

COMMUNITY* LAND SCOTLAND

Community Land Scotland – response to Community Wealth Building Consultation

9 May 2023

Question 1a:

We are proposing a duty to advance Community Wealth Building, which form do you think this duty should take:

- Option A - a duty requiring Scottish Ministers and prescribed public sector bodies¹⁸ to embed the CWB model of economic development into their corporate plans and wider strategies
- Option B - a duty requiring those public sector bodies statutorily obliged to be involved in community planning to produce a collective CWB place-based strategy and action plan which contains specific actions across the five CWB pillars to advance the CWB model of economic development in their local authority area
- Option C - a combined option – featuring a union of both options set out above
- Other
- No Duty

Response:

Community Land Scotland (CLS) welcomes the opportunity to comment on the Scottish Government’s plans for Building Community Wealth in Scotland, as detailed in the consultation paper. We further welcome the principle of Community Wealth Building in Scotland as means of furthering community empowerment, building resilient local wellbeing economies and supporting a just transition to Net Zero.

CLS views the concept of Community Wealth Building (CWB) and its application in law as fundamental to transitioning to a wellbeing economy delivering sustainable economic, social and environmental development that enhances the prosperity of all of Scotland’s people and places on an equitable basis. We welcome and support the Government’s assertion, as expressed in the consultation paper, that, “*CWB is focused on growing the influence communities have on the economy and ensuring communities receive more of the benefits from the wealth they help to generate.*” CLS also agrees with the Scottish Government’s view, as

expressed in the consultation paper, that the transition to a wellbeing economy requires a “*whole system transformation*”, of which CWB needs to be a core component.

Many Community Land Scotland members are already taking forward the principles of CWB through the ownership of economic and social assets which ensure their communities receive the benefits of the wealth they generate.

Tiree Community Development Trust (TCDT) is just one example of this which we have highlighted recently ([Community Wealth Building – Community Land Scotland](#)). TCDT own a wind turbine which has contributed £3m into the local community. This has provided critical funding for the Community Hall, the general shop, a Ranger service, Youth work programme, the local tourism marketing board, the redevelopment of two harbours and the construction of a community-run filling station. Community-control of a renewable energy source has provided a raft of benefits for the local economy which in turn has fuelled further sustainable economic development. The Trust is now developing businesses units and affordable homes, which in turn will attract further people and businesses to the area. The Trust has taken on the role of kick starting, fundraising, developing and now managing much of the island’s economy and key infrastructure. They are a shining example of what Community Wealth Building can achieve when local communities have ownership and control over their key local assets.

This case study also demonstrates the intersection of various key policies which Community Wealth Building helps support. Through Community Wealth Building we can secure green energy supplies and move toward a just transition to Net Zero, we can halt rural depopulation and build more affordable housing and see sustainable growth within local wellbeing economies. Importantly these important policy developments are underpinned by further land reform and more pluralistic ownership of the economy. For Community Wealth Building specifically, an expansive and progressive understanding of what can constitute an ‘anchor organisation’ is needed, as many community groups already fulfil the role of an anchor organisation by employing local people, delivering services, and purchasing goods and services.

While CLS broadly welcomes the proposal to establish Community Wealth Building in law, we want to ensure that Community Wealth Building is genuinely democratic and transformational. In order for that to happen the following points must be considered:

- Private interests need to be part of the legislative framework around CWB as they will be a key driver of achieving its aims. Similarly there needs to be a focus on large private companies and landowners when considering statutory regulation or guidance to ensure these groups are monitored and kept accountable when their interests may diverge from CWB (see point 6 in our response). We recommend developing CWB guidance, akin to The Land Rights and Responsibilities Statement for private businesses to use when developing their Environmental and Social Governance. This could reflect the UN human rights and business guidance. If we want transformational change to a wellbeing economy, then private interests need to have a duty to deliver Community Wealth Building.

