



**Malvern Hills Trust**

**Meeting of the**

**GOVERNANCE COMMITTEE**

**Thursday 21 October 2021 7.00 pm**

Meeting of the Governance Committee  
United Reform Church, Malvern Link  
Thursday 21 October 2021 7.00pm

Please see overleaf for arrangements if you wish to attend the meeting

Members: Mr C Atkins, Mr R Bartholomew, Dr S Braim, Mr D Core, Mr M Davies (non-voting),  
Mr D Fellows, Mrs C Palmer, Prof J Raine, Ms S Rouse (non-voting)

### **A G E N D A**

1. Apologies for absence
2. Chair's announcements
3. Declaration of interests
4. Public comments
5. Matters arising from previous meetings (not otherwise on the agenda)
6. Report Working Group 1 (Benefits to be secured from amending Trust's governing Acts)  
Whether to recommend that MHT proceeds with a Private Bill to update its  
Governing Acts Paper A
7. Arrangements for approving Committee minutes Paper B
8. Policy on Public Information Verbal Update
9. Answers to Governance Toolkit questions 1 & 2 Verbal update
10. Matters to be dealt with at future meetings  
Workshop on Pensions Review of Code of Conduct  
Review of trustee disciplinary process  
Being a good trustee (On hold until after governance Toolkit process is completed)
11. Urgent Business
12. Date of Next Meeting 4 February 2022

If you or anyone in your household/bubble has experienced any Covid symptoms in the last 7 days, please do NOT attend this meeting. Delta variant symptoms for those who have been vaccinated are commonly runny nose, sore throat and headache, and not necessarily a cough, fever or loss of sense of taste or smell.

There are still high numbers of Covid cases and it is clear that notwithstanding vaccination, people can still catch the virus. Each venue is risk assessed by the Trust and is allocated a maximum capacity so that a minimum distance can be maintained between attendees. For this meeting, that may not be 2m. Once the capacity for the venue has been reached, in order to keep attendees safe, no further people will be admitted. If you attend the meeting you will still be asked to wear a face mask as a courtesy to other attendees.

Out of consideration for others, we ask all attendees to undertake a lateral flow test and not to attend if this shows positive result.

Anyone (other than trustees) who wishes to attend must apply in writing to [cindy@malvern hills.org.uk](mailto:cindy@malvern hills.org.uk) (or write to Mrs L Parish at the Trust's office), giving their name, E-mail address and contact number, which are required for track and trace. Places will be allocated on a first come first served basis. Cindy will confirm whether there is a place available.

If you turn up at the meeting without pre-booking you risk not being admitted.

## **Governance Committee**

### **Costs and Benefits of making Governance Changes by way of a Private Bill**

**21 October 2021**

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#### **Background**

The Governance Committee set up a working group at its meeting of 4 February 2021 to consider the costs and benefits of making the governance changes which have been proposed by way of a Private Bill.

The Working Group's report accompanies this paper.

#### **Recommendation**

The recommendation of the Working Group is that there is a compelling case to proceed. The process as currently anticipated was set out in a paper for the Governance Committee meeting dated 4 February 2021 and the steps below reflect what was set out in that paper.

If the Committee is satisfied with the case put forward, it should make a recommendation to the Board that it is in the best interests of the charity to seek to make the proposed governance changes by way of a Private Bill.

The proposal below is made on the basis that should any external costs need to be incurred, they will need to be agreed by the Board and the Charity Commission. The Secretary to the Board will report at the meeting.

The proposal is therefore that the Committee recommends to the Board:

1. On the basis of the Working Group's report, the Board agrees that it is expedient in the interests of the Charity to proceed with a Parliamentary Bill to make the proposed governance changes (subject to a review as set out in 2 below).
2. Working Group 2 proceed to:
  - a. To carry out further work identified in the Report of the Working Group dated January 2020
  - b. Consider any further issues which arise during the process
3. The Officers in conjunction with Working Group 2 carry out any further work required to apply for s 74 consent.

The Working Group  
11.10.21



**Malvern Hills Trust - Modernisation of Governance**  
**Report of the Cost Benefit Evaluation Working Group**  
**11<sup>th</sup> October 2021**

**Contents of this report**

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## Background

The CBA Working Group was established at the Governance Committee meeting of 4<sup>th</sup> February 2021 with the brief to report to the committee on the costs and benefits that could be expected to accrue to the Trust if the proposed changes to the governing acts were delivered through the mechanism of a Private Bill.

The Committee appointed Messrs Bartholomew, Core and Davies as members of the Working Group, supported by the CEO. Subsequently the Committee co-opted Messrs Fowler and Fellows to participate. As reported at the 29<sup>th</sup> April Governance Meeting, Mr Core and some of his professional colleagues had agreed to carry out some preliminary work and an approach to the task had been established.

The proposed changes to the governing acts that have been evaluated were those set out in detail in the 2019 consultation document, as amended by the Charity Commission Working Group<sup>1</sup>. Between February and April members of the Group reviewed and refined the extensive tabulation of opportunities and outcomes and gathered cost and benefit numbers from many sources, preparing data to be input to a Discounted Cash Flow model.

This report outlines the approach taken to the economic analysis of the proposed changes and provides the findings from the analysis. It also outlines a range of non-financial benefits identified during the Group's work together with the potential risks associated both with process of taking the Bill through Parliament and subsequently realizing the potential benefits.

