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**Dunoon Pier: Bute and Cowal Area Committee - Proposed Sub-Committee**

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**1.0 EXECUTIVE SUMMARY**

- 1.1 The Bute and Cowal Area Committee passed the following motion at its meeting on 7<sup>th</sup> April 2015: *The Bute and Cowal Area Committee wishes to work in partnership with the Dunoon Pier Community Trust (DPCT) to ensure that the historic Dunoon Pier is refurbished and brought back into use in a manner that reflects the community's views on what the pier should be used for.*

*The Bute and Cowal area committee recommends to the full council that a new sub-committee of the area committee is created for this purpose.*

*The sub-committee will have responsibility for the refurbishment and future use of the pier and officers will report to this sub-committee. The sub-committee will in turn report to the area committee. The proposal is that the sub-committee comprises 3 elected members from the Dunoon and Cowal wards and 3 members of the board of Dunoon Pier Community Trust.*

*The 3 elected members from these 2 wards will be determined by a decision of the area committee for Bute and Cowal. The 3 members of the SCIO [Scottish Charitable Incorporated Organisation] board will be determined by that board. The sub-committee will elect a chair and vice chair at its first meeting if the creation of the sub-committee is agreed by the full council.'*

- 1.2 Dunoon Pier is an A listed Structure which is recorded in Historic Scotland's Buildings at Risk Register as *the best surviving example of a timber ferry/steamer pier in Scotland.*
- 1.3 The Dunoon Pier Project forms part of the Council's wider Dunoon Waterfront Project. Works are currently ongoing in relation to Phase 1 of the redevelopment programme. There is currently no future funding identified for Phase 2.
- 1.4 The DPCT intend to register as a Scottish Charitable Incorporated Organisation. They have not done so as yet and therefore they do not currently exist as a separate legal entity. It is understood however, from a discussion with the solicitor acting on behalf of the proposed Trust that the necessary paperwork will be submitted to the Scottish Charity Regulator (OSCR) shortly.

- 1.5 The pier is a significant Council asset and a focal point for its plans to regenerate Dunoon's waterfront and Town Centre.
- 1.6 The Council, with assistance from the Scottish Government's Regeneration Capital Grant Fund (RCGF), has currently allocated some **£2.83 million** to undertake the Phase 1A Structural Repairs and Phase 1B building Refurbishment at Dunoon Pier. These works will see: the southern arm of the pier and the western aspect of the central pier head structurally repaired; the waiting room building significantly refurbished internally and externally; and the harbour master's building refurbished externally and redecorated internally.
- 1.7 Phase 2, for which there is currently no budget or identified funding, would need to focus on the structural repairs to the remainder of the pier head, a total refurbishment of the signal tower building and the refurbishment of the northern arm of the pier (the vehicular access). Whilst no detailed designs/costs are currently available for this next phase, it is reasonable to assume, given the structural condition of the pier overall; and that the pier head on its eastern aspect has been most exposed to the elements, that Phase 2 will require a similar level of investment, if not significantly more. Additionally, there will be the on-going routine maintenance costs and the more significant cyclical maintenance/refurbishment.

As part of their Phase 1 commission, our consultants, Capita, are to bring forward a Management and Maintenance Plan, which will enable the Council to more accurately forecast the on-going financial commitment in terms of maintenance of the pier.

- 1.8 The Council does not currently consider the wooden pier in Dunoon 'surplus' to its requirements and therefore is not currently considering any form of third sector asset transfer.
- 1.9 This report sets out the detail and conclusions in relation to the proposal put forward in the motion.

## **Recommendations**

- 1.10 It is recommended that Members note the terms of the motion agreed at the Bute and Cowal Area Committee on 7<sup>th</sup> April 2015; and
- 1.11 It is recommended that Members consider, given the advice expressed in this report whether to create a sub-committee of the Bute and Cowal Area Committee for the purposes set out in the motion noted at 2.1 in this report.
- 1.12 It is recommended that should it be determined that a sub-committee be created, Members might wish to consider a name for the committee, the committee's terms of reference, appointments to the committee, to whom it reports, what powers if any it should have and which officers should be delegated to provide support for it.