- We also wish to ensure that rural and urban communities can maximise their scope to influence land-use decision-making regarding land they do not own, to maximise Community Wealth Building relating to such land use.
- As our example of Tíree Community Development Trust demonstrates there needs to be an expansion definition of anchor organisations. While large public bodies will be important drivers of Community Wealth Building, community trusts and community businesses will also be important anchor organisations as properly constituted entities, which employ staff and have strong local presences in their areas. This becomes of particular importance in areas poorly serviced by the public sector.

In short, CWB is focused on growing the influence communities have on the economy and ensuring communities receive more of the benefits from the wealth they help to generate. The principles of CWB are:

- Plural ownership of the economy
- Making financial power work for local places
- Fair employment and just labour markets
- Progressive procurement of goods and services
- Socially productive use of land and property

Community Wealth Building has four dimensions. Communities need owned:

1. economic wealth
2. social wealth
3. cultural wealth
4. environmental wealth

To be successful and build overall community wealth, communities must make advances on all fronts. This is consistent with Economic, Social and Cultural Rights and ties in with the 2015 and 2016 Acts on Land Reform and Community Empowerment, the proposed Human Rights Bill and the principles of sustainable development.

CWB must be at the heart of tackling the climate and biodiversity crises in ways that enable communities to benefit from the wealth associated with land and other assets, rather than such wealth being extracted from the places where they live, to little or no community benefit.

CWB needs to be done by communities for communities. That is not to dismiss the crucial multi-faceted role that local authorities and other public bodies have in delivering CWB, as the consultation paper highlights. However, CLS strongly contends that a major part of that role must be for local authorities and other public bodies to act as supportive enablers for communities to generate and retain community ‘wealth’ from the bottom-up, both for their benefit and the wider public good.

The Community Land Scotland response aims to address these four dimensions. Community Land Scotland therefore calls for 25 points to be included in the draft Bill.

CWB Statement and Strategies

1. Place duty of Scottish Ministers to produce a Community Wealth Building Statement and revise it every 5 years. In drafting that statement the Scottish Ministers to have regard to the desirability of CWB being directed to further the economic, social, cultural and environmental wealth of localities.
2. Ministers to be given powers to issue (statutory) guidance on National Priorities for CWB for periods of 3 to 5 years which public bodies shall have regard to in their work on CWB.
3. Place duties on Local Authorities, Enterprise Agencies and other NDPBs (Nature Scot, Historic Environment Scotland, Crown Estate Scotland etc) to make arrangements for the promotion and facilitation of CWB to further the ambitions of the CWB Statement and National Priorities and to further the local ownership of assets.
4. Place duties on other public agencies or organisations in receipt of (significant) public funding to make arrangements for the promotion and facilitation of CWB to further the ambitions of the CWB Statement and National Priorities and to further the local ownership of assets.¹
5. Place duties on public sector pension funds that (consistent with their fiduciary duties) they should seek to promote community wealth
6. Develop (statutory) CWB guidance, akin to The Land Rights and Responsibilities Statement for private businesses to use when developing their ESG policies. This could reflect the UN human rights and business guidance
7. All Community Planning Partnerships to produce a CWB strategy for their territory, which may reflect individual member's targets
8. These agencies all to have a duty to produce a CWB strategy for their territory, with specific targets, and review it every 3 years.

B - Additional powers or duties to promote CWB

9. New CPO powers to be given to all public agencies having a duty to advance CWB
10. Place a duty on LAs to assess economic leakage from their areas and act to stem such through a CWB approach. This has been modelled and developed by Preston City Council in their introduction of CWB: [Making Spend Matter | CLES](#)
11. Give powers to public bodies to enter into Joint Ventures with communities – for land acquisition or business development purposes - for the purpose of advancing CWB.
12. Give powers to specified public bodies to act as a lead purchaser of land and assets for the purpose of advancing CWB in partnership with community bodies.

