



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

Minutes of the meeting of the Scottish Land Commissioners held on Tuesday 2nd November 2021

Commissioners Present: Andrew Thin (Chair), Sally Reynolds, Lorne MacLeod, Megan MacInnes, and David Adams (Land Commissioners)

In Attendance: Hamish Trench, Emma Cooper, Shona Glenn, Caron Munro, Kathie Pollard (Scottish Land Commission), Fiona Taylor (Scottish Government), Karlene Doherty (DTAS)

Apologies: Bob McIntosh (Tenant Farming Commissioner), Posy MacRae (Scottish Land Commission)

Declarations of Interest: Sally Reynolds declared an interest in the report on the partnership as DTAS as she works for Carloway Estate Trust who are members of DTAS.

The Chair welcomed Fiona Taylor, from the Scottish Government Sponsor Team to the meeting and highlighted the benefits of this relationship.

1. Minutes of previous meeting 7th September 2021

The minutes were agreed as a true and accurate reflection of the discussion and all actions have been discharged.

The board discussed action 21090702 (Hamish to check the requirement for publishing management remuneration information) and Hamish advised that the presumption is this information is reported and there are no applicable exemptions.

2. Report on partnership with DTAS to support community-led regeneration of vacant and derelict sites

The Chair welcomed Karlene Doherty from DTAS to the meeting. Shona provided the Commissioners with an overview of the project to date. Hamish advised that the Commissioners are asked to discuss the progress and considerations set out in the paper to inform next steps, but are not being asked to make a decision.

Karlene gave a presentation to the Commissioners on the work that has been carried out to date and the impact that the work has had on communities and the sites. In response to questions from Commissioners she highlighted that the interim evaluation was undertaken by someone not involved in the project to ensure it was impartial, and

it provided positive feedback on the project. She advised that all groups that have received help under to project in the first year have progressed towards use or ownership of the sites in agreement with the landlords. She highlighted that the project currently offers support for two years and is limited in the number of groups that can be helped due to capacity so she would like to be able to offer expanded support in the long-term. She noted that the project can look to prioritise sites which are having a negative impact on the local area and those that aim to provide a carbon beneficial impact. It was also suggested that she would hope to be able to commission those who have already taken part in the project to support future sites in order to build capacity and expertise in the sector.

Shona highlighted the potential benefits of the work that has been done under this project to community ownership as a whole, although it is focussed on vacant and derelict sites. She noted that the project is a highly resource intensive method of providing the support required.

The Commissioners discussed the project and potential next steps. They agreed that the work done to date is a big achievement and demonstrates the potential of this kind of support. David queried if the communities involved show a representative example of what might be found across Scotland or if they are exceptions to the norm. Karlene advised that a variety of different types of communities have been involved over the past year and the challenges are largely representative of others.

The Commissioners highlighted the value of finding a way to mainstream/ build on this experience beyond the current Land Commission funded project. Commissioners asked that careful consideration is given to who is best placed to drive this approach, provide the support and how a funding package might be put together. Commissioners noted the opportunity to look to major charitable funds as well as public funding. Shona noted that within this, the Commission has a unique role in having an overview of the system, and particularly the opportunity to connect increasing community capacity with the opportunity to build capacity within local authorities and public bodies.

Commissioners welcomed these connections being made and noted the opportunity, though also that the Commission will need to consider carefully in its business planning whether and how to pursue some of these opportunities given its own prioritisation and resourcing available. Commissioners supported engagement with Scottish Government and other stakeholders to consider future delivery options beyond the current funded project.

Note: Karlene Doherty left the meeting at this point.

3. Quarterly Progress Report

Delivery

Hamish advised that the majority of workstream delivery is on track as shown in Annex A. He noted that the amber rating for the work on engaging stakeholders in implementation of PILD, VDL and housing land supply reflects the decision to scale back work on some of the emerging opportunities from our previous reports, to allow the Commission to focus on the Natural Capital workstream. He also noted that the

work to conduct a review of land valuation has an amber status as this workstream has been reshaped to focus on the natural capital work which is developing rapidly.