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**Dunoon Pier: Bute and Cowal Area Committee - Proposed Sub Committee**

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## **2.0 INTRODUCTION**

- 2.1 The Bute and Cowal Area Committee passed the following motion at its meeting on 7<sup>th</sup> April 2015: *The Bute and Cowal Area Committee wishes to work in partnership with the Dunoon Pier Community Trust (DPCT) to ensure that the historic Dunoon Pier is refurbished and brought back into use in a manner that reflects the community's views on what the pier should be used for.*

*The Bute and Cowal area committee recommends to the full council that a new sub-committee of the area committee is created for this purpose.*

*The sub-committee will have responsibility for the refurbishment and future use of the pier and officers will report to this sub-committee. The sub-committee will in turn report to the area committee. The proposal is that the sub-committee comprises 3 elected members from the Dunoon and Cowal wards and 3 members of the board of Dunoon Pier Community Trust.*

*The 3 elected members from these 2 wards will be determined by a decision of the area committee for Bute and Cowal. The 3 members of the SCIO [Scottish Charitable Incorporated Organisation] board will be determined by that board. The sub-committee will elect a chair and vice chair at its first meeting if the creation of the sub-committee is agreed by the full council.'*

- 2.2 Dunoon Pier is an A listed Structure which is recorded in Historic Scotland's Buildings at Risk Register as *the best surviving example of a timber ferry/steamer pier in Scotland.*
- 2.3 The Dunoon Pier Project forms part of the Council's wider Dunoon Waterfront Project. Works are currently ongoing in relation to Phase 1 on the redevelopment programme. There is currently no future funding identified for Phase 2.
- 2.4 The DPCT intend to register as a Scottish Charitable Incorporated Organisation. They have not done so as yet and therefore they do not currently exist as a separate legal entity. It is understood however, from a discussion with the solicitor acting on behalf of the proposed Trust that the necessary paperwork will be submitted to the Scottish Charity Regulator (OSCR) shortly.

- 2.5 The pier is a significant Council asset and a focal point for its plans to regenerate Dunoon's waterfront and Town Centre.
- 2.6 The Council, with assistance from the Scottish Government's Regeneration Capital Grant Fund (RCGF), has currently allocated some **£2.83 million** to undertake the Phase 1A Structural Repairs and Phase 1B building Refurbishment. These works will see: the southern arm of the pier and the western aspect of the central pier head structurally repaired; the waiting room building significantly refurbished; and the harbour masters building refurbished externally and redecorated internally.
- 2.7 Phase 2, for which there is currently no budget or funding, would be expected to focus on the structural repairs to the remainder of the pier head, a total refurbishment of the signal tower building and the refurbishment of the northern arm of the pier (the vehicular access). Whilst no detailed designs/costs are currently available for this next phase it is reasonable, given: the structural condition of the pier overall; and that the pier head on its eastern aspect has been most exposed to the elements, that Phase 2 will require a similar level of investment, if not significantly more. Additionally there will be the on-going maintenance costs associated with the minor day-to-day and more significant cyclical maintenance/refurbishment. As part of their Phase 1 commission our consultants, Capita, will produce a Management and Maintenance Plan, which will enable the Council to more accurately forecast the on-going financial commitment in terms of maintenance.
- 2.8 The Council does not currently consider the wooden pier in Dunoon to be 'surplus' to its requirements and therefore is not currently considering any form of third sector asset transfer. The Dunoon wooden pier is not currently listed on the Council's surplus property list.
- 2.9 This report sets out the detail and conclusions in relation to the proposal put forward in the motion.

### **3. Recommendations**

- 3.1 It is recommended that Members note the terms of the motion agreed at the Bute and Cowal Area Committee on 7<sup>th</sup> April 2015; and
- 3.2 It is recommended that Members consider, given the advice expressed in this report whether to create a sub-committee of the Bute and Cowal Area Committee for the purposes set out in the motion noted at 2.1 in this report.
- 3.3 It is recommended that should it be determined that a sub-committee be created, Members might wish to consider a name for the committee, the committee's terms of reference, appointments to the committee, to whom it reports, what powers if any it should have and which officers should be delegated to provide support for it.

