

Item: 21

Policy and Resources Committee: 22 November 2022.

Islands Growth Deal – Full Deal Agreement.

Report by Corporate Director for Enterprise and Sustainable Regeneration.

1. Purpose of Report

To consider arrangements for determining the Full Deal Agreement with Scottish and UK Governments for the Islands Growth Deal and approaches to manage the funding profile.

2. Recommendations

The Committee is invited to note:

2.1.

That the Full Deal Document is proposed to be signed in January 2023 by the respective Council Leaders, following approval by the Islands Growth Deal Joint Committee, along with the Tripartite Financial Agreement, which will be signed by the Accountable Body on behalf of the three Constituent Authorities.

2.2.

That the Council's role as a Constituent Authority for the Islands Growth Deal carries specific responsibilities, as set out in the Islands Growth Deal Governance Framework and the Islands Growth Deal Joint Committee Governance Agreement.

It is recommended:

2.3.

That the Council delegates authority to the Islands Growth Deal Joint Committee to approve the terms of, and enter into, on the Council's behalf, the terms of the Full Deal Agreement.

2.4.

That the Council delegates authority to the Chief Executive of Comhairle nan Eilian Siar (CNES) to approve and execute the Islands Growth Deal Tripartite Financial Agreement, on behalf of the CNES as the Accountable Body for the Islands Growth Deal and on behalf of Orkney Islands Council as one of the three Constituent Authorities within the Islands Growth Deal.

2.5.

That powers be delegated to the relevant council representative on the Joint Islands Programme Board, and the Islands Growth Deal Joint Committee, to deal with change within the Islands Growth Deal in line with the change management process set out by Scottish and UK Government, including making any necessary amendments to the Full Deal Agreement and associated documents.

2.6.

That, in principle, the Islands Growth Deal spend profile be managed through the Council ensuring cashflow and/or through the provision of bridging loans to Growth Deal Projects.

3. Islands Growth Deal – Full Deal Agreement

3.1.

The Islands Growth Deal is a 10-year, £100m, UK and Scottish Government investment into Orkney, Shetland and the Outer Hebrides. Heads of Terms for the Islands Growth Deal were signed in March 2021 and, following a period of Outline Business Case development, a date for approving the Full Deal Agreement has been identified for the end of January 2023.

3.2.

This report provides details of the Full Deal Agreement. It seeks delegation from the Council to the Islands Growth Deal Joint Committee to approve the terms of, and enter into, on the Council's behalf, the Full Deal Agreement; and that the Chief Executive of CNES approves and executes the Tripartite Financial Agreement, once approved by the Islands Growth Deal Joint Committee.

3.3.

The Full Deal Agreement consists of a set of documents which must be approved by the Islands Growth Deal Joint Committee. These include a Full Deal Document, a Tripartite Financial Agreement and a Financial Plan. Other documents that require approval include the Outline Business Cases, Implementation Plans, a Governance Framework, a Communications Protocol and a Benefits Realisation Plan. A diagram showing the composition of the Full Deal Agreement is included at Appendix 1.

3.4.

The Islands Growth Deal Joint Committee is the primary decision-making body for the Islands Growth Deal. The Islands Growth Deal Governance Framework sets out the framework for the governance and implementation of the Islands Growth Deal. It includes reference to governance structures, roles, responsibilities, programme management and accountability, change management, performance and risk management and communications. The Islands Growth Deal Joint Committee is governed by a separate Governance Agreement which sets out areas such as membership and voting rights, the purpose and functions of the Committee, the

powers delegated to the Programme Management Board, the role of the Programme Management Office and funding and budget arrangements.

3.5.

The Full Deal Document is the public facing non-legally binding document, signed by the political leads, that sets out the agreement between the three local authorities (Orkney, Shetland and the Western Isles) and the UK and Scottish Governments for the Islands Growth Deal. The Tripartite Financial Agreement is the contractual agreement between the Accountable Body and the UK and Scottish Governments. The Financial Plan sets out the drawdown and spend profiles based on Outline Business Cases and as agreed with UK and Scottish Governments.

