agreed by the landowner which can count as a private contribution. It should be noted that securing adequate funding may take some time.

C23. If the community has not already secured professional advisors they should do so at this stage and instruct them to act on their behalf in the final negotiations and conveyancing of the sale. The landowners will likewise identify and instruct professional advisors to act on their behalf.

C24. The final stage of the process is the negotiation and completion of all necessary legal documents. This will also include the provision of maps acceptable to the Registers of Scotland which may require the commissioning of suitable maps and for crofting estates and built up areas this may be a complex exercise. Once this has all been agreed and all of the relevant documentation is in order then missives can be exchanged and the sale completed.

Once a sale has been completed then the two parties should inform both Community Land Scotland and Scottish Land & Estates in writing.

C25. Once a sale has been completed then it is expected that in the situation where a landowner and the new community landowner become neighbours that both will adopt good practice in terms of maintaining constructive ongoing relations. It is expected that they would meet regularly (at least annually) to discuss forward plans identifying opportunities for collaboration and to resolve any issues that have or are likely to arise.