## The case for change

The case for rationalising, modernising and consolidating the Trust's governing legislation was set out in the consultation document published in 2019. The process had its origins in 2002, when the Charity Commission made a review visit. In its subsequent report it stated: "It is recommended that [the Conservators] consider applying to the Commission for a [Parliamentary Scheme]. The Conservators would need to make a case detailing the inadequacies of the current governance documents and the failings of the latest 1995 Act to provide an effective governance framework to run the charity in the most efficient manner." This was highlighted in the report as a key action point – a legal requirement that the Charity Commission believed that the charity was not meeting.

The Trust's current governing legislation does not reflect or permit modern best practice in relation to charity governance and does not contain all the powers that the trustees need in order to administer the charity in the most effective way and to best achieve its objects. As a statutory charity, the Trust can only act where it has powers to do so. Many organisations, both charities and local councils, now have a general power (the General Power of Competence in the case of councils) to permit them to carry out any lawful action in furtherance of their objectives. Incorporating such a general power in the proposed Private Bill would therefore give the Trust greater freedom of action in meeting how it fulfils its objectives. The need, for example, to have wider powers in how the commons are managed and to generate alternative funding has been graphically illustrated by the recent actions of the Rural Payments Agency.

There are some provisions in the Acts that can no longer be applied and others which reflect a legal and cultural context that no longer exists. The Acts also contain clauses reserving rights to individuals

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<sup>1</sup> MHT Board meeting 12<sup>th</sup> March 2020 Item 8 p245. Changes to the text contained in the Public Consultation were outlined in the report from the Charity Commission Working Group following the Board workshop on 23<sup>rd</sup> January 2020.



that are no longer relevant. Rationalising the clauses and translating them into a single Act would simplify the task of understanding and interpreting the governing framework of the Trust.

Although the Consultation Document was lengthy, and addressed a wide range of often complex issues, 467 responses were received. In addition, a number of public workshops were held and the Trust received written feedback from 10 individuals and organisations who have a specific relationship with the Trust and whose responses could not be accommodated in the more general questions in the questionnaire. Their feedback was included in the analysis of responses where relevant.

Analysis of the responses showed that a clear majority of respondents agreed with all but two of the proposals. Whilst a majority of respondents agreed with almost all the proposals, most of the follow-up comments (as is often the way with consultations of this nature) were from those who disagreed with the proposals and who wanted to explain or emphasise their stance. Those in agreement, in the main, had little or nothing further to add.

The case for change remains clear. The proposals as consulted on modernise the powers and governance structures of the Trust, allowing greater freedom of action in fulfilling its objectives. A single Act would also simplify decision making by removing the complexities inherent in the current five governing Acts. Following direction from the Charity Commission and the Department for Digital, Media & Sport (DCMS) that the changes should more appropriately be delivered via a Private Bill before Parliament, allowing greater scope for public scrutiny and debate than under a parliamentary scheme procedure. However, it is necessary for the Trust to demonstrate how the changes can be funded through an economic assessment of the proposed change.

## The Economic Analysis

### Evaluation Principles

The Group was established to evaluate the economic case for the proposed governance changes. The Trust is a registered charity whose mission statement is “To restore, conserve and increase appreciation of the landscape, wildlife and cultural heritage of the Hills and Commons, keeping them open and accessible to the public for peaceful recreation, relaxation and enjoyment.” As such the economic benefits of any changes may extend beyond those found in a commercial enterprise, encompassing wider social value. Consequently, guidance provided by the [Treasury Green Book](#) “Central Government Guidance On Appraisal And Evaluation” has been used in the analysis presented here.

The Green Book uses a model with five dimensions:

- **Strategic** - What is the case for change, including the rationale for intervention? This dimension has been discussed extensively by the Board, leading to the proposals that were the subject of the public consultation in 2019
- **Economic** - What is the net value to society (the social value) of the intervention compared to continuing with Business As Usual? This dimension is the element of the Green Book approach that is evaluated in this paper.
- **Commercial** – Can a realistic and credible commercial deal be struck? This dimension deals with the detailed implementation of proposals. In our case we are not concerned with specific commercial deals but with the proposal to effect the changes via a Private Bill as advised by DCMS and the Charity Commission.

- **Financial** - What is the impact of the proposal on the Trust's budget in terms of the total cost of both capital and revenue? The cost benefit analysis (CBA) outlined in this paper identifies the impact on the Trust's cash flow over time, demonstrating when the costs would be repaid. This report does not consider the sourcing of necessary funds.
- **Management** - Are there realistic and robust delivery plans? The detailed approach to first taking the Private Bill through Parliament and secondly implementing the various changes would be subject to further planning and agreement and are not considered in this report. The Trust does not have a mandate to spend further funds in pursuit of a Private Bill without the approval of the Charity Commission which will be sought if the Board considers that this preliminary evaluation provides the encouragement to do so.

The Board has agreed the strategic case for change and consulted on the detailed proposals. This analysis focuses on the economic case. The commercial dimension would be addressed through an appropriate procurement process should Board decide to progress. Detailed financial and management plans to implement the changes would then be reflected in an update Business Plan and where appropriate specific plans each of which will be subject to agreement by the Board as normal.

### Basis of the analysis

Building on the working group's review of the proposed changes they have been grouped into three high-level 'deliverables', that is new capabilities that the Trust would have as a result of the governance changes. New capabilities that may deliver non-financial benefits, or only small measurable economic benefits, have been excluded from the analysis. These deliverables are:

- **More effective land management** –The proposed changes would help both to increase the effectiveness of the Trust's work and reduce the risks arising from loss of funding should its objective no longer align with wider government policy objectives. A benefit arising from changes to land management powers would be the possibility of the Trust generating income by selling offspring from its grazing stock.
- **More flexible fund-raising** - the current Acts do not expressly permit the Trust to raise funds via commercial activity or through appeals and membership structures. These would be allowed within the proposed new Act, reducing dependence on the levy and land management grants. The former is capped by a formula and the latter is dependent on government environmental and farming policy over which the Trust has no control.
- **Efficient administration** – by rationalising the governing Acts into a single piece of legislation, and by removing the proscriptive nature of the legislation, the Trust will have more scope to act to achieve its objectives. Less legal advice will be required to ensure actions are allowed.