3.6.

CNES is the Accountable Body for the Islands Growth Deal, which carries specific responsibilities. Financial arrangements for the Islands Growth Deal will be formally set out in a Tripartite Financial Agreement and signed by the Accountable Body. It will be the responsibility of the Accountable Body to manage any liabilities beyond the funding agreed in the Tripartite Financial Agreement and associated documents which may arise during the lifetime of the Deal. In practice, CNES, in its role as Accountable Body, would not take on any liabilities beyond the funding agreed in the Tripartite Financial Agreement/ associated documents. Cashflow arrangements and bridging loans as outlined in this report would be the subject of separate agreements within or with each local authority and will exist separately from CNES role in managing the overall Programme.

3.7.

This report also outlines financial considerations arising from the manner of distribution of Growth Deal funding to the Council and the other partner authorities and makes recommendations as to how this funding profile can be best managed to meet the needs of local projects.

3.8.

Over the course of the 10-year Growth Deal period, it is anticipated there will be changes required to the current portfolio of investments as Full Business Cases are developed and issues arise due to match funding dependencies, cost escalation, business case and project viability. The Islands Growth Deal Programme Board and Joint Committee are likely to require to negotiate with Scottish and UK Government to secure the best possible outcome in respect of the allocated funding at any given time, particularly in the light of current financial circumstances, both national and local. Any change after the signing of the Full Deal Agreement would require to be aligned to the Scottish and UK Government process for managing change within Growth Deals.

3.9.

The Financial Plan is one of the documents within the Full Deal Agreement and contains the Islands Growth Deal financial profile, attached as Appendix 2. Deal funding is expected to be drawn down from Scottish and UK Governments on a flat profile over the 10-year period (given the date of signing, this will span 11 financial years). The maximum amount of Growth Deal funding expected to be available in any year will be laid out in the Tripartite Financial Agreement.

3.10.

Based on a flat disbursement of funding this is expected to be around £10m (or £3.33m for each local authority). It was previously agreed that a 'bottom-up' approach be taken to managing this and each local authority should, in the first instance, seek to manage and prioritise their projects within a £3.33m allocation in each financial year. Underspend would be used as required elsewhere in the Programme in any particular year to ensure the maximum amount of funding is drawn down. Underspends will not automatically carry over and may not automatically be made available in the next financial year.

3.11.

Based on the Outline Business Cases, the amount of funding required for projects is currently front-loaded towards the early part of the Growth Deal period and is therefore higher than the £10m that will be available from Government. While this level of funding requirement is likely to experience natural slippage due to match funding or other challenges, there is a requirement to bring the financial profile more in line with the available £10m and to ensure there is flexibility to deal with the scenario in which the amount that projects are seeking to claim from the Deal exceeds £10m in a particular financial year.

3.12.

Discussions between the Finance Lead Officers and the relevant Directors in each local authority have identified two potential options for managing the spend profile, depending on whether the project is Council-led or led by another partner. First, the Council could look to provide cashflow to Council-led projects to allow them to go ahead at the desired time and draw down the money from the Islands Growth Deal in a later year of the Deal. This could also provide a solution to underspend. Secondly, and where required, local authorities could seek to provide bridging loans to third-party organisations leading on Islands Growth Deal projects. This would be particularly helpful where there is a situation where there is a time-bound funding package in place for the project.

3.13.

The initial Financial Plan submitted to Scottish Government reflected the spend profile for the Islands Growth Deal based on the Outline Business Cases. The feedback from Government was that the councils needed to seek a greater alignment with the £10m available. Therefore, these principles were applied to the spend profile and have resulted in a financial profile showing drawdown, which has

been agreed by Scottish Government as a reasonable way forward. This enables the overspend position to be dealt with and allows greater alignment with available funding in future years. The approach allows flexibility to manage the risk of overspend (and underspend) should it arise and would allow projects to proceed at the optimum time, rather than project implementation being driven by availability of Growth Deal funding.

