

Members' Library Service Request Form

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Originator	Carlo Grilli
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Document Title	Common Good Consultation - Update

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Date	23/11/21

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REPORT TO: Members' Library Report

REPORT DATE: November 2021

BY: Executive Director for Council Resources

SUBJECT: Common Good Consultation - Update

1 PURPOSE

- 1.1 To update Members following consultation on the Council's Common Good Properties.

2 RECOMMENDATION

- 2.1 That Members note the position set out in this report.

3 BACKGROUND

- 3.1 In terms of the Community Empowerment (Scotland) Act 2015, section 102, Local Authorities are required to establish and maintain a Common Good Register, which is a list of all property held by the authority as part of the Common Good.
- 3.2 Prior to publishing the Register, Local Authorities are required to publish a list of the properties which it intends to include in the Register and consult on this list with Community Councils and other community bodies within their area, and the public more widely, and invite comments and representations regarding the list.
- 3.3 Before publishing their Register, Local Authorities must take account of any representations received.

INITIAL RESEARCH PROCESS IN EAST LOTHIAN

- 3.4 East Lothian Council appointed Lindsays, Solicitors, to undertake a review of the Council's property titles with a view to determining whether or not the properties being reviewed were Common Good assets or not. The instructions were later expanded so that the result of the review would also advise on whether the assets identified as Common Good were considered to be alienable or inalienable.
- 3.5 This research helped relevant Council officers within Legal and Property Services to draw up the initial proposed list of Common good assets on which it was proposed to consult in terms of the 2015 Act. The list forms Annex 1 of this Report and is broken down into the respective Common Good Areas.

PUBLIC CONSULTATION

- 3.6 The Council carried out a public consultation, as required by the 2015 Act, using this list as the basis for consultees to respond on. The consultation was live on the online Consultation Hub from 4 June 2021 and closed to further responses on 20 August 2021. A number of responses were received over the duration of the consultation.
- 3.7 The responses received are currently being assessed. Some of them do not require further action, while others will require more research before responding. It is intended to respond to those representations in the course of the next few weeks. The list may require to be adjusted as a result of these further investigations, which may result in additional items being added to, or indeed in items being removed from, the list. The items referred to in Annex 1 were not identified as Common Good assets although from the Common Good Consultation have been queried and are being reviewed to establish whether or not they should be considered to be Common Good assets. Highlighted below are items which are identified on Common Good consultation as Common Good items which are under further consideration.

Consultation Responses – The Royal Burgh of Musselburgh

- 3.8 The following two areas are subject to further consideration being the Musselburgh Lagoons and Fisherrow Harbour. While parts of the land forming both the Musselburgh Lagoons and Harbour are Common Good further investigation is being carried out to establish the full extent of these areas.
- 3.9 The Musselburgh Lagoons are only at present identified as common good insofar as they are included and delineated within the boundary line on the Plan attached and forming Annex 2.
- 3.10 The investigations around Fisherrow Harbour extend to reviewing the position regarding the areas shown cross-hatched on the Plan forming Annex 3.

Consultation Responses – The Royal Burgh of Dunbar/East Linton

- 3.11 Consultation Responses relating to Dunbar have questioned the inclusion of 7, 9 and 15 Silver Street together with 3/5 The Vennel, and Heatherly House. In addition a query has been raised as to the exact location of the Former Show Ground Land.
- 3.12 Further, investigation into property attributable to East Linton includes the East Linton Fountain, The Square East Linton, the clock known as 'Jessie' in the former St Andrew's Church in the Square, paintings in East Linton Library, in particular 'Robert Noble's East Linton at Dusk' and The Carter Flag. The moveable items are currently being looked into by the Archive Department.

Consultation Responses – Royal Burgh of Haddington

- 3.13 No representations were made in relation to the Royal Burgh of Haddington which require further investigation.