## 4.0 DETAIL

- 4.1 Dunoon Pier is an A listed Structure which is recorded in Historic Scotland's Buildings at Risk Register as *the best surviving example of a timber ferry /steamer pier in Scotland. Now extremely rare, these piers played a key role in the economic and social development of coastal and Island communities in the west of Scotland in the 19<sup>th</sup> and 20<sup>th</sup> centuries. Substantially retaining its character following its late 19<sup>th</sup> century programme of enlargement, the pier and it's key buildings contribute significantly to the architectural and historic interest of Dunoon and to the wider maritime and heritage of the west coast.*
- 4.2 The proposed redevelopment of Dunoon Pier Project forms part of the wider Dunoon Waterfront Project.
- 4.3 Argyll and Bute Council at its meeting on 27th November 2008 agreed to commit a total of £30m of capital expenditure in Argyll and Bute communities as defined through the CHORD programme. Within Dunoon, funds were allocated specifically to the Queens Hall redevelopment, Public Realm works adjacent to the Hall and a sum allocated for development of the Harbour Master's Office. The Council, with assistance from the Scottish Government's Regeneration Capital Grant Fund (RCGF), has currently allocated some £2.83 million to undertake the Phase 1A Structural Repairs and Phase 1B building Refurbishment at Dunoon Pier.
- 4.4 Phase 1 is defined as – Phase 1A urgent repair works to strengthen the structure of the pier's southern arm and western pier head (north and central) and; Phase 1B - works to refurbish the pier's decking, handrails and balustrades, lighting on the northern and southern arms and the western pier head (north and central), Harbour Master's building and Waiting Room. The Policy and Resources Committee approved the Interim Business Case at their meeting on 19th March 2015 which facilitated drawdown of the remaining budget and the award of Phase 1A and Phase 1B contracts.
- 4.5 The proposals for Phase 2 are defined in the *Project Initiation Document Dunoon – Wooden Pier: Phase 2A Appraisal of Sustainable End Uses and Associated 3rd Party Funding*. The document defines the scope of Phase 2 as: Phase 2A - the appraisal of the most economically sustainable end uses for the pier and it's buildings, the identification of external funding and the most efficient business model for the future operation and maintenance of the pier; and Phase 2B - the repair and refurbishment works to strengthen the structure of the western pier head (south); eastern pier head (north, centre and south); to refurbish the remainder of the piers decking, handrails and balustrades, and lighting; and to refurbish the Signal Tower Building.
- 4.6 There is currently no business case, budget or implementation programme for the Phase 2 works. Officers are currently pursuing external support and exploring the potential funding for these works at a national level through parties such as Historic Scotland Grants and Heritage Lottery Fund. Consideration will also be given as to whether Phase 2 is delivered as a standalone project or whether it is best delivered as part of a wider CARs Project. It should be noted,

that there is no CARS project at present. However, officers are reviewing the current conservation area in case there is a future opportunity to bid for CARS funding.

- 4.7 The delivery of the project to refurbish Dunoon Pier is consistent with the Council's corporate plan, the Single Outcome Agreement and the approved Development Plan.
- 4.8 The Bute and Cowal Area committee passed the following motion relating to Phase 2 of works at Dunoon pier of at its meeting on the 7<sup>th</sup> April 2015: *'The Bute and Cowal Area Committee wishes to work in partnership with the Dunoon Pier Community Trust to ensure that the historic Dunoon Pier is refurbished and brought back into use in a manner that reflects the community's views on what the pier should be used for.'*

*The Bute and Cowal area committee recommends to the full council that a new sub-committee of the area committee is created for this purpose.*

*The sub-committee will have responsibility for the refurbishment and future use of the pier and officers will report to this sub-committee. The sub-committee will in turn report to the area committee. The proposal is that the sub-committee comprises 3 elected members from the Dunoon and Cowal wards and 3 members of the board of Dunoon Community Pier Trust.*

*The 3 elected members from these 2 wards will be determined by a decision of the area committee for Bute and Cowal. The 3 members of the SCIO [Scottish Charitable Incorporated Organisation] board will be determined by that board. The sub-committee will elect a chair and vice chair at its first meeting if the creation of the sub-committee is agreed by the full council.'*

- 4.9 The Scottish Charitable Incorporated Organisation [SCIO] is a legal form unique to Scottish charities in so far as it is able to enter into contracts, employ staff, incur debts, own property, sue and be sued. It also provides a high degree of protection against liability. An SCIO becomes a legal entity only when it is registered with the Office of the Scottish Charity Regulator (OSCR). Similarly, an SCIO entity will cease to exist if removed from the register. The DPCT is not currently registered with OSCR and therefore does not currently exist as a separate legal entity. It is understood, however, that an application for registration will be submitted to OSCR in the near future.
- 4.10 The purposes and powers of the DPCT are set out in its Constitution attached as appendix 1 as follows:-