3.14.

Cost escalation and match funding are likely to have a natural impact on flattening the predicted need for Growth Deal funding and may mitigate the anticipated pressures on the funding in the early years of the Growth Deal.

3.15.

There has been a substantial amount of work undertaken over the past 18 months by the three island Councils and other partners, in the development of Outline Business Cases. The time taken between signing of Heads of Terms and the Full Deal Agreement has been as anticipated, based on the experience of other areas.

3.16.

The 10-year Islands Growth Deal can only be entered into with a limited amount of certainty as to what the demands will be on the £10m funding allocation in each financial year. Also, there is a need to reconcile the flat funding profile with the competing demands and circumstances of projects, including the importance of them proceeding at the optimum time. The experience in other Growth Deals has been of frequent re-profiling of spend as the Deal progresses, and ongoing negotiation and dialogue with Government.

3.17.

It is therefore necessary for the Council to consider mechanisms to enable flexibility to accommodate spend that may arise above the £10m in any given financial year. It is recommended that, in principle, the spend profile be managed through the Council ensuring cashflow and/or through the provision of bridging loans to Growth Deal Projects. Shetland Islands Council and CNES are seeking the same authorities.

4. Links to Council Plan

4.1.

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Council Plan strategic priority theme of Enterprising Communities.

4.2.

The proposals in this report relate directly to priority 4.9: Work in partnership with the two other Islands Councils to finalise the Islands Growth Deal, of the Council Delivery Plan.

5. Links to Local Outcomes Improvement Plan

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Local Outcomes Improvement Plan priorities of Connectivity, Community Wellbeing and Sustainable Recovery.

6. Financial Implications

6.1.

There are no financial implications arising directly from this report.

6.2.

Signing up to the Islands Growth Deal Full Deal Agreement at the end of January 2023, will further show the Councils commitment to the delivery of the projects identified. There is some flexibility in respect of timing of spend against the profiles and communication with the Scottish Government to deliver the outcomes will be ongoing throughout.

6.3.

It is profiled (see Appendix 2) that each local authority has to manage their projects within a £3.33m allocation in each financial year. The profiles show a requirement for the Council to cash flow shortfalls in the project delivery. This shortfall would likely be met through short-term borrowing, until the funding catches up with the spend.

6.4.

The significant risk for the project, however, is the level of leverage required to deliver the Islands Growth Deal. Current anticipated leverage for the entire deal is approximately £293m from various sources, including approximately £20m matched or leveraged through the local authority, the majority of this relates to Orkney Islands Council led projects. Failure to identify and secure match funding, and delivery of the Islands Growth Deal outcomes, could result in funding being repaid to UK and Scottish governments.

7. Legal Aspects

7.1.

This report is in line with the Islands Growth Deal Governance Framework and Joint Committee Governance Agreement which is in place as part of the Islands Growth Deal. The recommendations are designed to address the decision made by the Islands Growth Deal Programme Board to seek the necessary authority from each Constituent Authority to approve the terms of, and enter into, the Full Deal Agreement.

7.2.

Under Section 50A(4) of the Local Government (Scotland) Act 1973, the public should be excluded from the meeting in respect of any discussion relating to Appendix 2. Appendix 2 contains exempt information as defined in paragraphs 6 and 8 of Part 1 of Schedule 7A of the Act.

8. Contact Officers

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9. Appendices

Appendix 1: Diagram illustrating the documents making up the Full Deal Agreement.

Appendix 2: Spend and Drawdown Profile Summary (Extract from Item 6 – Financial Plan – Islands Growth Deal Programme Board - Islands Growth Deal: Financial Plan – Drawdown Profile 17 October 2022).

Appendix 1 Diagram illustrating the documents making up the Full Deal Agreement

(Draft Islands Growth Deal: Full Deal Agreement (as scheduled for presentation to the Islands Deal Joint Committee Meeting 23 November 2022))

