





# Investigation to explore and establish the case for the setting up of a Lough Neagh Development Trust to acquire and strategically manage and operate Lough Neagh

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“ This report from DTNI looks critically for the first time at community acquisition on a scale not previously envisaged and its findings and recommendations come at the end of an intensive 7 month period of work. ”

## FOREWORD

Community Ownership in Northern Ireland (NI) is in the DNA of our civic society. From the network of care facilities owned by local, regional and national charitable organisations, to the social housing stock of local Housing Associations through to the extensive network of land (football pitches, golf clubs, rivers and lakes) and buildings owned and managed by sporting bodies within our towns and villages.

This collective ownership and development of community assets is a testimony to who we are as a society and what we aspire to achieve for the common good.

Do we have rights and responsibilities or obligations as a society to pursue for more community ownership? Do we express those rights culturally and do we understand or acknowledge that there is a collective right towards more common ownership which extends to land, forests and waterways. Such assets are largely the preserve of public bodies including central and local government and private interests. There is yet no clear understanding or agreement across society on what is or ought to be considered common land, owned and managed by the people for the public good.

Development Trusts NI (DTNI) advocates on behalf of its members, for a new era of community ownership and management of assets. DTNI is striving to promote, develop and extend the concept across the community, voluntary, social enterprise, charitable and faith sectors in NI.

The opportunity presented by the Department of Agriculture and Rural Development to test the concept of community ownership in the case of Lough Neagh (privately owned by the Shaftesbury Estate) was a unique prospect. The size of the asset, or rather the complexity of issues concerning its existing management and control and broad stakeholder audience with a claim on the Lough made this a challenging ask. With the NI Executive having already committed to the principle of more community ownership and making available its surplus assets for possible acquisition by third sector organisations being able to consider this principle and its application to this vast body of water was an enticing and exciting given that nothing of this scale has been mooted for consideration until now. Community ownership on this grand scale is not without precedent. Galston and Uist in the Western Isles of Scotland jointly hold approximately 145,000 acres of land in community ownership. Nothing of this scale however exists in NI outside of the public sector and private ownership.

This report from DTNI looks critically for the first time at community acquisition on a scale not previously envisaged and its findings and recommendations come at the end of an intensive 7-month period of work.

We are heartened by the level of support we have received along the way and the willingness by which individuals, communities, public and private interests have engaged openly and debated vigorously the proposal we brought forward for investigation considering the viability and commitment to establish a development trust to acquire, own and manage the bed of Lough Neagh. Specifically, we set out to address the following questions.

- To what extent would a Development Trust receive community and other stakeholder support?
- Would a Trust comprising a range of interests be able to share common ground and an agreed vision for the future?
- What form of Development Trust would offer most by way of opportunity and least by way of risk in relation to local communities and other stakeholders?
- What governance arrangements would ensure a strong and effective community voice whilst facilitating meaningful input from the full range of stakeholders?

We believe that this report and its supplementary appendices answer these questions affirmatively and provide a clear set of proposals and direction of travel which are worthy of further consideration.

It would be remiss of me not to acknowledge that this report is the work of all of those that participated in the research process and the detailed conversations directed and facilitated by the staff and associates of DTNI. Many individuals have given of their time and expertise to ensure that the recommendations are relevant to the issues and appropriate. This shows tremendous commitment from all of those who are interested in the Lough's future. DTNI board members were delighted with the level and quality of input and would like to express their sincere thanks to everyone involved.

In commending this report to you the reader for consideration I'd like to quote from the foreword of a previous report from the Lough Neagh Advisory Committee (2002). Which states;

*This document is just the beginning. We must now encourage stakeholders, communities, local authorities and statutory agencies to incorporate these management recommendations into their forward work programmes, thus securing a sustainable and bright future for the Lough Neagh Wetlands.*

With that in mind we must hope that with commitment, hard work and continued endeavour we can realise our mutual objective of a common ownership of Lough Neagh. This has been an inspiring piece of work for DTNI and we are fully committed to playing our part in the future of Lough Neagh.

Nigel Kinnaird

Chair DTNI



DTNI with the support of RCN facilitated four public consultation events in Washing Bay, Antrim, Oxford Island Discovery Centre and Ballyronan.

## EXECUTIVE SUMMARY

### Background

**1.1** On 17 April 2012 Francis Molloy MLA brought by way of Private Member's Business the following proposal to the Northern Ireland (NI) Assembly. 'That this Assembly calls on the Minister of Culture, Arts and Leisure and the Minister of Agriculture and Rural Development to convene a working group to explore and pursue actively the potential for a cross-departmental approach to bring Lough Neagh back into public ownership.' The NI Assembly backed the motion 62:15.

**1.2** Subsequently, a cross departmental working group (The Lough Neagh Working Group) carried out a high level scoping exercise to investigate the potential for bringing Lough Neagh into public ownership.

**1.3** In February 2014 the Lough Neagh Working Group published its findings. It concluded: 'The Working Group has been unable to identify any tangible benefits to the effective management of the Lough, should it be brought into public ownership. The implementation of a potential new, overarching management structure is considered to be the best approach to delivering the diverse range of objectives sought by stakeholders'.

**1.4** In August 2015 the Department of Agriculture (DARD) commissioned Development Trusts NI (DTNI) to; 'explore and establish the case for setting up a Lough Neagh Development Trust to acquire, strategically manage and operate Lough Neagh and the way resources should be directed to underpin this initiative.....'

### DTNI Methodological Approach

**1.5** The project timeline was seven months with a deadline for 31 March 2016

**1.6** In September 2015 DTNI initiated the exploratory process. DTNI appointed an expert project advisory panel. With representation from DTNI, Strategic Investment Board (SIB), Rural Community Network (RCN), Lough Neagh Partnership (LNP), and Lagan Canal Trust (LCT). This was supplemented by senior peer practitioners in community asset management & acquisition from the Development Trust Association Scotland (DTAS) and Locality from England.