For each of these deliverables a series of assumptions have been made to quantify the benefits that may accrue. These have been then been input into a discounted cash flow model to create a Net Present Value<sup>2</sup> (NPV) using the 3.5% discount rate recommended in the Green Book. As part of the sensitivity testing a discount rate of 7.5% has been used in the worst case scenario. That figure is based on the long-term return from the Land Acquisition Fund, thus representing the potential opportunity cost of borrowing from that Fund to cover the cost of the Bill. However, it should be noted that the objective of the Trust is not to generate investment returns. The Green Book suggests that a lower

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<sup>2</sup> Net Present Value (NPV) is defined as the current value of future cash flows. Future income and expenditure are adjusted by a Discount Rate. Constant prices have been assumed for both income and expenditure.



discount rate of 3% could be applied as part of sensitivity testing. This rate has been applied to the best case.

The benefits have been measured as either a reduction in expenditure as a result of the change, or as an income generated by the change. In some instances deliverables can only be achieved with additional resource and cost investment so an estimate of those has been included where appropriate. Benefits have been attributed where they can only be realised as a direct result of the changes contained in the proposals. Given direction from DCMS and the Charity Commission that these changes cannot currently be implemented through a Section 73 scheme they can only be achieved via a private bill to replace the existing Malvern Hills Acts. Consequently, the baseline for the business case is the counterfactual, what would happen if the changes were not achieved.

Where a development is expected to require its own business case, for example the establishment of an information centre, then only one third of the net benefits have been attributed to the current analysis. This mechanism avoids double counting benefits in the two business cases. The one third proportion used is in line with assumptions used in other similar circumstances where one development is dependent on another. In cases where benefits might accrue as part of a wider project, such as a café and information centre forming part of a new building for the Trust, only the direct operating costs profit have been considered. The full costs of such a project, including any capital costs, would form part of that project's business case.

Although benefits from the changes would accrue to a variety of stakeholders this economic analysis has been limited to the financial impact on the Trust. The potential social benefits to stakeholders are considered in a later section. The Working Group initially created a long-list of the potential impact of the proposed changes, looking at their potential influence on the costs and benefits to stakeholders, the governance and democratic accountability, and the level of public engagement. Almost 300 potential impacts were identified and assessed for their impact on the CBA. The detailed analysis then focused on the items that make the greatest contribution to the economic case. The analysis of the remaining items is likely to be of help in supporting the wider case for change, underpinning subsequent stakeholder engagement.

The following sections outline the assumptions used in the analysis and the sensitivity tests that have been conducted to understand the potential range of economic outcomes. The assumptions and sensitivity testing conducted are summarised in Appendix 1. This analysis has been informed by the risk assessment outlined in a later section.

### **Private Bill Costs**

A parliamentary agent is required to take a private bill through Parliament. They draft and promote the bill on behalf of those seeking to get the bill passed. In the case of the Trust's proposed Bill the text prepared for the Public Consultation provides the starting point. The cost to complete the Bill's passage through Parliament is estimated at [REDACTED] made up of the following:

- £ [REDACTED] Parliamentary agent fee quoted by Sharpe Pritchard based on a contested Act
- £ [REDACTED] from Bates Wells, the solicitors who drafted the scheme, for amends required following the consultation
- £45k for 1.5 full time equivalent staff members supporting the process
- 10% contingency of £30k.

The analysis does not include the £114k already spent in preparing the scheme and conducting the consultation. Since that money could not be recovered it is not appropriate to consider it as part of the decision on whether to proceed with a private bill.

In the worst case the total cost has been increased by 25% to [REDACTED]. Although the parliamentary agent's fee might be lower should the bill pass uncontested no reduction in the costs have been assumed in the best case.

### Effective Land Management

Effective land management is at the heart of the Trust's role and objectives. A key aspect is ongoing uncertainty around the future grazing of the Trust land. With far fewer commoners exercising their rights to graze and doubts over the future of government support for land management the counterfactual case would potentially see the Trust needing to use mechanical means as an alternative to cattle and sheep grazing. However, using such mechanical means would make maintaining the land in accordance with the SSSI requirements more difficult, incur considerable expense expensive and be less environmentally appropriate. The bill would explicitly allow the Trust to own and manage its own stock which would be both a more cost effective and appropriate method of managing the open grassland habitats than mechanical means.

Another benefit of the Trust owning its own stock and having powers to trade would mean that lambs produced by the flock could be sold. This would not represent the Trust moving into commercial farming but rather allowing it to recover some of the costs incurred in maintaining the flock. The key point here is that traditional grazing of the Hills and commons is no longer seen as an economically attractive option for commercial farmers which is why so few are interested in exercising commoners' rights to graze.

The Working Group considered various ways in which the commons could be secured to improve outcomes. The proposed changes in the Bill significantly widen the range of options for securing the Trust land. These options would allow it to address a number of different issues in effective land management, for the benefit of numerous stakeholders but with little direct economic impact for the Trust itself. Consequently, these have not been included in the analysis. They are likely to be addressed through subsequent grant applications which would be enabled by the changes in the Bill. These projects might provide encouragement for third party graziers to continue or increase their activities thereby offsetting the need for the Trust to operate its own grazing regime. As a result the benefits would be realized with none of the risks and costs impinging on the Trust.