4. The organisation's purposes are:

- 4.1 *To preserve, reconstruct, enhance and maintain the structure of Dunoon Pier (hereinafter referred to as "the Pier") as a building and structure of special architectural and historical importance*

- 4.2 *To promote the use of the Pier for recreational purposes and as a community and heritage building for the general use and benefit of all the inhabitants of and visitors to the town of Dunoon and the surrounding area.*
  - 4.3 *To promote the operation of the Pier structure in whatever way as a viable, sustainable and vibrant addition to the economic future of Dunoon and Cowal*
  - 4.4 *To operate the Pier as part of the tourism infrastructure of the town of Dunoon and surrounding area.*
  - 4.5 *To develop safe access to the pier and to the sea from the pier for everyone*
  - 4.6 *To promote high standards of planning and architecture including environmental and ecological considerations in the Pier.'*
  - 5. *The organisation has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.*
- 4.11 The proposed DPCT will comprise members with prior experience of other regeneration projects within the area including the Dunoon Burgh Hall Trust. The Constitution also provides that membership of the Trust will be open to any individual over 16 years of age or a corporate body who has an interest in the restoration and heritage of the pier. It is understood that the signatories of the DPCT will be Jim MacLean, General Manager for the Dunoon Observer, Dinah MacDonald, the Proprietor of Book Point and Elspeth Black, Solicitor partner at Corrigan Black. It is understood that once the organisation is constituted, anyone with an interest in Dunoon pier will then be able to join the Trust and that the Trust will be actively seeking members.
- 4.12 The pier is a significant Council asset and a focal point for its plans to regenerate Dunoon's waterfront and Town Centre. The pier is not an asset which could be considered surplus to requirements in terms of any potential 3<sup>rd</sup> Sector Asset Transfer.
- 4.13 *The Project Initiation Document Dunoon – Wooden Pier: Phase 2A Appraisal of Sustainable End Uses and Associated 3rd Party Funding* Communication Plan attached as appendix 2 sets out a process for wider stakeholder engagement which is integral to the successful delivery of the Dunoon Pier Phase 2 project.

The plan states that there will be a significant amount of community engagement in order to gain their input to the final designs taken forward by the Bute and Cowal Area Committee. It is proposed that, subject to agreement by the Area Committee, there will be consultation with key stakeholders and key groups within the business and community sector.

Key stakeholders include residents, local retailers, businesses, visitors, the Dunoon CHORD Project Team, potential funders, those making decisions about

the project and those with a direct interest/input into the development of the projects. It is intended that the framework set out in the community engagement strategy “*Improving Community Engagement in Argyll and Bute*” will be used.

- 4.14 The current remit of the Bute and Cowal Area Committee includes the requirement for it to act as the Project Board for the regeneration project currently taking place in Dunoon, including the pier. It is envisaged that officers would be accountable to the sub-committee which in turn would report to the Area Committee, providing recommendations in respect of preferred options for Phase 2 redevelopment.
- 4.15 In terms of the Council’s Constitution at 2.1.3 and 2.1.5, the Area Committee have no power to incur expenditure or commit the Council to expenditure not in accordance with a framework or criteria already approved by the Council. The Constitution states at 2.1.5(3) that *the powers and duties of an Area Committee will be exercised subject to the powers and duties of the Council and any resolution of an Area Committee will be of no effect in the event that the Council directs that the matter which was the subject of the resolution is referred to it or to the Council for consideration, and no step will be taken to give effect to any such resolution of an Area Committee while the implementation of the resolution is suspended in consequence of such a direction.*

## **5.0 CONCLUSION**

- 5.1 It should be noted that while it is within the full Council’s remit to create the proposed sub-committee, should it wish to do so, there is currently no SCIO or other form of constituted body known as the Dunoon Pier Community Trust to nominate representatives to participate in the proposed sub-committee. Therefore it may be considered premature at this stage to form a sub-committee.
- 5.2 The operation of any sub-committee and any decisions to be taken by the Bute and Cowal Area Committee in respect of the matter must be in accordance with the relevant terms of the Council’s constitution. In addition, any external members appointed to such a sub-committee should be required to agree to be bound by the principles of the National Code of Conduct and provide a voluntary registration of interests in accordance with the principles prior to participating in the work of the sub-committee.
- 5.3 Given the proposed set up of the sub-committee and its stated aims, there exists the possibility that any sub-committee may give rise to conflicts of interest with the Area Committee in its role as the Project Board and the Policy and Resources Committee in relation to any future expenditure.
- 5.4 It was clarified at the April meeting of the Bute and Cowal Area Committee that the motion relates to Phase 2 only. Phase 1 contracts have been awarded and work has commenced, to be overseen by the Area Committee as the Project Board and the Policy and Resources Committee as the Programme Board. In respect of subsequent phases, there is no funding identified, business case or

implementation programme for Phase 2. Therefore, there is limited scope upon which the proposed sub-committee could take action. In addition there is a risk that the proposed sub-committee could overstep its remit and involve itself with the operational activities related to Phase 1.