**1.7** Shaftesbury Estates of Lough Neagh Ltd was engaged via its NI representatives.

**1.8** Edwards & Co Solicitors were appointed as legal advisers.

**1.9** Morrow Gilchrist Associates were appointed as business advisers.

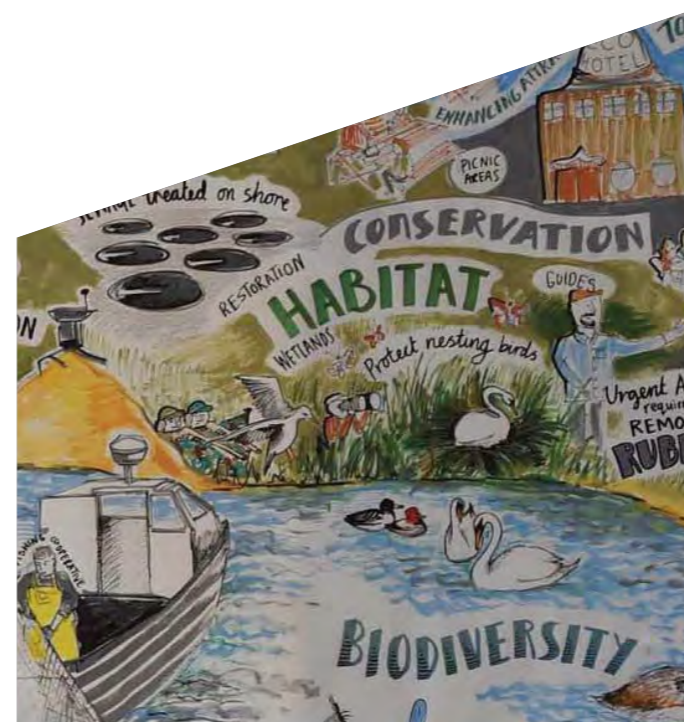
**1.10** A project plan comprising 4 main strands was developed and implemented:

### CONSULTATION

**1.11** DTNI held a series of comprehensive one to one meetings with all key stakeholders to establish the level of support which might exist for the principle of management and ownership of the Lough via a Development Trust. DTNI with the support of RCN facilitated 4 public consultation events in Washing Bay, Antrim, Oxford Island Discovery Centre and Ballyronan. In addition, DTNI;

- Commissioned a Governance and Incorporation options review – an investigation of alternative Development Trust models - led by Edwards & Co. Solicitors
- Commissioned the preparation of a Strategic Outline Case – an investigation of strategic fit, viability and resource requirements - led by Morrow Gilchrist Associates
- Facilitated a Stakeholder conference ('Future Search' methodology) to establish if sufficient 'common ground' and shared vision existed/could be developed between the diverse range of stakeholders and offer a realistic way forward on a platform provided by a Development Trust

**1.12** The Advisory Panel met monthly. The consultation process ran from September 2015 through to March 2016. Legal and business advisers contributed on an ongoing basis as did DTAS, Locality and others. The Earl of Shaftesbury engaged personally with the Advisory Panel in addition to providing input via his NI representatives.



<http://www.niassembly.gov.uk/assembly-business/official-report/reports-11-12/17-april-2012>

[http://www.niassembly.gov.uk/globalassets/documents/officialreports/agriculture/20132014/140624\\_loughneaghdwgreport.pdf](http://www.niassembly.gov.uk/globalassets/documents/officialreports/agriculture/20132014/140624_loughneaghdwgreport.pdf)

## KEY FINDINGS

### CONSULTATION

**1.13** The consultation process evidenced widespread support in principle from the full range of stakeholders (communities of place, commercial interests, environmental interests, other communities of interests, individual users and central and local government, current owner) for developing the concept of community management & ownership of Lough Neagh via a community owned and managed Development Trust.

**1.14** Stakeholders believe that private ownership and management of aspects of the Lough will continue to deliver only limited long term strategic development for the benefit of local communities.

**1.15** There is an urgent need to consider how the governance and management arrangements for the delivery of key functions and services in and around the Lough ('Communities of Interest') can be consolidated and amalgamated, to enable a more focused 'community of place' to emerge.

**1.16** There is a strong desire for long term community involvement in management and governance. The current owner has indicated support for this direction of travel.

### STRATEGIC OUTLINE CASE & GOVERNANCE REVIEW

**1.17** The strategic outline case & governance review concluded that ownership of the bed of Lough Neagh by way of a Community Development Trust has significant potential to act as a catalyst/platform for the successful long term sustainable development of the Lough.

**1.18** A Community Development Trust incorporated as a Company Limited by Guarantee and governed by a Board elected by, and accountable to, the community is seen as an appropriate vehicle for same.

**1.19** Governance structure and processes will be most effective with community at its core whilst simultaneously providing the broad range of stakeholder interests with a credible voice via a clearly defined, formal, 'route' to the Trust.

**1.20** A Company Limited by Guarantee (possibly with charitable status) was agreed by the Advisory Panel as the preferred incorporation option for such a Trust.

**1.21** To move the process forward a company – 'Lough Neagh Development Trust' (LNDT) has been registered with Companies House. An interim Board has been appointed to lead the Trust through the process of membership recruitment and the election of a permanent Board.

## KEY FINDINGS

**1.22** The strategic outline case & governance review concluded that Local Government Authorities should be engaged to explore opportunities for business development by LNDT including (though not exclusively) community management of Lough Neagh marinas.



EMPOWERING

# KEY RECOMMENDATIONS

## FUTURE SEARCH

**1.23** Sixty-four stakeholders representing the full range of interests connected with the Lough attended a 3-day Future Search conference (February 29th, 1st, 2nd March 2016) where they explored and established common ground along with agreement on & commitment to the long term strategic management and development of the Lough based on a Development Trust model.

**1.24** Shared vision, individual stakeholder Lough development plans (with next step actions) and a stronger commitment to collaborative working to advance the long term development of the Lough (amongst the full range of stakeholders) have been agreed.

**1.25** Common ground commitments by stakeholders and a focus for the work of LNDT going forward are;

- **Habitat,**

'... Value the importance of the Habitat, the water quality, the bio-diversity and the natural species currently found in the Lough Neagh catchment. We recognise the need to manage, to protect, and enhance the habitat and water quality to a favourable condition for the benefit of all'.

- **The Economy,**

'... Use a sustainable approach for the development and management of the Lough Neagh basin and catchment area resource to deliver positive economic returns to the local community through a thriving mixed economy'.

- **Tourism,**

'... Work to ensure Lough Neagh and its waterways are a unique visitor experience/destination based on sustainable principles contributing to Lough Neagh and the wider community'.

- **Community Vision,**

'... Work together to create a shared Lough Neagh community which takes pride in our people, place and shared purpose to advance sustainable community benefit. We recognise the community as both a resource and an asset which has the capacity for leadership, ownership and self-management of Lough Neagh and its environs.

'...Engage all stakeholders in all levels of planning, development and implementation'.

- **Recreation,**

'... Work to ensure that recreation is accessible, affordable, sustainable and respecting of other users, our heritage and our environment and that such recreation be available all year round. We believe that a balance of recreation and work creates a healthy, vibrant and prosperous Lough Neagh community'.

- **Navigation and Waterways Safety,**

'... Work together with all relevant agencies to develop a Lough Neagh navigation authority which will deliver safer connected waterways'.