Finance

Hamish advised the Commissioners that the Commission has spent 45% of its budget at the mid-year point with 11% currently uncommitted. He advised that the Audit and Risk Committee discussed the budget on 1st November and the Commission is looking to bring forward spend where appropriate into this financial year to ensure expenditure is within the budget KPI where possible.

The Commissioners queried how confident Hamish is that the spend will be on target following management team discussions and noted a degree of anxiety around the current predicted underspend. Hamish advised that there is still work to be done but some appropriate additional spend has already been identified and the management team is focused on further opportunities that can be delivered by end of year.

Megan noted that the ARC raised a degree of concern around the amount currently uncommitted and that the Commission will be looking into lessons learned from 2020-21 on overprogramming to help with future budgeting.

Risk

Hamish advised that there is a current increased cyber risk for all public bodies due to COP26. He assured the Commissioners that IT have put steps in place to help reduce this risk and make phishing attempts more identifiable. Commissioners queried why this is a threat for the Commission. Hamish advised it is due to opportunistic attacks as the Land Commission uses at gov.scot email addresses and there is no specific threat being targeted at the Commission that they are aware of.

He advised that the risk regarding staff capacity is still high as the two good practice advisers started on 1st November so are still in the induction stage, but he anticipates this risk will reduce over the next quarter.

David suggested that he would expect planning to be mentioned under risk 7 and asked for an update on the relationship with the Scottish Government planning team. Hamish advised that the Commission has a strong relationship with the regeneration team and engaged with the planning team on the housing land review. Shona added that the planning team are currently fully focussed on implementation of the Planning Act, and that we are able to make connections where necessary.

Communications

Hamish advised that natural capital and the report on housing land have been high areas of communications focus over the past quarter. He noted that there is an increase in media coverage that is not generated by the Commission. Commissioners were advised that the main areas for communications focus over the next few weeks is the MyLand campaign taking part over COP26 and the Natural Capital workstream.

Hamish also advised that as a result of the staff survey responses in October 2021 the Commission will be focussing on improving internal communications. He advised that the survey results will be tabled at the next Staffing and Remuneration Committee.

Lorne requested that the Commissioners receive a detailed analysis of the conference and any learning points identified. Hamish advised that this is currently being pulled together and will be shared when finalised.

4. Audit and Risk Committee Update

Megan provided the Commissioners with an update following the ARC meeting on 1st November. She noted that she took over chairing of the Committee from Lorne as agreed at the Commissioners' Meeting in September 2021.

The Terms of Reference for the ARC state that members can remain on the Committee for 5 years, but this can be extended at the discretion of the Commission. Therefore it was proposed that Commissioners agree to extend the nominations of Megan and Lorne until the end of their contractual terms as Commissioners. The board agreed this proposal.

Megan advised that the Committee received an update on the Commission's Climate Action Plan. She noted that the current challenge for the Commission is to maintain the benefits that the Commission has had of a reduction in commuting and business travel as a result of the pandemic.

She advised that the Committee took the opportunity to reflect on the learnings from the Audit Scotland annual audit report on the Crofting Commission. She advised that Hamish has already identified points for the Commission to take forward and that internal and external audit both noted it was positive to see the Committee proactively discussing the report and taking findings into account. Hamish noted that the three key points he has taken from this report are:

- Importance of actively maintaining effective relationships between the board and staff;
- An opportunity to bring together a single statement of the Commission's governance;
- Commissioners and staff both have training budgets which can be made use, including for training on governance.

The Commissioners noted it is reassuring to know the Committee is considering reports like this and reporting findings back to the board. The Chair reminded Commissioners that the ARC is there to challenge the board when necessary.

Action 21110201	Circulate Audit Scotland report on Crofting Commission to all Commissioners
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5. Tax Reforms: Advice to Ministers

Hamish noted the significant work that Shona and Kathie have put into developing this report further, and the value of the government's recently published tax framework as context.