¹ Could be akin to the Fair Work Pledge that all recipients of grants must sign up to

13. Power to Ministers to direct public bodies to act together in the interests of a locality in a partnership with local community bodies

C - Powers for communities

14. Review the existing suite of Community Rights to Buy to ensure they are fit for purpose and effectively deliver the community wealth building aspirations and expectations of communities across Scotland
15. Review the Common Good legislation to ensure assets and resources held under Common Good legislation are directed specifically for the purpose of CWB
16. Allow communities using the CRTB powers to acquire at below market value in exceptional circumstances
17. Impose on all public bodies using Community Asset Transfer provisions, a standard methodology for measuring the social value of community proposals which are then reflected in a discount on market value for purchase.
18. Within the Community Asset Transfer provisions, include a presumption against the inclusion of any restrictive covenants, burdens or clawbacks in transfer or sales to communities, unless in very defined exceptional circumstances.
19. Further review the current Community Asset Transfer and Participation Request powers to ensure they are fit for purpose and effectively deliver the community wealth building aspirations and expectations of communities across Scotland
20. Introduce a Public Interest Test and statutory Notification of Sale in respect of urban assets that have the power to deliver CWB outcomes
21. Introduce an Assets of Community Value designation under Planning law and promote through the development of Local Place Plans. This ACV designation to have relevance to all planning decisions relating to the asset concerned, and to act as a presumption against loss of the use of this asset. This could include the last facility in a locality. This also to provide evidence of a community's interest under CRTB provisions and any Notification of Sale provisions proposed under the Land Reform Bill.
22. Give communities Rights to Invest in Scotland's renewable and carbon economies, through compulsory rights to acquire investments in local renewables schemes and natural capital schemes (using support via a Community Wealth Fund and the Scottish National Investment Bank)

D - Funding for Community Wealth Building

23. The Government to introduce a Community Wealth Fund, funded through developer contributions from renewable and natural capital schemes. The contributions to be made compulsory with a fixed rate percentage awarded from each scheme to a central Fund. Contributions to be made from onshore and offshore renewables as well as via a tax on carbon offsetting receipts. The Fund to be distributed nationally, irrespective of contribution location. The Fund to

focus on supporting communities to acquire and invest in revenue generating assets creating long term sustainable income for communities.

24. The Scottish National Investment Bank to be directed to establish a specific fund targeted at providing accessible capital finance to support communities to acquire and develop assets to generate community wealth and resilience.
25. Land Building Transaction Tax on agricultural and forestry land equalised with the residential LBTT rates. An escalating LBTT charge to be imposed on assets of scale (over 500ha). Additional LBTT raised to contribute to the development of Community Wealth capital projects.

Question 1b

One way Scottish Government could support the implementation of the proposed Community Wealth Building duty is to provide statutory or non-statutory guidance. Would this be helpful to partners in meeting the proposed duty?

- Yes
 No
 Don't Know

Response:

The Scottish Government has set out its ambition for Community Wealth Building to function as a bridgehead towards the transition to a wellbeing economy involving a “*whole system transformation*”. There is therefore a requirement to embed and mainstream CWB principles within and across public policies and programmes for that systemic transformation to take place. In turn, that requires a permanent commitment to the principles and practice of CWB to be hard-wired into the policy portfolios of all Scottish Ministers and the functions of all public sector organisations.

CLS therefore welcomes the proposed duty to advance CWB as a fundamentally important step in ensuring CWB principles are mainstreamed as a core component of the transition to a wellbeing economy.

Specific powers should include:

2. Ministers to be given powers to issue (statutory) guidance on National Priorities for CWB for periods of 3 to 5 years which public bodies shall have regard to in their work on CWB.
6. Ministers to develop (statutory) CWB guidance, akin to The Land Rights and Responsibilities Statement for private businesses to use when developing their ESG policies. This could reflect the UN human rights and business guidance charters..

Question 2a

Are there other non-legislative measures that you believe are required to accelerate the implementation of the Community Wealth Building approach in Scotland?

- Yes
- No
- Don't Know

Response:

A cultural change is needed within Scotland in regard to how the economy and land ownership and use is organised to achieve the transformational change the Scottish Government aims for through CWB and the wellbeing economy. It will be important to emphasise when implementing CWB that this is not an entirely new phenomenon and that the Scottish Government is not trying to 'reinvent the wheel'. There are already successful examples of the Community Wealth Building approach in Scotland, as detailed by our members ([Community Wealth Building – Community Land Scotland](#)). We would welcome an opportunity to feed these experiences into the development of CWB legislation. There are many examples of successful collaboration between Highlands and Islands Enterprise and community trusts in fostering CWB, as well as community trusts acting as anchor organisations themselves. This has been particularly effective when linked to a particular revenue stream, such as renewable energy, itself demonstrating a clear policy overlap between CWB, Energy and Just Transition Plan and the Land Reform Act.