- **Strategic Vision,**

'Lough Neagh is a strategic natural resource for all. Our vision is to bring about an internationally recognised, stable, sustainable, natural environment that supports communities through economic, social and recreational development'.

- **Governance**

'The Lough Neagh Development Trust is a community owned and led body. We are responsible for the guardianship, advocacy, management and sustainable development of Lough Neagh, its people and place. Our vision is for a better balance of social, cultural, economic and environmental well-being'.

## KEY RECOMMENDATIONS

**1.26** The establishment of an Interim Board for the registered company, Lough Neagh Development Trust (LNDT).

**1.27** The Interim Board to define and prioritise the early stage key functions of LNDT.

**1.28** The Interim Board to continue to develop and maintain collaborative working relationships with representative Lough Neagh community organisations and with the Lough Neagh Partnership (LNP) & jointly consider options for partnership, collaboration, integration and or merger with LNP.

**1.29** The Interim Board of LNDT to continue to maintain community support for the process of developing the community governance and legal structures proposed for the efficient and effective management and operation of LNDT.

**1.30** The LNDT Interim Board should define initial Trust membership categories & eligibility criteria, design and implement a community engagement and membership recruitment campaign which is transparent and accountable.

**1.31** The proposed Governance form (as per review) to be formally approved and adopted by the Interim Board of LNDT and Memoranda of Understanding (MOU) outlining the relationships with and between key stakeholders agreed.

**1.32** The development of appropriate sub-structures as recommended in the governance review should include options to establish a separate 'Property Trust' to hold title to the Lough. This will require the appointment of independent trustees and the establishment of an appropriate Trust vehicle.

**1.33** The Interim Board to seek support and agreement from The Shaftesbury Estate to advance the operational objectives of LNDT regarding better management and community ownership of the bed of Lough Neagh.

**1.34** The Interim Board to explore with The Shaftesbury Estate and relevant

interests the means by which 'Due Diligence' of Lough Neagh and a strategy for management and acquisition of the bed of the Lough can be best undertaken.

**1.35** A focused acquisition strategy to be developed and led by LNDT, with support from experienced practitioners in NI and other jurisdictions were relevant expertise exists.

**1.36** The Interim Board of LNDT should seek to identify and avail of emerging opportunities for the management and acquisition of assets for advancing sustainable enterprise by way of the NI Executives policy framework on Community Asset Transfer.

**1.37** LNDT to work with suitable partners to ensure effective advocacy for

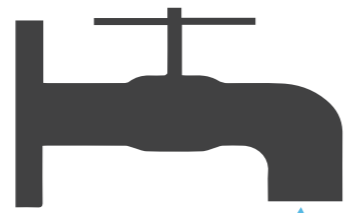
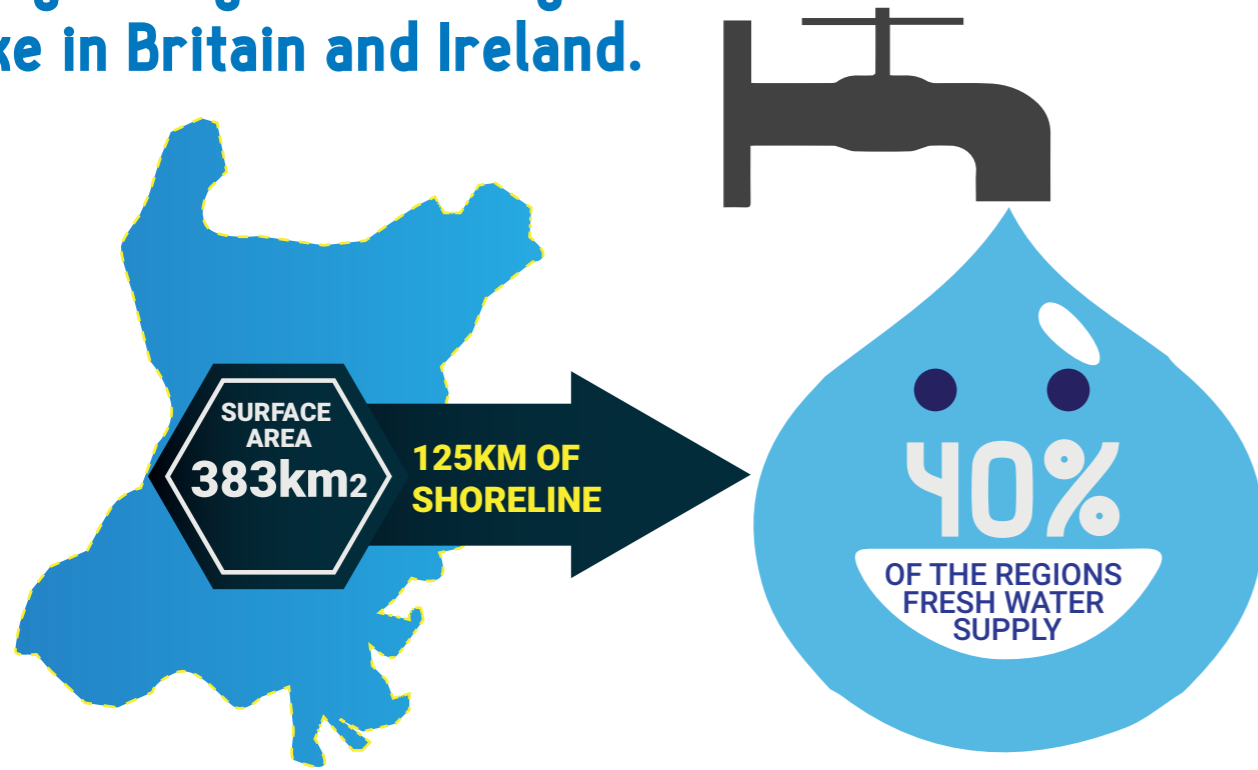
Community Asset Transfer, asset management and business development opportunities relevant to Lough Neagh with Local Government Authorities – works to be undertaken on behalf of LNDT and other key stakeholders.

**1.38** LNDT to explore the full range of potential funding streams and investment opportunities for further development of the project recommendations.