The Commissioners welcomed the substance of the report in terms of the analysis and options identified. They also agreed a need for caution and careful thought on the presentation of the advice, given the complexity of the issues involved and the degree of political and public interest in tax. Commissioners felt that further work is needed to represent the advice in a way that will be effective and that will communicate key messages.

Shona highlighted the importance of the journey to reach this point including both the expert advisory group and liaison with Scottish Government tax team. She noted positive feedback from Scottish Government colleagues on the value of the proposed advice in relation to the Scottish Government’s tax framework.

Commissioners discussed the report. The main points of discussion were:

- A need to improve clarity on the narrative about why these options are considered in relation to land reform;
- The importance of noting reserved and devolved powers and therefore where our advice focuses;
- The balance of whether this should be a short strategic piece of advice or whether a more detailed report is actually required, noting that there is significant work required in taking forward any of the options under discussion;
- A need to refer back to the core ask of Ministers for this work, and the focus of the Land Commission in this work;
- It was suggested that as there is a long history of similar reports which have been commissioned it may be beneficial for the Commission to refer to these reports in the points made;
- Concern was raised over the term ‘undeveloped land’ when referring to rural land as the land may be un multiple uses;
- That there is value in stating if and where we conclude tax is not likely to be an effective lever;
- There is a need to address explicitly the interaction with agriculture and the risks of tax reform in relation to family farm holdings;

The board agreed that the advice should be further developed into a short, public facing strategic report that sets the consideration of options in the land reform context. Commissioners agreed to hold an additional board meeting in December so that all Commissioners have the opportunity to see and discuss the final report and sign-off at that point.

Action 21110202	Arrange an additional meeting mid-December for this report to be signed off.
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6. Scottish Government update

Fiona provided the Commissioners with an update from the Scottish Government. She advised that arrangements are in hand for a meeting of the board with Ms McAllan,

most likely in the new year. David suggested the possibility of the Commissioners also meeting with other Ministers, particularly Mr Arthur, in due course. Fiona noted that depending on the work programme this could be beneficial at an appropriate time.

7. Any Other Business

Natural capital and the Land Market

Hamish advised that work is underway including a tender on the land transactions analysis and development of initial guidance on responsible practice. He noted that this continues to be a rapidly developing area of work and would welcome any feedback or observations from Commissioners as it progresses.

Sally queried if the role of others is becoming clearer in this. Hamish advised that it is and that the Commission is now part of a group set up by Scottish Government working with other public bodies to co-ordinate activity.

Commissioners identified high value in moving quickly to develop a good practice publication on this area of work.

Board Observers

Sally advised that she has recently participated in a Women in Agriculture group and there has been interest from members to undertake a board observer role. She asked if the Commission would look to offering this. The Chair noted that the board has had an observer before and support the opportunity of doing so again. All Commissioners supported this.

Human Rights advisory group

Megan provided the Commissioners with an update on the Human Rights advisory group. She advised that the next meeting is in the new year and suggested that it would be beneficial for the Commissioners to meet with Malcolm after this date. Hamish noted that this will be scheduled in the Commissioners' meeting programme.

Staffing and Remuneration Committee (SRC)

Hamish advised that following good practice audit advice he intends to propose to the board that this committee is set up in a similar way to the ARC with a Commissioner other than the Chair as the Chair of the committee. He will bring forward a formal proposal to the board for consideration.

David queried if this could mean that the SRC has a co-opted member. Hamish advised that this would be an option for the board to consider in the terms of reference of the committee.

December Meeting

It was agreed that the December meeting will be held online. Hamish advised that we will continue a hybrid approach for the 2022 programme of Commissioners' meetings.

Public Meeting

It was noted that the next virtual public meeting covers the Falkirk area and Sally, Lorne and Andrew will be attending.

Date of Next Meeting: 7th December 2021

**Scottish Land Commission
November 2021**