These successful examples need to be shared, and existing knowledge needs to be utilised to accelerate the implementation of the CWB approach in Scotland.

Question 2b

Are there specific actions required to advance delivery of the items contained within the Shared Policy Programme outlined on page 11 of the consultation paper?

- Yes
- No
- Don't Know

Response:

Community Wealth Building has a vital role to play in empowering local communities and creating the conditions to achieve the aims of the Shared Policy Programme. However, for that to happen communities themselves need to be empowered through any CWB legislation and involved in the decision-making process. In our experience this happens most effectively when communities' own assets themselves and take ownership of the challenges and opportunities this presents.

SMEs and micro-businesses will be at the heart of successful CWB, as our members demonstrate. Private business will drive forward community wealth, most particularly when that private business is owned and managed locally. Through the creation of a Community Wealth Fund (point 23) and the Community Right to Invest (point 22), communities can be empowered to grow their own community wealth through their own private enterprise.

A robust and progressive Land Reform Bill which encourages the expansion of community owned land and assets will help support local economies, improve access to training and jobs, most particularly in disadvantaged communities. If communities own the assets that they live on and work in it fosters a resilient and vibrant circular economy in which local produce and services will be used by the local community, fuelling sustainable local economic development which in turn creates more jobs, housing and amenities. Vibrant local economies in which wealth circulates rather than being extracted creates conditions for training and improved job prospects which encourages the retention of young people and the encouragement of migration to the area. An issue facing many areas of Scotland from remote rural areas to the post-industrial landscapes of the central belt.

Question 3

Are there ways in which the law could be changed to advance the spending pillar of Community Wealth Building?

- Yes
- No
- Don't Know

Response:

As the consultation paper notes, there has been significant recent legislation in this area. The Procurement Reform (Scotland) Act 2014 and the Procurement (Scotland) Regulations 2016 providing direction to public bodies and set out procurement responsibilities and accountabilities. Public authorities are subject to a sustainable procurement duty and contracting authorities must consider how their procurement processes facilitate the involvement of SMEs, third sector bodies and supported businesses, and how public procurement can be used to promote innovation.

CLS agrees strongly supports the additional proposals around:

- supporting local businesses bases and third sector organisations to enhance their capacity to bid for public sector contracts;
- creating local supply chains to re-circulate wealth in the local and regional economy, create local jobs and support net zero and environmental ambitions;
- maximising community benefits to ensure they deliver CWB ambitions and the needs of local communities.

Despite the legislation already in place, price is still usually weighted as the determining factor in awarding contracts. CWB legislation should ensure sustainability and CWB are prioritised above price in tender award criteria. Some mechanisms for this are already available, for example by stipulating numbers of local jobs, carbon weighting on transport, etc. - and these can also be used to help navigate the difficulty of stipulating 'local'. However, they must form a core part of tender criteria. Other measures should include:

- Unlocking public sector spending opportunities for social enterprises and local charities without using formal procurement procedures and the related bureaucracy;
- Prioritising the actual economic/social **long term** impact of spending and not just initial expenditure as a financial measure. A narrow focus on the control of public spending in localities hides the true economic and social value of investments;
- Long term investment in local community businesses, social enterprises and third sector organisations, rather than short-term spending;
- Public bodies must insist on transparent, genuine and meaningful community benefits in any private sector contract, monitoring success or failure to deliver;

The Spending pillar must also be more ambitious in terms of non-procurement investments. CLS ask that the following also be considered under this Pillar