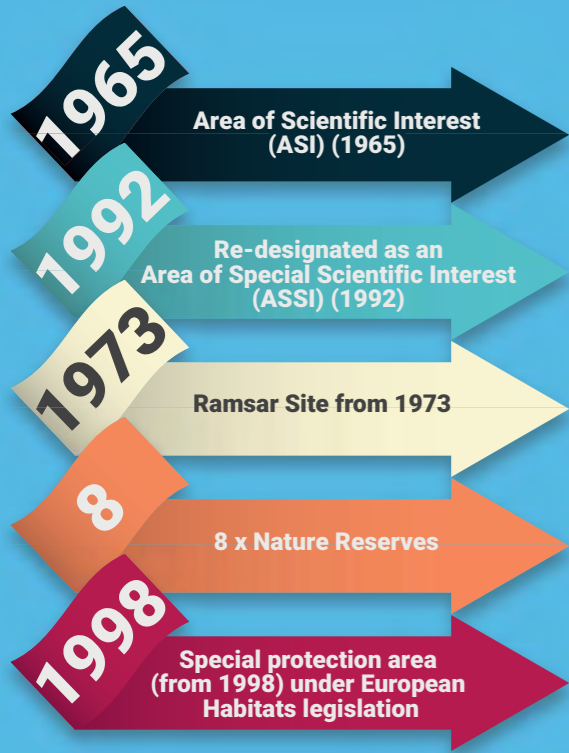
**1.39** Undertake a Future Search progress review(s) to assess actions and achievements on shared commitments.



# Lough Neagh is the largest freshwater lake in Britain and Ireland.



## The Lough has a number of local, national and international environmental designations, including:



**25%** Lough Neagh provides 25% of NI Construction Industry sand

Shooting rights are largely owned by Shaftesbury Estates of Lough Neagh and some leased to shooting clubs

## 2. LOUGH NEAGH 2016

### Introduction and Background

**2.1** Initial desk research on the ownership and strategic management of Lough Neagh produced a wide range of material produced over many years. This ranged from management structures, water quality, eco systems, navigation authorities, marketing strategies, ownership, designations etc., to eel and fish stocks. However it quickly became apparent that none of these provided a holistic or shared solution to the challenge of managing Lough Neagh as a 'whole'.

**2.2** This investigation has taken a holistic perspective - the 'whole' of the Lough, - with an emphasis/focus on generating 'a ground up' perspective involving local communities of place and interest and moving out to engage the wider stakeholder audience, so that the impact for community as key stakeholder remains central.

**2.3** The main body of the report (section 4) provides a summary of the investigatory process – the exploratory work undertaken by DTNI and outcomes. These are presented in line with the project plan outlined in 1.10/1.11 above.

**2.4** Detailed actions and outcomes from each of the investigation themes are presented in supplementary Appendices I, II, III, IV.

#### THE NATURAL ASSET

**2.5** Lough Neagh is the largest freshwater lake in Britain and Ireland, with a surface area of 383km<sup>2</sup>. The Lough has approximately 125km of shoreline, bordering on a range of communities within the local council areas of Antrim & Newtownabbey, Mid Ulster, Mid & East Antrim, Lisburn & Castlereagh, and Armagh, Banbridge & Craigavon. It is the major fresh water supplier for the region (40%).

**2.6** The Lough has a number of local, national and international environmental designations, including: -

- Area of Scientific Interest (ASI) (1965) re-designated as an Area of Special Scientific Interest (ASSI) (1992)
- Ramsar Site from 1973
- 8 x Nature Reserves
- Special Protection Area (from 1998) under European Habitats legislation

**2.7** Some commercial value is being realised directly from the Lough through mineral extraction, fishing and tourism. However the natural asset has consistently been regarded as under-utilised in terms of recreation and tourism. It has received some statutory and local authority investment.

**2.8** Although Lough Neagh's shores are home to long established communities, historically there has been little community input into addressing the management and development of the Lough. Its rich social political and cultural histories remain largely hidden and under exploited.

#### CURRENT OWNERSHIP

**2.9** The bed and soil is principally owned by Shaftesbury Estates of Lough Neagh Ltd. In addition, it is estimated that there are 60+ others (including councils, Northern Ireland Water (NIW) and private landowners and small holding dwellers) who own small sections of the bed and or accreted foreshore.

**2.10** Shooting rights are largely owned by Shaftesbury Estates of Lough Neagh Ltd with some leased to shooting clubs.

**2.11** The eel fishing rights (the largest wild eel fishery in Europe) are leased (and scale fishing rights owned) by the Lough Neagh Fishermen's Cooperative Society – a major employer and important brand for the area.

**2.12** Sand extraction rights are licensed by Shaftesbury Estates of Lough Neagh Ltd to 6 private companies: Emersons, Scotts, Mulhollands, RMC, Lagan and Walls. The sand industry is also an important employer both directly and indirectly. Lough Neagh provides 25% + of NI construction industry sand needs.

#### STAKEHOLDERS

**2.13** A wide range of communities and organisations/interests have an ongoing long term interest in the Lough including local communities of place, commercial interests, environmental interests, land owners, central and local government, users along with the wider population of both NI and the island of Ireland.

#### GOVERNANCE AND STRATEGIC DEVELOPMENT

**2.14** There is currently no single governance entity responsible for controlling or managing the strategic assets / resources of Lough Neagh. Governance is typically described as 'fragmented' and a strategic view of the Lough as a whole is absent.

**2.15** Central government departments with a direct interest in the Lough include: Department of Environment (DOE); DCAL; Department for Regional Development (DRD); DARD and the Department of Enterprise, Trade and Investment (DETI).

**2.16** Four local council areas border the Lough: Mid Ulster; Armagh Banbridge Craigavon; Antrim Newtownabbey; Lisburn Castlereagh.

**2.17** The Lough Neagh Partnership is a local public funded focal point for Lough interests. It is stakeholder-based made up of community, statutory and private sector stakeholders. It also receives limited funding largely from local councils and attracts and applies resources to a range of projects around the Lough

**2.18** Various local community/voluntary and special interest groups also independently deliver a range of discrete social projects within the communities surrounding the lough. Activities are generally grant-aided but some own assets & fund some activities from income generated.



“ A wide range of communities and organisations/ interests have an ongoing long term interest in the Lough including local communities ”

### 3 DEVELOPMENT TRUSTS & COMMUNITY OWNERSHIP

**3.1** Development Trusts (DTs) are locally based not-for-profit organisations which provide services in the community and which seek to enhance both the local economy and to contribute towards the regeneration of their area.

**3.2** A Development Trust is a generic term for a community owned, community managed, enterprise driven development/regeneration organisation. Although DTs are independent organisations they seek to work in partnership with other private, public and other third sector interests. They have a focus on:

- Ownership of Assets and Community Enterprise as a means of creating sustainable community development approaches to local regeneration and reducing dependency on grant support by generating income through its enterprise activity and its asset base. All trading surpluses are reinvested in the Trust or the community.
- Facilitating Social Change and working with others to bring about long-term sustainable social and economic regeneration.
- Promoting a Social Justice based approach within its operations designed to bring about positive social, economic and environmental change to make our communities fairer and more inclusive.
- Encouraging good relations to support and strengthen reconciliation and to promote transformation within communities.