The following costs and benefits have been assumed:

- Set-up costs of £100k made up of flock of 300 sheep @£140, four rams @£500, vehicle, trailer, and handling equipment costing £56k
- Annual operating costs totalling £64k including 1.5 FTE staff, consumables, feed, fuel and depreciation
- Income from lamb sales based on lambing ratio of 1.5, flock of 300, and sale price of £80
- Cost saving of £35k for mechanical management to maintain SSSI compliance if grazing was lost, made up of one 1 FTE, tractor and machinery running and depreciation.

The income estimates are based on recent prices achieved at market and a conservative estimate for the lambing ratio, based on typical hill farm experience. The worst case considered assumed that the lambing ratio would be 1.3 while the lambs would sell for 20% less at £64 each, while the best case used a ratio of 1.7 and sale price of £85.

The bill also includes the ability to use spoil from historic quarrying activity on the Hills to maintain paths. This approach would both provide more appropriate material for the purpose and reduce costs by obviating the need to buy in material. Further income could also be generated from leases and licences for events held on the Hills for which currently only voluntary contributions may be requested.



### Flexible fundraising

The analysis assumed that the Trust would seek to establish some form of visitor information centre that would include the elements of a shop and café, in the same way as those operated by other, similar types of organisations around the country. Such a facility would enable the Trust to have much greater engagement with the public accessing our land, while inclusion of the retail elements would provide valuable income to support its work. The Bill would expressly permit the Trust to establish trading subsidiaries. The Bill would also enable the Trust to set up a membership organisation to raise further funding from visitors and other engaged members of the public. Local examples include Worcestershire Wildlife Trust which has over 23,000 members who provide £500k to the Trust, while Herefordshire Wildlife Trust has 5,000 members.

Given the capacity of the Trust a phased approach to the introduction of the new fundraising activities was considered prudent. Consequently, only one project launch is assumed each year, starting in year three. Also, as noted earlier, only one third of the costs and benefits have been included for these projects as they are enabled by the changes introduced by the Bill but require a business case in their own right. This mechanism ensure benefits are not double counted.

The following costs and benefits have been assumed for these three activities:

- A membership organisation would require initial design costs of £3k and 0.5 FTE to operate
- Starting in year three it would recruit 300 members a year, rising to a total of 3000
- The average membership fee would be £20pa, with Gift Aid tax reclaimed on 80%
- The information centre would require an initial investment of £75k for fitting out and initial stock purchase, with an annual staff costs of 1.5 FTE
- Set-up costs would be incurred in year four, in parallel with the café, with trading starting in year five
- Trading would achieve a net margin of 20% and would take three years to build up to full turnover
- The café would achieve a net margin of 20% on £100k turnover with a half year trading in year four and full turnover from year five
- Turnover is based on 20k visitors spending £5 each

For the sensitivity tests the worst case assumes a margin of 17%, while the best case assumes a 25% margin. This range is based on research from Sage<sup>3</sup> that looked at the finances of typical café businesses.

The financial analysis of the shop and café elements has looked only at set up costs and potential net profit that these operations might be expected to achieve. At this stage no consideration has been given to the type and location of the facilities, these would be considered as part of the Trust business plan and proposals for these operations. The potential revenue and the administrative advantages could be significantly higher if, for example, the Trust was to relocate to a building that combined the Trust offices, the information centre, a shop and café. In that case the lease costs embedded in the margin assumptions used would also accrue to the Trust, improving the return significantly.

### Efficient Administration

The proposed private bill will consolidate all the relevant clauses of the preceding five Malvern Hills Acts into a single, more comprehensible Act.

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<sup>3</sup> Sage is a leading small business accounting package supplier

The proposed changes would include a general power of competence, allowing it far greater freedom of action in pursuing its objectives. As a result of this and the consolidation of the Acts, a saving in external legal and professional fees should be achieved together with a reduction in staff time spent considering whether the Trust has a power to carry out actions that would further its charitable purposes.

By allowing the Trust to have some influence on the make-up of Board it is more likely that trustees with appropriate skills and experience will be appointed. That should improve the decision-making processes of the Board, thereby reducing risks to the Trust. This benefit has been reflected as a one-off 10% reduction in the Trust's reserve fund.

A reduction in the Board size will reduce the requirement to hold as many meetings and thereby reduce administrative cost.

The proposed changes to the electoral procedures may lead to an increase in electoral costs compared to recent experience. However, since recent elections have seen only a minority of seats contested the actual costs incurred have been less than might be expected if more candidates had come forward.

### Car Park VAT treatment

If it was advised that it was possible to make changes to the requirements for car parking provision that would result in a change to the VAT treatment on parking charges, this was result in an annual benefit of around £47k at the pre-COVID income level. This income has not been included in the scenarios, although a variant of the base case has been run with the income offset by an additional cost for drafting the necessary clauses for the bill.