22. Give communities Rights to Invest in Scotland's renewable and carbon economies, through compulsory rights to acquire investments in local renewables schemes and natural capital schemes (using support via a Community Wealth Fund and the Scottish National Investment Bank)
23. The Government to introduce a Community Wealth Fund, funded through developer contributions from renewable and natural capital schemes. The contributions to be made compulsory with a fixed rate percentage awarded from each scheme to a central Fund. Contributions to be made from onshore and offshore renewables as well as via a tax on carbon offsetting receipts. The Fund to be distributed nationally, irrespective of contribution location. The Fund to focus on supporting communities to acquire and invest in revenue generating assets creating long term sustainable income for communities.
24. The Scottish National Investment Bank to be directed to establish a specific fund targeted at providing accessible capital finance to support communities to acquire and develop assets to generate community wealth and resilience.
25. Land Building Transaction Tax (LBTT) on agricultural and forestry land equalised with the residential LBTT rates. An escalating LBTT charge to be imposed on assets of scale (over 500 Ha). Additional LBTT raised to contribute to the development of Community Wealth capital projects.

Question 4

Employment law is reserved to the UK Parliament. Are there other devolved areas where the law could be changed to advance the workforce pillar of Community Wealth Building?

- Yes
 No
 Don't Know

Response:

This is not an area that CLS has specific expertise in and we leave a detailed response on this to other organisations in the sector.

Question 5

Are there ways in which the law could be changed which are not already covered in the proposals for the Land Reform Bill to advance the land and property pillar of Community Wealth Building?

- Yes
 No
 Don't Know

Response:

A robust and progressive Land Reform Bill is essential to encourage the expansion of community owned land and assets to help support local economies, improve access to training and jobs, most particularly in disadvantaged communities. If communities own the assets that they live on and work in it fosters a resilient and vibrant circular economy in which local produce and services will be used by the local community, fuelling sustainable local economic development which in turn creates more jobs, housing and amenities. Vibrant local economies in which wealth circulates rather than being extracted creates conditions for training and improved job prospects which encourages the retention of young people and the encouragement of migration to the area. An issue facing many areas of Scotland from remote rural areas to the post-industrial landscapes of the central belt.

Aside from the central importance of the Land Reform Bill we suggest the following legislative changes:

- **Sustainable use of the existing public estate:** provide access to the public estate for community and Small and Medium-sized Enterprises (SME) use to enable CWB to dovetail with Scottish Government's forthcoming Local Growing Strategy. Property teams from local authorities and other public bodies should be mandated and supported to identify unused land to provide community growing sites, especially those that support SMEs for urban, peri-urban and commercial growing, such as market gardens. Criteria should be used to identify these sites

so that they are suitable for use (e.g. accessible, adequate services, non-contaminated). There would also need to be a review of potential barriers to use, such as the need for separate insurance policies, etc.

- **Allotments:** as with the above, the Local Growing Strategy will rely on better provision of allotments and a renewed commitment to deliver part 9 of the 2015 Community Empowerment (Scotland) Act is required to provide food growing opportunities through allotments etc. These provisions have been patchily applied across Scotland, partly due to local authority budgets but a lack of statutory oversight or resource for enforcement has not helped.
- **Development of small landholdings:** There is significant potential for the development of affordable small-scale landholdings for ownership or tenancy on Scottish Ministers' land, and an established precedent exists through the work of Farming Opportunities for New Entrants (FONE) and Scottish Land Matching Service (SLMS). In particular, Forestry and Land Scotland (FLS) could be directed by Scottish Ministers to take a more proactive role in developing or facilitating such holdings on the National Forest Estate. These could include woodland crofts, woodland small-holdings and woodlots.
- **Housing:** The chronic lack of affordable housing is often the single most important land and property issue for many rural communities. In addition to its social and demographic impacts, the housing shortage is a major constraint on the economic development of rural Scotland. Whilst there may be some rural areas where there is an absolute shortage of housing and the only solution is to build more, the problem is greatly exacerbated by the increasing numbers of second homes and long-term empty properties, which push up prices and reduce the availability of permanent homes to local people. We propose several measures to address this:
 - make holiday houses a separate use class (as is being done in Wales)
 - give local authorities the option to classify homes as primary residences, second homes or holiday lets
 - owners would need planning permission to change a property's classification from a primary residence to a second home
 - powers for licensing authorities to include an Overprovision Policy within the current licensing regime for holiday lets and giving local authorities powers to increase Council Tax rates for second homes² or apply to increase Land and Buildings Transaction Tax in specific areas to dampen prices.