#### COMMUNITY ASSETS

**3.3** The development of community asset ownership has proven successful in other jurisdictions. There is considerable evidence to show that, in the right circumstances, community ownership and control of a pivotal asset produces a range of benefits to the wider community which an asset can be used to serve.

**3.4** The DSD Community Asset Transfer Policy Framework<sup>3</sup> (2014) references research which shows that the benefits include:

- additional jobs, training and business opportunities
- physical regeneration
- greater collaboration and resource sharing amongst organisations
- additional external funding - community organisations can apply for funding that is not available to a public/private authority
- stronger sense of community identity and pride and the potential for increased community cohesion
- increased sustainability for organisations and improved leverage with external agencies - an asset can provide a community organisation with greater financial viability and reduce its dependency on grants
- more effective partnerships between the public, private and third sectors to enhance local services

**3.5** The transfer and acquisition of surplus public assets by communities are typically made via a ‘Development Trust’.

#### OTHER JURISDICTIONS

**3.6** Development Trust Associations across the UK: Scotland (DTAS), England (Locality), Wales (Development Trusts Association Wales) and NI (Development Trusts NI)] have been leading policy and practice on community asset management and community ownership in the UK. The concept has developed apace in Scotland, England and Wales, supported by legislation and considerable resources, but NI remains in the early stages of development in this arena.

**3.7** As noted in the executive summary, expert advice from DTAS and Locality was sought and received through the Advisory Panel. This was supplemented by advice from the Highlands and Islands Enterprise (HIE)<sup>4</sup>. Their experience of similar community acquisitions in their own jurisdictions has been invaluable in informing this investigation.

**3.8** When researching similar asset acquisitions in other jurisdictions the community buyout of a 93,000-acre estate on South Uist was identified as an appropriate model for further investigation.

**3.9** The asset covered an area similar in size to Lough Neagh and comprised a similar range of stakeholders and competing interests. Low levels of economic activity, depopulation, and underdevelopment were some of the issues facing South Uist in 2004 when the decision was taken to pursue and subsequently complete the (£4.5 million) community acquisition of the estate.

**3.10** The Stòras Uibhist 5 (Community Development Trust) Chief Executive shared the Stòras Uibhist journey and experience at the February 2016 Lough Neagh Development Trust Advisory Panel meeting (also attended by Earl of Shaftesbury).

**3.11** In February 2016 DTNI facilitated a 3-day study visit to the Stòras Uibhist Community Development Trust. The group was of representative of all Lough Neagh stakeholders. The group visited the asset, engaged with local private businesses, social initiatives and enterprises and interrogated the Board, Chief Executive and staff about the South Uist journey from a privately owned to community owned estate. The visit demonstrated in real terms the potential that the community ownership of Lough Neagh could realise and strengthen stakeholder interest in the concept. Valuable learning was achieved particularly in respect of the costs, timeframes, difficulties and challenges which had to be effectively managed to realise the benefits offered by community ownership.

<sup>3</sup> <https://www.dsdni.gov.uk/sites/default/files/publications/dsd/community-asset-transfer-policy-framework.pdf>

<sup>4</sup> <http://www.hie.co.uk/>

<sup>5</sup> <http://www.storasuibhist.com/> (WHERE IS THIS IN TEXT?????)

### THE CHALLENGE OF LOUGH NEAGH

**3.12** The challenges surrounding Lough Neagh have been well documented. Fragmentation of approach and absence of strategic direction continue. Under investment and underdevelopment are perceived as contributing to a state of 'inertia' limiting the strategic development of Lough Neagh, severely restricting effective and sustainable development & utilisation of a major natural asset.

**3.13** Private ownership and management of aspects of the Lough will continue to deliver only limited long term strategic development for the benefit of local communities. Public ownership has been discounted as an option. Given the history

of the Lough, its diverse range of stakeholders, competing interests, and the limited effective developmental activity to date, profound change driven by the local community and those with the deepest interest in the future of the Lough offers a potentially innovative, effective and viable way forward.

**3.14** Evidence from other jurisdictions indicates that the Community Development Trust model has the potential to offer a strong platform/catalyst for the strategic management and development of the Lough to a level which would not be realised under private or public ownership.

## 4 EXPLORING THE MANAGEMENT & ACQUISITION OF LOUGH NEAGH BY WAY OF A DEVELOPMENT TRUST

### OVERVIEW

**4.1** In order to fully explore the case for creating a Lough Neagh Development Trust to acquire and strategically operate and manage Lough Neagh, DTNI established an 'Advisory Panel' which included expertise and stakeholder interests. Panel members were not expressing opinion on behalf of their organisation.

### 4.2 Membership of the Advisory Panel included:

- Nigel Kinnaird (Chair DTNI – Advisory Panel Chair)
- Bernadette McAliskey (DTNI Director & CEO at STEP)
- Brenda Turnbull (CEO Lagan Canal Trust)
- Kate Clifford (CEO Rural Community Network)
- Gerry Darby (Independent Lough Neagh Advisor)
- Conor Corr (Chair LNP & CEO CWSAN)
- Scott Wilson (Strategic Investment Board)
- Wendy Reid (Deputy Manager DTAS)
- Tony Armstrong (CEO Locality)
- Paul Donaldson (DTNI Associate)
- Charlie Fisher (DTNI Programme Manager)

### 4.3 Observers:

- Aidan Smyth (DARD)
- Jenny Ebbage (Edwards & Co.)
- Teresa Curran (Edwards & Co.)
- James Gilchrist (MorrowGilchrist)
- Stephanie Morrow (MorrowGilchrist)
- Nick Ashley Cooper (Lord Shaftesbury)
- Gwyneth Cockroft (dcp strategic communication ltd)

### 4.4 Presenting Evidence to the Advisory Panel:

- Conor Jordan (Sand Extractors Forum)
- Charlie Monaghan (CEO LNP)
- Pat Close (Eel Fishery Cooperative)
- Sandra Holmes (Highland & Islands Enterprise)
- Huw Francis (CEO Stóras Uibhist)
- Deirdre Steele (Stóras Uibhist)

expertise in the specific context of NI and Lough Neagh specific. Edwards and Co. solicitors and Morrow Gilchrist Associates were appointed to provide this.

**4.6** A key objective during the exploration was to establish an understanding of the concept of a Community Development Trust across the whole range of stakeholders and determine whether there would be active and co-operative engagement for this direction of travel. The panel identified four themes, through which to effectively interrogate key questions to be answered.