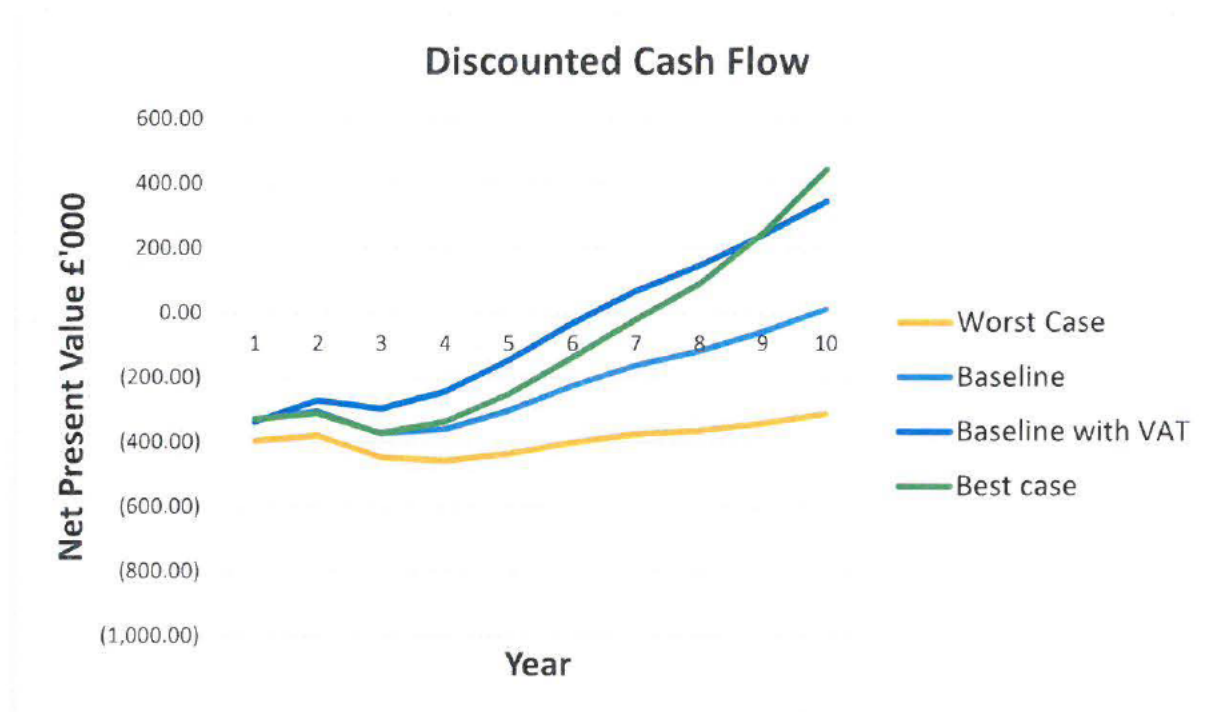
### Results

The graph below shows the discounted cash flow for the three scenarios; baseline, best and worst. A version of the baseline case is also shown with the car park VAT costs and benefits included. The variations between the scenarios are summarised in Appendix 1. The main variations between the cases are as follows:

- Discount rate – 3.5% baseline, best case 3%, worst case 7.5%
- Effective land management – prolificacy rates for the flock and average price achieved for lambs varied
- Flexible fundraising – trading margin on the shop and café varied with 20% baseline, 15% worst case, and 25% best case. Membership organisation build-up rate varied with contributions of £20pa baseline, £15 worst case and £36 best case.

The baseline case shows that the investment will return a positive benefit to the Trust in year ten, with a 10-year NPV of £11k, excluding the possible VAT benefit, and with operational cash flow improving by £99k pa in the final year. Sensitivity testing suggests that a positive return could be as early as year eight and with an NPV of £444k, excluding the possible VAT benefit. The worst case considered delivered a positive return after 26 years. The discounted cash flow for the scenarios are shown in chart below.





### Non-quantified benefits and disadvantages

Although the Working Group's primary task was to consider the economic case for a new Bill consideration was also given to some of the non-quantifiable benefits that may arise. The following points were identified:

- More effective delivery of objectives** – a single Act would simplify the operating environment for the Trust, freeing up management time to focus on their primary tasks of land management. It would also provide greater freedom to deploy better management tools, and enhanced protection measures for important features, together with enhanced ability to support, maintain and manage the ever-increasing demand for access on the Hills. Whilst these changes could not be directly measured in monetary terms the Land Management Plan provides a range of performance measures that could track progress. For example, the redirection of resource onto land management could allow earlier delivery of habitat improvements.
- Broader income base** - by allowing development of other income streams through trading subsidiaries and a membership scheme the risks to the Trust from future changes in land management funding would be reduced. Not having expanded fundraising powers, café, shop etc, leaves the Trust dependant on existing income streams. In the situation where the Trust no longer is eligible for available grant schemes and has falling car park income, it would have only option of reducing the level of maintenance of the Hills, or increase levy (which is in any event capped) to compensate. The levy payers would bear the additional costs in that case, almost certainly leading to adverse publicity
- Enhanced stakeholder engagement** – through initiatives such as an information centre and membership organisation can foster a greater understanding of the Trust and its objectives leading to more positive engagement with the public. That in turn may drive greater awareness of public users of the land, generate future income in terms of gifts and legacies, and increase volunteer support. Ultimately all these would drive the breadth and level of work the Trust might be able to undertake in delivering its objects.

- **Benefits to other stakeholders** - improvements to management of commons might potentially reduce numbers of livestock related traffic accidents, thereby reducing injury stress and costs to both livestock owners and vehicles drivers.
- **Potential lost opportunities** – the counterfactual case of what would happen if a new bill were not to proceed would have significant consequences. For example, not updating the powers to remove abandoned vehicles would result in the Trust not being able to act effectively and promptly on offending vehicles result in higher risk of landscape impacts on protected landscape. Not having the power to have its own stock leaves the Trust dependent on government environment schemes and commoners grazing. Not having an express power to secure the commons and own stock would increase the Trust's dependence on management by mechanical means, a less suitable alternative for habitat management and in steep topography potentially impossible to do.
- **Strengthened accountability** – moving to a postal voting system will make it more likely that all levy payers will be better informed about the candidates who are standing and more likely to take up the opportunity to vote for trustees. At the last full election in 2019 only four of the 10 wards and parishes had contested seats, with the other six having candidates returned unopposed. Also, removal of the nominated trustees would almost certainly reduce the number of occasions when conflicts of interest or loyalty might arise, increasing trustee engagement in decisions.
- **Risk reduction** – by introducing a general power of competence the Trust would be better equipped to deal with any future risks that might arise. The proscriptive nature of the current Acts restricts the scope of actions available to the Trust, unlike most other corporate bodies.