Next Steps

- 3.14 Investigations in to the status through archives and title deeds, as appropriate, are required for items raised through the consultation and once completed, the finalised list of all Common Good assets shall then be formally published and established in terms of the 2015 Act as the East Lothian Common Good Register.
- 3.15 It should be noted that there is potential in the future for further title examinations to uncover an asset which previously was not classified as Common Good but should have been and for recognised Common Good assets, through appropriate statutory and Court processes, to be declassified as common good and/or sold. Accordingly the published Common Good list will continue to be reviewed and updated as and when required.

4 POLICY IMPLICATIONS

- 4.1 There are no policy implications relating to this report

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial

This review has identified Common Good Property in Common Good Burghs which have to date not had an established Common Good Fund. The first call on the Common Good Funds is to maintain the Common Good Property attributable to that Burgh and funds cannot be utilised across Burghs.

A detailed five year maintenance plan for each Common Good Area is now being prepared based on the current consultation results. On finalisation of this consideration will need to be had on how assets continue to be maintained should there be insufficient monies in the particular Common Good Fund to maintain that asset.

- 6.2 Other – There remains a substantial amount of properties and titles to review. This will take a considerable amount of officer time to fully investigate all queries raised through the consultation.

7 BACKGROUND PAPERS

- 7.1 Review of the Governance of Common Good, report to Council on 27 August 2019
- 7.2 Review of the Governance of Common Good, report to Council on 25 June 2019

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DATE	16 November 2021

Annex 1

Items listed by Burgh which are not identified as common good assets although are being investigated further following representations from the Consultation.

Consultation Responses – The Royal Burgh of North Berwick/Gullane

- 1 Further investigation is required to be carried out to establish the status of the Old Town Hall in North Berwick.

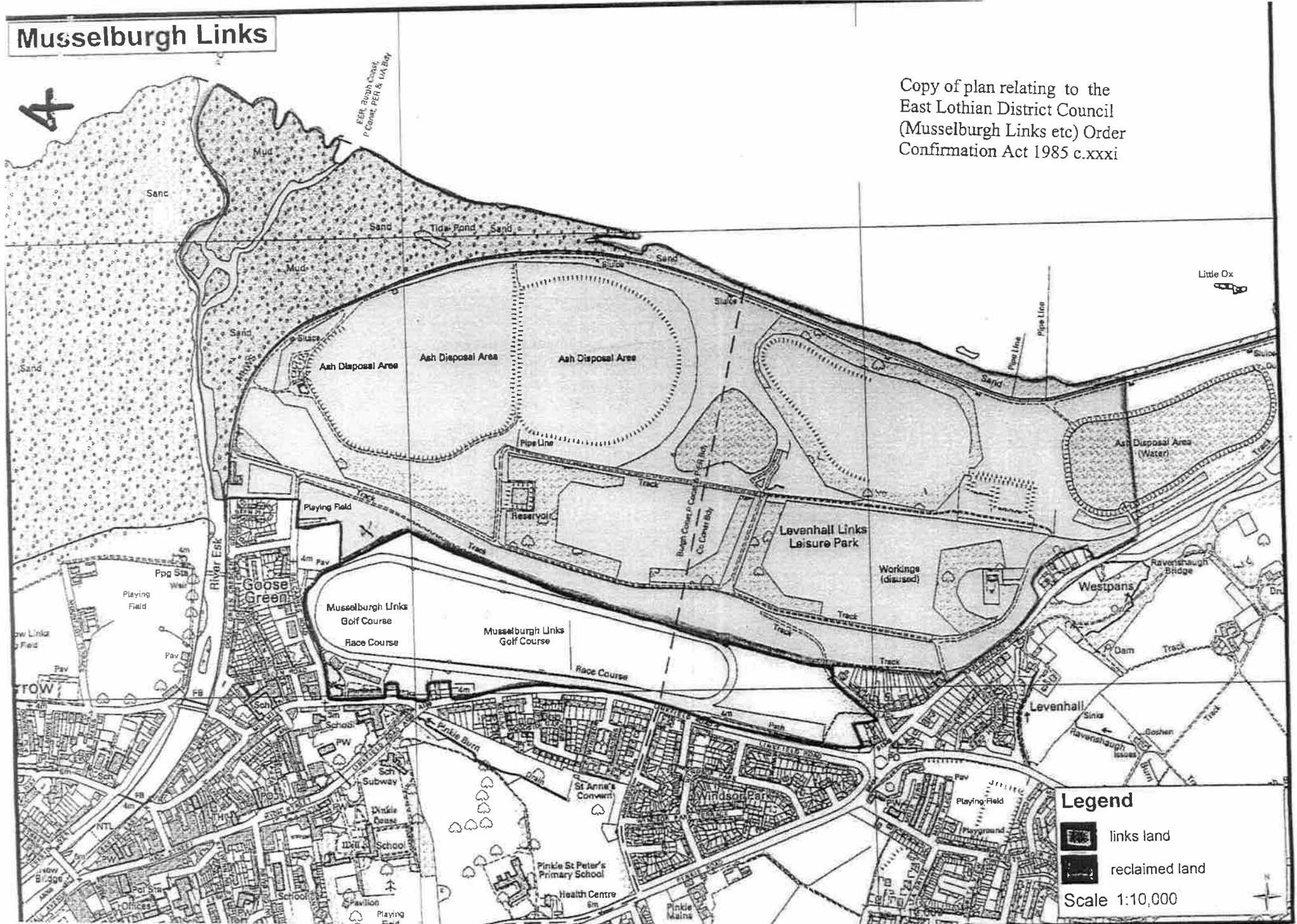
Consultation Responses – Royal Burgh of Tranent/Cockenzie/Prestonpans