CLS also suggests that the following specific interventions are undertaken to address the challenges facing the land and property pillar:

14. Review the existing suite of Community Rights to Buy to ensure they are fit for purpose and effectively deliver the community wealth building aspirations and expectations of communities across Scotland

² Proposals to consult on this proposal have recently been announced <https://www.gov.scot/news/tax-changes-for-second-and-empty-homes/>

15. Review the Common Good legislation to ensure assets and resources held under Common Good legislation are directed specifically for the purpose of CWB
16. Allow communities using the CRTB powers to acquire at below market value in exceptional circumstances
17. Impose on all public bodies using Community Asset Transfer provisions, a standard methodology for measuring the social value of community proposals which are then reflected in a discount on market value for purchase.
18. Within the Community Asset Transfer provisions, include a presumption against the inclusion of any restrictive covenants, burdens or clawbacks in transfer or sales to communities, unless in very defined exceptional circumstances.
19. Further review the current Community Asset Transfer and Participation Request powers to ensure they are fit for purpose and effectively deliver the community wealth building aspirations and expectations of communities across Scotland
20. Introduce a Public Interest Test and statutory Notification of Sale in respect of urban assets that have the power to deliver CWB outcomes
21. Introduce an Assets of Community Value designation under Planning law and promote through the development of Local Place Plans. This ACV designation to have relevance to all planning decisions relating to the asset concerned, and to act as a presumption against loss of the use of this asset. This could include the last facility in a locality. This also to provide evidence of a community's interest under CRTB provisions and any Notification of Sale provisions proposed under the Land Reform Bill.

Question 6

Are there ways in which the law could be changed to advance the inclusive ownership pillar of Community Wealth Building?

- Yes
- No
- Don't Know

Response:

If Community Wealth Building is to truly succeed, local social enterprises, co-operatives and community owned enterprises must become the standard and most common business models in Scotland. A range of measures are required to drive forward these alternative, more inclusive and sustainable business models. These should focus in particular on essential sectors including food and energy, and involve removing legal and institutional barriers to growing the number and range of such businesses to make them an increasingly mainstream aspect of the local economic landscape. We recommend the following interventions to achieve this:

Land Ownership:

Scotland has a uniquely concentrated pattern of private rural land ownership, the consequence of a long social and political history of exploitation and expropriation. This disposition is buttressed and perpetuated by a suite of tax exemptions and subsidies which incentivise investment in land as an ever-appreciating capital asset and an efficient means of minimising tax burdens, restricting access to land and pricing communities out of the market.

The latest manifestation of this phenomenon has been the recent rush of land acquisitions by so-called “green lairds”, comprised of high net worth individuals, corporates and institutions acquiring land ostensibly for the delivery of environmental outcomes but often attracted by the financial returns on offer. Concerns about the impact of green finance on the rural land market are well founded. However, they are symptomatic of the broader issues around Scotland’s largely unregulated land market and uniquely concentrated pattern of rural land ownership. A range of legislative and fiscal interventions are required to tackle these issues, including:

- **A Community Wealth Fund (point 23)**, enhanced community benefit funds and a **Community Right to Invest (point 22)**, to ensure a more equitable distribution of benefits (these measures are discussed further in Pillar 5 below).
- Regulation of large-scale landownership and land use through a revised Land Rights and Responsibilities Statement, backed by Public Interest Tests – see Land Reform Bill
- Reform of subsidies (e.g. through the new Agriculture Bill) and tax exemptions (including through devolution of powers), ensuring that any future fiscal measures are fully aligned to delivering the full range of Government objectives;

Land reform: The consultation paper notes that some relevant CWB measures are expected to be taken forward in a Land Reform Bill to be introduced by the end of 2023, including:

- the introduction of a public interest test for transfers of large-scale landholdings;
- a requirement on owners of large-scale landholdings to give prior notice to community bodies of their intention to sell;
- strengthening the Land Rights and Responsibilities Statement and making it statutory

The consultation paper on the forthcoming Land Reform Bill focussed exclusively on rural issues. It acknowledged that there are many land-related issues in urban Scotland, stating that “*we see opportunities to address some of these in our forthcoming Community Wealth Building Bill.*” It also contained a specific commitment that the CWB Bill would address issues around the reform of compulsory purchase orders. However, the current consultation does not cover urban land reform issues in any meaningful way, and there is no mention of compulsory purchase orders within the consultation paper.