Further detailed examples of non-financial benefits are contained in Appendix 2.

## Risks

The following table outlines the key implementation risks associated with the process of taking the Bill through Parliament and the subsequent risks involved in realising the economic benefits identified. As noted earlier one of the powers that the Trust would have as a result of the Bill would be to establish a trading subsidiary. By managing the trading activities through a separate company the Trust would limit its liability to financial losses that might arise from these activities.

Implementation Risks	Actions
Stakeholder groups oppose specific elements of the Bill	Identify specific stakeholder concerns Analyse and understand concerns Engage with stakeholders to address concerns
Parliamentarians fail to engage and understand Trust	Identify key individuals and groups to engage with including an MP to champion the Bill Work with parliamentary agent and others to explain Trust's objectives in proposing the Act Address specific concerns



Parts of the Act are amended or rejected	<p>Assess impact of changes</p> <p>Understand reasons for proposed changes</p> <p>Identify alternative proposals that may address concerns or minimise impact of economic case</p>
Costs exceed budget	<p>Apply appropriate procurement controls to selection of parliamentary agent and solicitors</p> <p>Track actual and forecast progress and expenditure at least monthly</p>
<b>Benefit Realisation Risks</b>	<b>Actions</b>
Flock fails to generate adequate return	<p>Select appropriate breed and stock initially</p> <p>Ensure suitably skilled and experienced staff</p> <p>Limit exposure through establishing a trading subsidiary for the flock management</p> <p>Target most appropriate land parcels for balancing need for effective grazing with stock profile</p>
Membership organisation does not generate expected income	<p>Define membership proposition with clear objectives and message to public</p> <p>Targeted marketing campaign using range of media</p>
Information centre and café fail to generate adequate returns	<p>Identify potential locations that maximise footfall</p> <p>Prepare implementation plan so that they can be established as soon as suitable premises become available</p> <p>Ensure appropriate skills and knowledge available to operate and manage the facilities</p>

## Conclusions

The case for proceeding with the Private Bill remains clear, as was laid out in the Consultation. Not to proceed would lay the Trust open to criticism from the Charity Commission. It would remain highly restricted in its future actions and burdened by its over-complex governance structures. The question for the Working Group was to understand the economic impact of the changes so that the Trust can demonstrate to the Charity Commission that it would be an appropriate use of its funds to proceed with the Private Bill.

The economic analysis in this report shows that the costs are likely to be repaid within 10 years, with a positive impact on cash flow. Even in the worst case scenario evaluated payback would be achieved in around 20 years. Given the much wider positive impacts the changes would have on the Trust's ability to perform its main function, maintain the Hills and commons, the changes appear affordable.

In addition, the proposed changes strengthen democratic accountability to levy payers and allows more positive mechanisms to engage stakeholders to be developed. But, perhaps most importantly, it opens a range of new ways the Trust can conduct its primary conservation role, potentially allowing it to deliver its Land Management goals more quickly and effectively.

Overall, a compelling argument for change.



## Appendix 1 Model Spreadsheet

This table summarises the assumptions in the CBA model including the variations in the sensitivity tests. The full model is available as an Excel spreadsheet.

		Case		
		Baseline	Worst	Best
<b>Effective Land Mgt</b>				
Alternative grazing	Setup & Support Cost	Set-up costs - purchase flock of 300 sheep @£140, four rams @£500 = £44k plus equipment vehicle, trailer, handling kit etc = £47k Recurring costs 1 x FTE salary; consumables, feed costs £10.8k; fuel and depreciation £8.3k		
	Income	Sale of lambs based on lambing ratio of 1.5, flock of 300, sale price of £80	1.3 lambs per sheep selling at 20% reduction of £64	1.75 lambs per sheep selling at £85
	Cost Saving	Cost saving of mechanical management to maintain SSSI compliance if grazing was lost made up of one 1 FTE, tractor and machinery running and depreciation		
Quarry Spoil reuse	Setup & Support Cost			
	Income			
	Cost Saving	Based on 120 tonnes annual use at £26/tonne		
Leases, licences & stalls	Setup & Support Cost			
	Income	Estimate based on nominal use charge for big events of 50p with 5000 participants total per annum		
	Cost Saving			
<b>Flexible fundraising</b>				
Membership organisation	Setup & Support Cost	£3k design costs and 0.5 FTE to administer		
	Income	Membership grows by 300 pa from year three growing to 1500 total, each paying £20pa	Membership fee of £15pa	Membership fee increased to £36pa, 5k members by year 10
	Cost Saving	Gift Aid Tax credit, assume 80% of members are eligible and sign forms		
Information centre with shop	Setup & Support Cost			
	Income	Assumes location and set up possible by Year 4. Based on experience with IoM shop £22k margin annually	Assumes 15% net profit	Assumes 25% net profit
	Cost Saving	Assumes one third of costs and benefits accrue to Governance changes, remainder to the Centre		
Information centre café element	Setup & Support Cost			
	Income	Assumes location and set up possible in tandem with above by Year 4	Assumes 15% net profit	Assumes 25% net profit
	Cost Saving	Assumes 25% margin on £100k turnover based on 20k visitors spending £5 each, one third to Governance		
Wood / compost sales	Setup & Support Cost			
	Income	Processing and bagging costs		
	Cost Saving	Based on annual sales of 100 1 ton bags @ £45/bag, and 30 tons compost conditioner @ £60 ton		