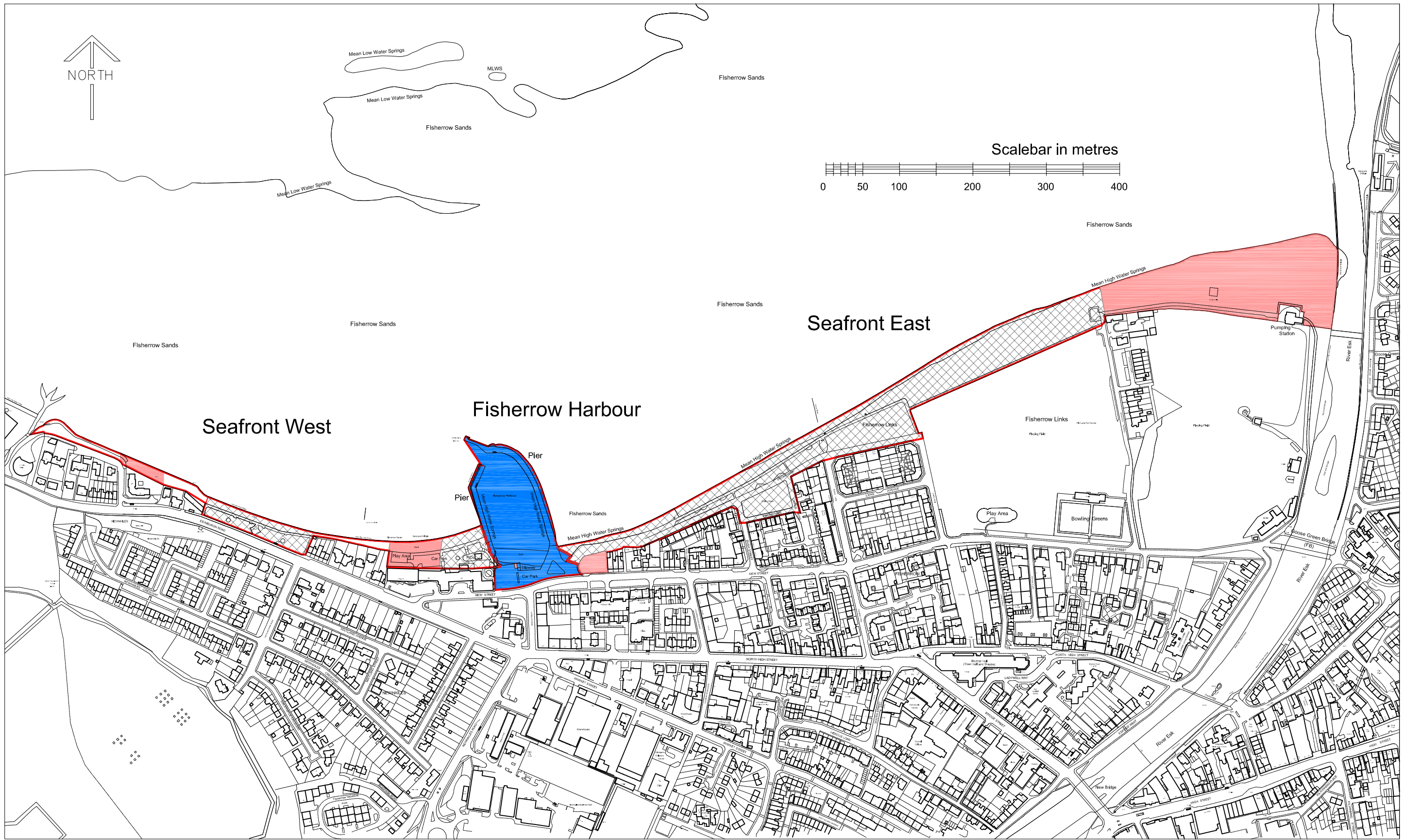
- 2 In relation to the response received regarding the Prestonpans area there was a substantial response requesting further and full investigation of Prestonpans. The responses received in this connection have requested further review of buildings, structures and parks which the respondents believed to have been in the ownership of Prestonpans Burgh Council BEFORE May 1975. This includes Prestonpans Town Hall, Prestonpans Community Centre, Prestonpans Carnegie Public Library, Polwarth Park Pavilion, Prestonpans, Prestonpans Town War Memorial, Prestonpans Civic Square, Cuthill Park Prestonpans, Disused cemetery between Prestonpans High Street and Rope Walk, (now a park), Polwarth Park, Mary Murray Park, Mercat Gait Centre, Pennypit Centre, Doocot (opposite Hastie's garage), Burns Memorial and nearby sculptures, Prestongrange Museum; 147 - 151 High Street, Prestonpans, Aldhammer House; Woodbine Cottages, Old Bakery Industrial Estate, "The Pottery" Workshop Units and Building on Coronation Gardens, Preston Lodge Park; Coronation Gardens and coastal park opposite, Morrison's Haven, Land at Westpans/Lagoons, "Greenhills", formerly known as Preston Links, Land at North Grange Road, Grass area at cross roads at Polwarth Terrace, Former gasworks site at New Street, Coal Plant area/grass area from Preston Crescent to Greenhills (incorporating Thorn Tree (part of battlefield), Land at Hawthorn Road and Grass area opposite.

As you will note and in particular in reference to Prestonpans there is a considerable number of properties identified in the consultation which were not included on the Common Good list which was published for consultation.

Musselburgh Links

Copy of plan relating to the
 East Lothian District Council
 (Musselburgh Links etc) Order
 Confirmation Act 1985 c.xxxi





- Key**
- Area of proposed management agreement
 - Areas owned by ELC with title documents
 - Areas maintained by ELC no identified titles
 - common good area to be confirmed



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PROJECT Fisherrow Harbour & Seafront Association		DRAWING DRAFT Ownership & maintenance areas	
Scale 1:5000	Date 24/09/2019	Drawn wah	File Ref
Revision		Drg No 5416	
Penston House Macmerry Industrial Estate EH33 1EX			