- 5.5 The DPCT's constitution infers that there is an expectation that ownership of the pier would be transferred from the Council to the DPCT at some point in the future. The pier is a significant Council asset and a focal point for its plans to regenerate Dunoon's waterfront and Town Centre. The pier is not an asset which could be considered surplus to requirements in terms of any potential 3<sup>rd</sup> Sector Asset Transfer.
- 5.6 The creation of the proposed sub-committee is not consistent with the Communication Plan set out in the Phase 2 *the Project Initiation Document Dunoon – Wooden Pier: Phase 2A Appraisal of Sustainable End Uses and Associated 3rd Party Funding*. There is a clear intention to consult with a wide range of stakeholders in the development of the Phase 2 project. Consideration should be given to the extent to which this group can be seen to represent the views of the wider Dunoon community. It is intended that the DPCT will involve individuals who are already involved with other development activities in Dunoon, such as the Dunoon Burgh Hall Trust. Members may wish to consider whether similar sub-committees should, if a Dunoon Wooden Pier sub-committee is constituted, be constituted for other regeneration projects across the Council area.
- 5.7 There is a risk that, should the Council pass the motion, the DPCT view this as an indication of intent on the Council's part to transfer the asset. It is considered that an adoption of the motion could result in the DPCT moving to register as an SCIO in anticipation of a 3<sup>rd</sup> sector asset transfer which is not appropriate under the circumstances for the reasons stated above. It should be noted that participation in the sub-committee might be sufficient for the purposes of those involved to enable a submission of an Asset Transfer Request once the Community Empowerment (Scotland) Bill is enacted and in effect. Members may wish to consider however that at present, the DPCT's current draft constitution does not contain the relevant provisions which would allow it to be a community body able to register an interest in land under the Land Reform (Scotland) Act 2003 as amended by the Community Empowerment (Scotland) Act once it is enacted and in effect.
- 5.8 Given that the DPCT has previously expressed an interest in a possible third sector asset transfer of Dunoon Pier in the future, it is recommended that members consider whether there is potential for a conflict of interest in the event that members of the DPCT are appointed to a sub-committee which has the responsibility for appraising such an application. Members are asked to consider whether the DPCT's position on such a sub-committee would give rise to an unfair advantage over any other third sector organisation with a legitimate interest in the pier.
- 5.9 The Policy and Resources Committee agreed at their meeting on 18<sup>th</sup> December 2014 to the establishment of a single Harbour Authority as a sub-

committee of the existing Environment, Development and Infrastructure Committee for all Council owned ports and harbours which should have regard to relevant area representation. Given that Dunoon Pier would fall under the remit of the new Harbour Authority, there is the possibility of potential conflicts of interest with the proposed sub-committee.

## **6.0 IMPLICATIONS**

6.1	Policy -	The proposed governance model would require a change in policy subject to ratification by full Council.
6.2	Financial	There is currently no funding available for phase 2 redevelopment.
6.3	Legal	The DPCT intend to register as a Scottish Charitable Incorporated Organisation. They have not done so as yet and therefore they do not currently exist as a separate legal entity. It is understood, however, that the necessary paperwork will be submitted to the Scottish Charity Regulator (OSCR) shortly.
6.4	HR	None
6.5	Equalities	None
6.6	Risk	None
6.7	Customer Service	None

**Executive Director of Development and Infrastructure Services**  
**Executive Director of Customer Services**

**18<sup>th</sup> June 2015**

**For further information contact:** Michael Nicol, 01546 604468

## **APPENDICES**

Appendix 1 Dunoon Pier Community Trust Draft Constitution  
Sections 1-15

Appendix 2 Project Initiation Document Dunoon – Wooden Pier: Phase 2A  
Appraisal of Sustainable End Uses and Associated 3rd Party  
Funding – Communication Plan