		Case		
		Baseline	Worst	Best
<b>Effective administration</b>				
Legal and professional advice	Setup & Support Cost			
	Income			
	Cost Saving	Based on saving 20hrs external solicitor time annually		
Electoral changes	Setup & Support Cost	Based on saving 20 hours external solicitor time annually		
	Income	Additional cost of Independent Nominations Panel administration (£3k p/a) plus extra postal elections every 2 years		
	Cost Saving			
Staff and Trustee time cost / savings through simplification	Setup & Support Cost	Saving on electoral v ballot box, with additional saving in 2027 as weekend election might be required		
	Income	Estimated annual cost of trustees expense claims		
	Cost Saving			
Staff time in legal issues	Setup & Support Cost	Value of reduced staff time spent on briefing solicitors and or seeking determination on issues		
	Income			
	Cost Saving	Based on 100 fixed penalty notices pa @ £75 each		
Risk wtd reserves of 10%	Setup & Support Cost	Reduction in 0.25 FTE dealing with complexities of the existing legislation		
	Income			
	Cost Saving	One off reduction of 10% in reserves		
<b>Car park VAT</b>				
	Setup & Support Cost			
	Income			
	Cost Saving	Not included in baseline but Baseline Plus includes cost saving based on pre- COVID level of car park income	Not included	Included at half way between pre-COVID and 2020-21 income

## Appendix 2 Non-financial factors

A wide range of potential benefit mechanisms was considered by the Group. These were sifted to identify those that had economic significance which were then included in the economic analysis. This appendix outlines some of the non-quantifiable advantages and disadvantages of sections in the proposed governance changes, including the impact on different stakeholder groups.

### Consolidation and updating of the Governing Documents

#### 1 a Consolidation into one Act.

The creation of a clear, single source statement of MHT's powers and duties to replace the five separate Acts, many of which contain updates or revisions to earlier Acts, or contain clauses that are no longer relevant or applicable.

##### *Advantages*

Provides greater clarity to all individuals and stakeholder groups of duties, responsibilities and powers of the Trust, in a single document.

Reduced risk of legal challenges and public queries over obscure wording, clearer and more effective implementation of the Trusts powers to deliver its charitable objects which in turn will result in improved protection and conservation of the landscape.

##### *Disadvantages*

None identified

#### 1.b Updating of Governing Documents to include modern references and removal of expired powers

The current Acts contain references to legislation that has either been repealed or been superseded as well as bodies which have either ceased to exist or been succeeded by other bodies. They also include time limited provisions that have long expired.

##### *Advantages*

Provides greater clarity to all parties of the current legislation or bodies that are relevant to the consolidated Acts. Removes unnecessary provisions that no longer apply.

Reduced risk of legal challenges and public queries over obscure wording. Provides for clearer and more effective consultation with the appropriate body or legislation applicable to the various elements within the consolidated Act. Greater effectiveness and efficiency in delivery of the charities powers and duties which in turn will result in improved protection and conservation of the landscape.

#### *Disadvantages*

None identified

### **1.c Inclusion of additional powers**

The new consolidated Act will include clear identification of the range of powers available to the organisation in maintaining its protection of the Hills – both the existing powers and those additional ones now being sought.

#### *Advantages*

Provides greater clarity to all parties of the powers of the organisation. Enables the organisation to operate more efficiently. Inclusion of the general power allowing the organisation to do anything not otherwise prohibited in order to further their purpose reduces the risk of requiring further amendments to the Act in the future

Increases clarity of the powers in the Act leading to reduced risk of legal challenges or public confusion when reading the Act. Provides greater effectiveness and efficiency in delivery of the organisations duties which in turn will result in improved protection and conservation of the landscape.

#### *Disadvantages*

None identified

### **Power to Fence**

#### **To enable temporary fencing for land management / grazing purposes**

The provision would give the Trust an improved ability to set aside areas (for a limited time period, and subject to conditions of notice) in order to undertake required habitat or stock management.

#### *Advantages*

Beneficiary Stakeholder groups						
Landscape	Visitors	Appreciators	Commoners	Precept Payers	Regulators	Partners
u	u	u	u	u	u	u

Such habitat management fencing would include measures to protect severely eroded areas from further damage and allow vegetation to recover, or newly planted vegetation to become established, particularly in sensitive and easily damaged habitat areas. It would also be used to help manage animal welfare on the commons through controlling parasitic diseases in grazing livestock (through the temporary exclusion of stock from infected areas).

As such this element would benefit the commoners /owners of the animals, as well as the welfare of the animals themselves; present better condition animals to the public visiting the common (and reduce reports of animal welfare concerns); benefit the habitat condition and species mix on the land, and satisfy regulators such as Natural England or Historic England who might otherwise raise issue with uncontrolled erosion damage or loss of species.

#### *Disadvantages*

Temporary fencing for stock control would require pedestrian access to those land parcels to be via the gated entry points only.