- *To what extent would a Development Trust receive community and other stakeholder support?*
- *Would a Trust comprising a range of interests be able to share common ground and an agreed vision for the future?*
- *What form of Development Trust would offer most by way of opportunity and least by way of risk in relation to local communities and other stakeholders?*
- *What governance arrangements would ensure a strong and effective community voice whilst facilitating meaningful input from the full range of stakeholders?*

**4.7** The Panel met monthly (at venues around the Lough) to guide, monitor and review progress. Both legal and business advisers attended and contributed their expertise to discussions. A DARD observer has attended each Panel meeting. The Earl of Shaftesbury (and his representative) met privately with Advisory Panel members and attended a full meeting. Highlands and Islands Enterprise (the pivotal driver of the largest buyouts in Scotland) also attended and offered its advice.

### THE EXPLORATORY THEMES

**4.8** The investigation led by DTNI and informed by the expert Advisory Panel, proposed four distinct strands of work:

- **Strand 1: Consultation** – by way of a comprehensive and facilitated conversation (one to one and hosting of 4 public consultation events) with all key stakeholders to establish the level of support which might exist for the principle of management and ownership of the Lough via a Development Trust (key questions in 4.4)
- **Strand 2 & 3:** The Strategic Outline Case & Governance and Incorporation Options. An investigation of strategic fit, viability and resource requirement (led by Morrow Gilchrist Associates) and a review of options for Governance and incorporation of LNDT (led by Edwards & Co. Solicitors)
- **Strand 4:** The Future Search Stakeholder Conference. DTNI employed the 'Future Search' methodology<sup>6</sup> to establish if sufficient 'common ground' and shared vision existed/could be developed between the diverse range of stakeholders and offer a realistic way forward via a Development Trust

The following sections summarise each of the 4 strands of work

<sup>6</sup> <http://www.futuresearch.net/method/whatis/>





## 6. STRANDS 2 & 3: THE STRATEGIC OUTLINE CASE & GOVERNANCE AND INCORPORATION OPTIONS (SUMMARY)<sup>7</sup>

**6.1** In 2014 the Lough Neagh Advisory Group concluded that public ownership of the Lough did not offer an advantageous way forward. The Lough remains as a marketable asset in private ownership. Future ownership could change with unknown impacts on local communities and the range of other Lough Neagh stakeholders. This is a high impact risk to the public interest.

**6.2** The SOC explores the potential to locate the future strategic development and operational management of Lough Neagh within a Development Trust structure of collective community ownership. The purpose of the Trust would be to establish a sustainable model for management, ownership and longer term development of the Lough.

**6.3** Strategic context and fit are considered along with a review of existing arrangements and the case for change. Benefits, risks, constraints and dependencies are out of the ordinary because of the nature of the asset.

**6.4** Substantive financial considerations around the acquisition of the Lough cannot at this stage be considered in any detail. A substantive due diligence process followed by negotiations with the current owner would be pre requisites of any determination of value and title transfer. Speculation in this regard would serve no useful purpose at this stage. Some seed finance to initiate the process would be needed.

**6.5** The rationale for government intervention is predicated on the need to achieve equity objectives. Specifically, there is an opportunity, through community acquisition and management of the Lough and related income generating assets, to promote the sustainable development of the Lough and wider region, create employment opportunities through the growth of existing, and establishment of new commercial projects and redirect surplus profits generated back into the community.

**6.6** Critical factors in a successful acquisition strategy would include a robust due diligence process and the pursuit of income producing (land based) assets which would be integral to the successful development of the 'water based' asset. The DSD Community Asset Transfer Policy would play a pivotal role in developing the potential for community management and ownership of, for example, council owned marinas on the Lough.

**6.7** A range of governance and incorporation options for a Development Trust is set out in the Strategic Outline Case (Appendix II). Investigation of similar community acquisitions elsewhere include the analysis of individual case studies provided by Development Trust Associations Scotland (Appendix V) along with data from Community Land Scotland analysing the impacts of 12 x community land buyouts across Scotland.

**6.8** The preferred incorporation option for a Development Trust at this point would be a Company Limited by Guarantee. The Company would be owned by its members (local community) who would elect the Board of Directors. Title to the Lough would be held in perpetuity in a separate Property Trust. Both trading and charitable subsidiaries are envisaged to generate and allocate income based on local community consultation and need, in line with clearly established and transparent criteria and process.

**6.9** The overall vision for the Trust is to empower the community to maximise the positive social, economic and environmental outcomes associated with Lough Neagh and ensure its sustainable long term development for the benefit of all.

**6.10** The ongoing engagement and involvement of the range of Lough stakeholders would be critical and formalised by way of Memoranda of Understanding providing regular confidential access to the Trust for all stakeholder groups.

**6.11** Indicative initial costs and benefits are presented in the SOC along with a view on the longer term sustainability of the Development Trust (Appendix II).

**6.12** The evidence suggests that community ownership of Lough Neagh has the potential to support public policy objectives, whilst furthering the interests of local communities and the wider community as a whole, to a significantly greater extent than private ownership.