We strongly urge Government to make good on its commitment to include land reform issues of urban relevance within the CWB if they are not to be included in the Land Reform Bill.

Community Right to Buy and Asset Transfer

Reform of existing legislation such as the 2003 and 2016 Land Reform Acts and the 2015 Community Empowerment Act is required to simplify procedures and harmonise requirements for Community Bodies to allow greater cross-eligibility. CLS is calling for the following actions from our 25 points to address this:

14. Review the existing suite of Community Rights to Buy to ensure they are fit for purpose and effectively deliver the community wealth building aspirations and expectations of communities across Scotland
15. Review the Common Good legislation to ensure assets and resources held under Common Good legislation are directed specifically for the purpose of CWB
16. Allow communities using the CRTB powers to acquire at below market value in exceptional circumstances
17. Impose on all public bodies using Community Asset Transfer provisions, a standard methodology for measuring the social value of community proposals which are then reflected in a discount on market value for purchase.
18. Within the Community Asset Transfer provisions, include a presumption against the inclusion of any restrictive covenants, burdens or clawbacks in transfer or sales to communities, unless in very defined exceptional circumstances.
19. Further review the current Community Asset Transfer and Participation Request powers to ensure they are fit for purpose and effectively deliver the community wealth building aspirations and expectations of communities across Scotland
20. Introduce a Public Interest Test and statutory Notification of Sale in respect of urban assets that have the power to deliver CWB outcomes
21. Introduce an Assets of Community Value designation under Planning law and promote through the development of Local Place Plans. This ACV designation to have relevance to all planning decisions relating to the asset concerned, and to act as a presumption against loss of the use of this asset. This could include the last facility in a locality. This also to provide evidence of a community's interest under CRTB provisions and any Notification of Sale provisions proposed under the Land Reform Bill.

It would be sensible for this work to be taken forward in a single legislative package, given that harmonisation of approach is a key issue.

Question 7

Are there ways in which the law could be changed to advance the finance pillar of Community Wealth Building?

- Yes
- No
- Don't Know

Response:

The Finance Pillar is essential to CWB, as any legislative or policy intervention must be built upon centring financial flows on and within local communities. The first step in this process is ensuring that local communities and organisations are adequately resourced to rise to the challenge. It is to this end that CLS has some of its most critical recommendations within the final pillar – the **establishment of a Community Wealth Fund and the Community Right to Invest**.

If CWB is to provide the transformational change that the Scottish Government seeks then fundamental restructuring of our economy is required, and this implies very significant changes to governance structures. Such changes need to go beyond additional funding opportunities provided by national or regional bodies. Instead, the powers and budgets of those bodies themselves need to be devolved to a community level.

‘Community Benefit’

It is important to briefly discuss the notion of ‘community benefit’ which is becoming increasingly prevalent within Energy and the Just Transition and the emergence of private finance as a major force within the carbon and biodiversity mitigation strategies driving land purchases in rural Scotland. ‘Community benefits’ are often spoken about more than they are enacted and the term itself, as well as any tangible financial or material benefits, need to be codified and made proportionate to the profits being accumulated. A case in point are the community benefit payments from renewables developments, which provide a significant contribution to Scotland’s rural economy, with Local Energy Scotland estimating total annual benefits paid to be almost £25m a year.³ This is substantially larger than the funds available through the Scottish Land Fund (£10m a year) or through Scottish Government Community-led Local Development (£11.6m). However, it is dwarfed by direct subsidy to agriculture (£500m) and only a tiny fraction of the value of the electricity produced. At current wholesale rates⁴, the annual gross income from the 32TWh⁵ generated by Scotland’s renewables is over £4bn. A much greater share of this income should be retained for the benefit of local communities. This could be through enhanced community benefit payments. An alternative approach would be to provide a genuine community stake in developments

³ <https://localenergy.scot/community-benefits-map/>

⁴ <https://www.ofgem.gov.uk/energy-data-and-research/data-portal/wholesale-market-indicators>

⁵ <https://www.scottishrenewables.com/our-industry/statistics>

– along the lines of the Community Right to Invest model. This approach should be extended to a wider range of investments in natural resources.