#### *Delivery of Land Management Plan*

Implementation of this power to install physical barriers would enable more effective delivery of the Land Management Plan and in turn help achieve a number of Key Performance Indicator targets – particularly the number and extent of fragile and ecologically important habitats such as mires, bogs, ponds and acid grassland

Beneficiary Stakeholder groups						
Landscape	Visitors	Appreciators	Commoners	Precept Payers	Regulators	Partners
u	u		u		u	

LMP Objective –	Key performance indicator (s):	Status in 2020/21	TARGET FOR 2026
<b>Landscape character</b>	Landscape character type units are 'maintained' or 'improving'		10
<b>Ponds</b>	Number of ponds in good/moderate condition:	27	28
<b>Mire and Bog</b>	Area of bog (ha)	0.0005	0.0010
	Area of mire (ha)		
<b>Acid Grassland</b>	Extent (ha):	104	110



	No. of units in favourable or recovering condition	8 of 8	8 of 8
	Meadow pipit numbers	104	100 plus
<b>Neutral Grassland</b>	Extent (ha):	15	15
<b>Calcareous Grassland</b>	Extent (ha):	4	5

#### Barriers for unauthorised vehicles

To enable provision of barriers against damaging vehicle use

The addition of this power would enable the

Trust to install physical barriers (such as lines of wooden stobbs or earthen banks) to regulate and limit vehicle access onto the land where required

#### Advantages

Use of such measures help prevent the damaging effects of unauthorised vehicle access to land under Trust care – less damage to vegetation and reduced localised soil erosion caused by tyres; lower levels of disturbance to animal life caused by vehicles; Lower vehicle related litter and fly tipping incidents; fewer abandoned and stuck vehicle incidents; less noise disturbance to public enjoying the Hills and Commons, the wildlife therein and those residents living alongside or within the land area.

#### Disadvantages

Access by authorised vehicles may be limited in some areas, although this would be mitigated through use of drop-posts or lift-out posts. Visual change from presence of barriers.

#### Delivery of Land Management Plan

Being able to install physical barriers would enable the Trust to achieve a number of Key Performance Indicator targets, particularly retaining the extent of ecologically important grassland communities.

Beneficiary Stakeholder groups						
Landscape	Visitors	Appreciators	Commoners	Precept Payers	Regulators	Partners
u	u	u	u	u	u	u

LMP Objective –	Key performance indicator (s):	Status in 2020/21	TARGET FOR 2026
<b>Acid Grassland</b>	Extent (ha):	104	110
	No. of units in favourable or recovering condition	8 of 8	8 of 8
	Meadow pipit numbers	104	100 plus



<b>Neutral Grassland</b>	Extent (ha):	15	15
<b>Calcareous Grassland</b>	Extent (ha):	4	5
<b>Adder numbers</b>	Range maintained:		Y
	No. of individuals	50	55
	No. of core populations	9	9

**Fundraising power****To enable the organisation to have a trading subsidiary**

The provision would not only give the Trust an improved ability to generate income through trading subsidiaries such as a shop or café, it would provide better engagement

with visitors and education about the hills. Additionally, it would enable the Trust to undertake activities such as generation and sale of renewable energy from solar panels on the roof of its offices, or the provision of electric car charging points at its car parks, activities currently outside the powers of the organisation.

*Advantages*

Greater engagement with the visiting public; Improved opportunity to educate and inform about importance of the landscape and its habitats; in turn leading to reduced risk of damaging behaviours impacting the land; Reduced carbon emissions through use of sustainable renewable energy generation systems; Improved facilities for visitors, including those arriving by electric vehicle:

*Disadvantages*

Power may be perceived by some as diverting the organisation away from its core objects

*Delivery of Land Management Plan*

Whilst not directly attributable to specific elements of the Land Management Plan, the benefits of greater public engagement and education coupled with reduced carbon emissions could help accelerate the overall rate of delivery of the works required in the plan.

Beneficiary Stakeholder groups						
Landscape	Visitors	Appreciators	Commoners	Precept Payers	Regulators	Partners
u	u	u	u	u	u	u

## **Governance Committee**

### **Approval of Committee minutes**

**21 October 2021**

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#### **Background**

Because of the size of the Board, it is not practical to have a full debate about all matters for decision in Board meetings hence initial consideration is often carried out in a committee meeting. The committee recommendations then come to the Board for further discussion and approval.

Arrangements for approval of Committee reports and adoption of recommendations are set out in Standing Order 14.9.

Streamlining this part of the meeting would improve the flow of the meetings.

Committee papers and draft minutes are published in ample time to allow trustees to read them before the Board meeting.

#### **The way MHT approves committee minutes:**

The basic requirements:

The committee minutes have to be approved by the committee. This can only be done in a properly convened meeting (although ironing out any queries should be done in liaison with the Secretary to the Board in good time before the meeting). The accuracy needs to be confirmed before the Board approve the recommendations.

Because of the way the meetings are scheduled, approval of the minutes cannot wait until the next committee meeting.

An option although not practical would be to have committee meetings just before the Board meeting with the only agenda item approval of the minutes.

Rolling up the approval of the committee minutes and adoption of the minutes by the Board might speed things up in theory but would fail if there was an issue with the committee minutes.

#### **Proposal**

Any other suggestions are welcome but given the constraints, the following is proposed:

Standing Order 14.9.1 and 14.9.3 remain substantively unchanged.

The Committee Chair should not need to go through the minutes in the meeting – trustees have had the opportunity to read them. To take account of this, Standing order 14.9.2 could be changed, so that the Chair of the Committee asks officers if there are any updates since the meeting and then asks trustees if there are any questions about the meeting or points they wish to make on the recommendations. The trustees should not be approving committee recommendations without giving them proper consideration.

If there are issues identified in relation to any recommendation there will need to be a discussion and that recommendation taken separately. If there are no issues, the minutes can be adopted with the recommendations en bloc.

**Recommendation**

Amend Standing Order 14.9.2 to read:

The Chair of the relevant committee invites officers to provide any updates since the meeting and invites questions and comments from trustees on the minutes or the recommendations.

Susan Satchell  
Secretary to the Board  
11.10.21