<sup>7</sup> See Appendix II

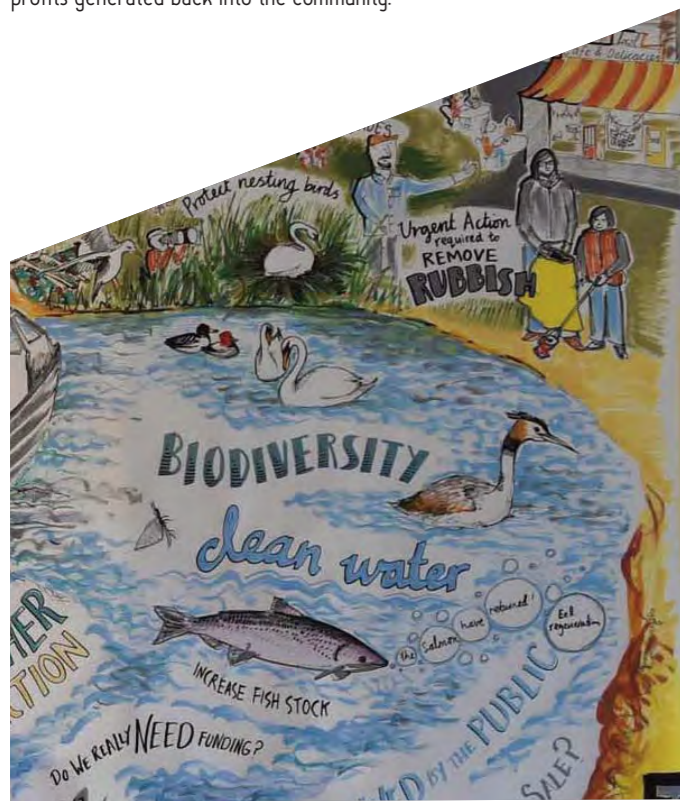
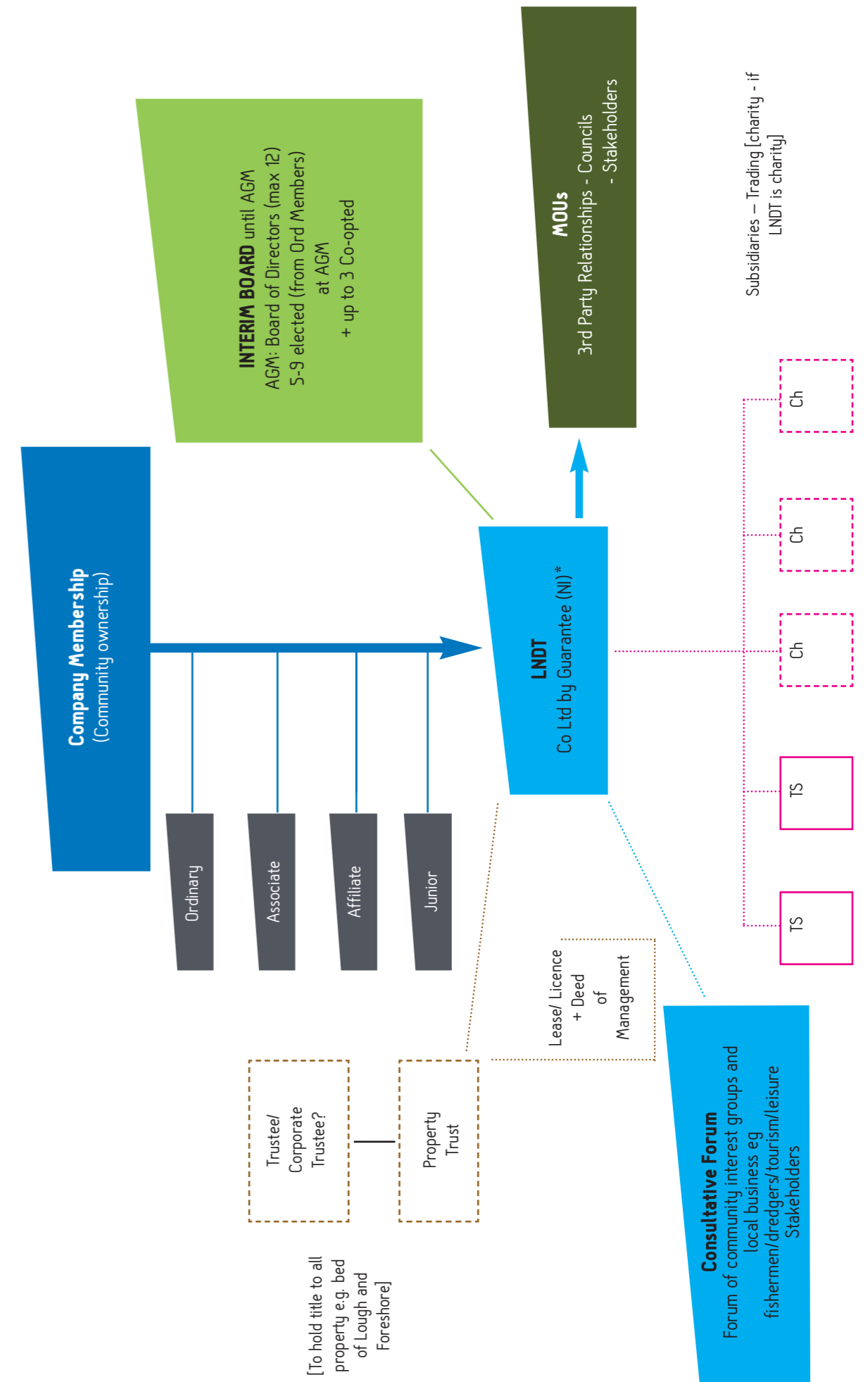


DIAGRAM 1: LNDT PROPOSED STRUCTURE







Overall the local Council consultees were supportive of the establishment of a Lough Neagh Development Trust and see same as a way of improving the strategic management and development of the Lough.



## CONSULTATION PROCESS (CONSULTEE RESPONSES)

### LOCAL COMMUNITIES (OF PLACE)

*4 x community consultation events were held around the Lough at Washing Bay, Lough Neagh Discovery Centre, Antrim and Ballyronan.*

*200 + attended. Attendees included individuals, community group representatives (TIDAL, TAABDA, SLNRA, Ardboe Community Projects, Glenavy DA), politicians, land owners and representatives of a range of interest groups. The events were delivered by DTNI in partnership with Rural Community Network.*

Dissatisfaction with current arrangements was expressed. The absence of strategic management along with fragmented and often (perceived) ineffective governance was stated. Concerns around pollution, water levels, access and regulatory enforcement were expressed. Reference was made to local people having 'turned their backs' on the Lough and a real need to re-engage. Ownership is seen as a direct route to re-engagement. Some fears/concerns were raised around the impact of a change in ownership on regulatory requirements and individual interests. As a change in ownership would not impact on regulatory requirements these represented concern about change in general rather than the specific changes being discussed. The current owner is seen as largely benign. Risks were perceived in respect of the potential acquisition of the Lough by another, less benign, owner.

Overwhelming support was evident from local people for the concept of a community owned and managed Trust pursuing the acquisition of the Lough. A number asked if they would be able to buy shares in the Lough. Communities saw a range of potential benefits in line with their desire for more coherent governance, better strategic development of the Lough and enforcement of the various regulatory regimes applicable to the Lough.

Of the 200+ attendees 4 voiced a contrary view. That view was that state ownership represented the only viable way forward for the Lough. Public ownership has been investigated and rejected by the Lough Neagh Cross Departmental Working Group (2014).