CLS propose the following interventions to address these issues:

26. Give communities **Rights to Invest** in Scotland's renewable and carbon economies, through compulsory rights to acquire investments in local renewables schemes and natural capital schemes (using support via a Community Wealth Fund and the Scottish National Investment Bank)

CLS always propose that the best way to ensure local retention of financial and other benefits from economic development is through local ownership, e.g. through the direct ownership of assets as discussed under the Inclusive Ownership pillar. However local investment is also vital, either through individually acquired community shares and bonds, or through collective community shares in significant developments such as renewables schemes through a Community Right to Invest. This could also be secured by requiring that developers provide investment stakes as part of a community benefit package (see community benefit above)

27. The Government to introduce a Community Wealth Fund, funded through developer contributions from renewable and natural capital schemes. The contributions to be made compulsory with a fixed rate percentage awarded from each scheme to a central Fund. Contributions to be made from onshore and offshore renewables as well as via a tax on carbon offsetting receipts. The Fund to be distributed nationally, irrespective of contribution location. The Fund to focus on supporting communities to acquire and invest in revenue generating assets creating long term sustainable income for communities.

Community Wealth Fund

The anticipated revenues from Scotwind and other renewables development present a unique opportunity to create a long-term and strategically focussed Community Wealth Fund to support the Scottish Government's policy priorities regarding community empowerment, community wealth building and land reform. The anticipated magnitude of the revenues should enable an innovative long term sustainable approach to using these resources, to build a Wealth Fund which can be invested so as to grow over time. Lessons can be learnt from the inability to optimise the use of fossil fuel revenues for these purposes in the past. Income for the proposed Fund should be derived from the upcoming first and subsequent rounds of offshore renewables leasing via Crown Estate Scotland's Scotwind programme to enable community wealth to be built from the bottom up for the future benefit of all of Scotland. Use of the Fund in this way should be seen as an investment in the future wealth of Scotland, (rather than a grant to a community.) It will help secure Scotland's land and land-based assets within

locally democratically accountable organisations who will use the wealth generated to support community empowerment and resilience. The resources and revenue will stay with the people of Scotland. There is compelling evidence that community owners are already playing a leading role in doing this through ownership of land and natural assets, such as renewables. Related community led initiatives have included the provision of affordable housing, fuel poverty alleviation or environmental education. The envisaged Community Wealth Fund offers the prospect of a step change in approach to facilitating community empowerment by enabling a new proactive approach to speed and scale of land and land-based asset acquisition and development, together with potentially new models of governance that make the best use of the skills and experience that exists in the public and community sectors. It could also address the current fragmentation between acquisition and development that hinders community wealth building.

28. The Scottish National Investment Bank to be directed to establish a specific fund targeted at providing accessible capital finance to support communities to acquire and develop assets to generate community wealth and resilience.

To date the contribution of SNIB to delivering a just transition or supporting the principles of the Land Rights and Responsibilities Statement has been inconsistent, with the investment of £50m in a land acquisition and commercial forestry scheme aimed primarily at minimising tax burdens of high-net-worth investors causing significant public concern.⁶

29. Land Building Transaction Tax (LBTT) on agricultural and forestry land equalised with the residential LBTT rates. An escalating LBTT charge to be imposed on assets of scale (over 500 Ha). Additional LBTT raised to contribute to the development of Community Wealth capital projects.

⁶ <https://scottishbusinessnews.net/snp-bank-slips-50-million-of-public-money-to-firm-linked-to-tax-avoidance/>