### MAJOR COMMERCIAL INTERESTS

*One to one conversations took place between DTNI and a range of commercial interests including: Lough Neagh Fishermans Co-operative, Lough Neagh Fishermans Association, Lough Neagh Sand Traders, Peat Extractors, NIAPA, The O'Neill Estate, Lough Neagh Partnership.*

Dissatisfaction with current arrangements was expressed. The consultees representing major commercial interests indicated that there is currently an absence of a strategic overview/plan for Lough Neagh. They felt that industry and tourism needed to cooperate more and develop a compelling vision for Lough Neagh. The Lough Neagh Partnership works well but there is a need for control/ ownership of assets to truly 'have teeth' in maximising the potential of Lough Neagh. They believe that a Development Trust would be a positive step as long as it does not prejudice existing commercial activity and can secure and maintain community support. The major commercial interests are confident their licensing arrangements would not be prejudiced by a change in ownership. The sand extractors pay a modest royalty to the current owner based on a market price. They had no objection to community ownership of Lough Neagh as long as the Development Trust respected

commercial interests and involved same in developing the concept. Lough Neagh Fisherman's Co-operative pay a modest license fee for fishing rights and held similar views. They control most fishing rights on the Lough and are keen to develop the local market for their product sales/brand/tourism & visitor offerings – working with communities around the Lough.

### LOCAL COUNCILS BORDERING THE LOUGH

*Face to face consultations were held with representatives of local councils bordering the Lough: Armagh Banbridge Craigavon; Mid Ulster; Antrim & Newtownabbey; Lisburn Castlereagh.*

Dissatisfaction with current arrangements was expressed. The consultees recognised that the full potential of Lough Neagh has not yet been realised and that 'something needs to change'. The Councils (as land based asset holders and representatives of local constituencies) are frustrated with the status quo (fragmentation, absence of strategic overview, under development of the asset) and committed to the development of Lough Neagh as evident from their funding support to Lough Neagh Partnership. The establishment of a Development Trust for Lough Neagh is seen as a potential catalyst for improved (coherent) strategic management and development of the Lough and stimulus for economic social and environmental regeneration.

Integration of Trust activities with Council action plans (economic development, rural development, culture and heritage, tourism) is seen as a desirable way forward. Significant economic development opportunities are envisaged such as the reopening and integration of waterways which could give rise to a huge regeneration opportunity e.g. linking the Lagan, Newry and Ulster Canals. Portadown Quays have been redeveloped but cannot be accessed from the Lough because of shallow water (dredging needed).

Complementary land based visitor infrastructure development is seen as having the potential to develop and deliver a much improved visitor offering thereby generating additional economic activity. DSD policy around Community Asset Transfer is seen as a potential means for the Trust to develop an income producing (land & property) asset base (eg marina berths are subsidised yet marinas tend to lose money but could be profitable if users were charged market rates). A Trust is also seen as offering potential for attracting additional investment (private + philanthropic) to the area.

Overall the local Council consultees were supportive of the establishment of a Lough Neagh Development Trust and see same as a way of improving the strategic management and development of the Lough.

### ENVIRONMENTAL INTERESTS AND USERS

*Face to face consultations took place with a range of environmental interests and users including: National Trust; Friends of the Earth; RSPB; BASC; Countryside Alliance; Ulster Angling Federation; Ballinderry River Trust; NI Environment Link; Waterways Ireland; British Association for Shooting and Conservation; Honorable Irish Society; Lough Neagh Rescue + a range of local initiatives.*





“Communication with the local community was key to the success of this story – they were updated and informed at all stages and that was essential when they formed the Trust. How could this be resourced for an area as big as Lough Neagh?”

‘It was invaluable to experience this with other key players from Lough Neagh who then applied the experiences of the various elements of the Storas story to their local situation’.

‘My overall assessment of the study trip was that it was exceedingly worthwhile and very relevant to the process of examining a community trust model for Lough Neagh. I also think the study trip provided a dynamic open space for stakeholders associated with the Lough to meet on a more informal basis and discuss the risks and opportunities in a free and open manner. It also helped to develop important future working relationships. It was interesting to note that there seemed to be a general consensus for the idea of a community trust model of some type although, concerns and risks were still noted. I believe the study trip has continued to develop a positive momentum towards a community trust model for the lough, which will be further built upon in the Future Search Conference and subsequent report’

‘..... it was worthwhile in terms of viewing an actual example of tangible community ownership. Storas Uist provided a business like analysis of their experiences to date and I applaud their openness in relaying their story (warts and all)’.

‘....the real knowledge and insight I personally gained from the many discussions and presentations provided by the staff of Storas Uist, particularly Hugh the manager and Father Michael the past chairman. I am sure all the participants were able to take back some real practical information that would be relevant and helpful to increasing their understanding of the benefits and process in pursuing a community trust model for Lough Neagh’

‘The trip to South Uist gave us an insight into what can be achieved with the right people driving the initiative.’

‘The group gelled really quickly and there was a clear desire for the learning from Uist to be translated into learning for the forthcoming experience in Lough Neagh’.

‘There was a clear understanding from all in the group that this was a learning experience and as such the focus of the trip remained high on people’s agenda throughout the visit – something which doesn’t always happen on field trips’. ‘There was a sense that although there were some competing interests in the group, we were all working with the interests of the Lough at heart and the competing interests can be accommodated within a new structure which enables and allows for debate and discussion’.

‘There was a desire within the group to look at the ‘bigger picture’ outcomes for the Lough and a definite sense that what is there now is currently not working – so anything that improves on that is positive’.

‘There was a desire among the group to look beyond owning the bed of the Lough and to look at ongoing issues such as navigation, water quality, environmental considerations etc which the partnership has made some considerable headway on but which may well be strengthened as a result of an ownership issue – but that needs to be explored more fully’.

‘The priest surrounded himself with people who understood the buy-out process and people who could influence the government and the local community. He had readymade experts on the team making the buyout happen locally. Who else needs to be involved in the Lough Neagh venture?’

‘They had a policy in place to enable land buy out – what policy exists in NI for this to happen – if any? If there isn’t any what agency could take on to take the Scottish policy and make it happen here....adapt it to suit here?’

‘They made use of DTNI type bodies to gather the expertise they needed to make the buyout happen – they looked to see who the best resources were for the group and sought to make those people the key players in the process’. ‘Communication with the local community was key to the success of this story -they were updated and informed at all stages and that was essential when they formed the Trust. How could this be resourced for an area as big as Lough Neagh?’

‘Due diligence cost a fortune to undertake and took a long time to deliver – is it likely to be as long for Lough Neagh and what support can be given to do the ‘discovery’ sage of the process?’

‘We should potentially look at a bigger prize than just the bed of the lough - it is an asset that could be purchased but is there a wider strategic prize that we should be looking to govern – again I go back to the Rathlin Policy development and action plan which has all government departments sitting down at one table working together to develop a common strategy and action plan and it is led by the DRD minister – how could we translate this for Lough Neagh?’

### CONCLUSION

The participant feedback above clearly demonstrates that the study visit achieved its aim. Participants became better informed about community acquisition, ownership and development of an asset, on the scale of Lough Neagh, both conceptually and practically. They achieved real learning which they will be able to apply to the Lough Neagh scenario.



