



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

Minutes of the meeting of the Scottish Land Commissioners held on Tuesday 6th June 2023 at the AK Bell Library, Perth.

Commissioners Present: Sally Reynolds (Meeting Chair), Lorne MacLeod, Megan MacInnes, (Land Commissioners), Bob McIntosh (Tenant Farming Commissioner)
In Attendance: Hamish Trench, Emma Cooper, Nikki Nagler, James MacKessack-Leitch (Scottish Land Commission), Paul Richardson (Scottish Government).

Apologies: Apologies were received from Andrew Thin (Chair), and David Adams (Land Commissioner).

Declarations of interest: No declarations of interest were made.

1. Minutes of previous meeting 9th May 2023

The minutes were agreed as a true and accurate reflection of the discussion.

Matters arising:

Hamish confirmed that Andrew approved the Natural capital and Land policy advice paper for publication as agreed at the previous board meeting.

Emma said that the publication date and scope of community benefit guidance had been changed, as further stakeholder consultation is required. Emma agreed to share an updated draft of the guidance to the Board by August.

Bob raised the Scottish Government's research on mobilising private investment in natural capital, in particular the proposal for the Scotland Carbon Fund. Hamish noted this is one of several natural capital workstreams in Scottish Government that is relevant context for our work.

Paul confirmed that recruitment for new board members and Chair is progressing to timetable.

Action 23060601	Emma to share updated draft guidance to board ahead of August meeting.
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2. Strategic Plan Working Draft

Hamish introduced the working draft of the plan. He asked for feedback on whether the narrative in the draft plan was strong enough and on the focus of the three themes in particular. He also sought views on the longlist of topics for the new Programme of Work, inviting the board to consider priorities within this.

The board welcomed the developing draft, its conciseness and use of clear language. In particular the board welcomed and supported the central focus on making a just transition to net zero.

Specific suggestions included:

- Strengthening the ambition in the section on community engagement and influence, to ensure it goes beyond current practice;
- Ensuring the relevance to both rural and urban Scotland comes across as a headline strategic message early on in the plan;

The board discussed the balance of urban and rural work and the merits of identifying particular priorities in one or the other. In general the ambition should be for the strategic plan to span both urban and rural, with the more specific relevance to each set out and developed in the Programme of Work,

The board welcomed and supported the three themes of people, power and prosperity as an effective framework for the plan.

The board considered the relative priorities of proposed topics for the Programme of Work. It was agreed the programme of work should focus on where the Commission can best add value with its limited resources.

On this basis the board considered that the themes on land governance and land values are both high priorities. The board also considered potential work on tax and fiscal reforms. While noting these are potentially significant, it was agreed that the Commission should only prioritise such work if there is a clear ask from Scottish Government or other specific opportunity in which such work could have impact.

Land use planning was also discussed. The board see merit in potential work on some aspects of land use planning, for example increasing accountability and the need for greater leadership in land use planning. However it also noted the potentially open-ended nature of such work and therefore the need to be very clear about where the Commission's role would start and stop if we undertake work on this topic. It was suggested that work might usefully focus on culture and practice rather than further policy advice.

The forthcoming Charities Bill was raised as a relevant opportunity for to advise on aspects including the structure of charities, democratisation, and community participation in governance, given there are many landowning charitable trusts throughout Scotland.

The board discussed whether specific work on urban land ownership should form part of the next programme, and/or whether this is best addressed as part of work on governance that could span both urban and rural land. The board asked about the level of engagement with Scottish Government planning team. Hamish confirmed there is ongoing engagement, including participation in a recent meeting with the Key Agencies Group and Minister for Local Government, and the Scottish Government's new Advisory Group on Planning, Infrastructure and Place.

Members welcomed the ongoing engagement noting it is a valuable part of the Commission's remit and work. Hamish highlighted the strategic consideration for the board in thinking about our relevance to urban Scotland over the next three years.

Megan enquired about further stakeholder engagement on the strategic plan. Hamish confirmed that beyond the stakeholder workshop on the afternoon of 6th June, an additional stakeholder workshop would take place later in the year, led by David Stewart, involving urban land and development stakeholders.

Hamish confirmed that a final draft of the strategic plan would be presented to the board in August.

3. Good Practice Programme Draft Casework Report

Commissioners welcomed the report and the overview it gives. Bob noted the parallels with TFC casework in terms of both the variation in demand and challenges with recording impact given multiple factors involved.

The board noted the relative consistency in the volume of casework, despite much of it being demand-led. The Board asked whether staff expect the volume of work to remain manageable, whether the balance between demand-led and proactive casework should evolve and expectations for capacity going forward.

Emma noted that the caseload is within our capacity at present. While we are able to take some proactive work on, it is capacity constraints that determine how much we can do. There are many more opportunities to provide support and information proactively than we are able to resource so we prioritise these in line with our wider work programme. The board agreed this is sensible and noted we need to remain fair in our approach to different stakeholders through the programme.

The board suggested that more work with other public bodies is needed given the extent of public body casework and the leadership role they can play. Commissioners welcomed positive work underway including with Scottish Forestry, Crown Estate Scotland and local authorities. Emma noted the SLC's Community Wealth Building guidance does, in part, help to interpret the LRRS for public bodies. It was agreed that within the next strategic plan period there is an opportunity to develop a refreshed approach with public bodies to encourage their leadership.

It was agreed the casework report should be published when completed to inform wider stakeholder discussions and next steps. Emma said planned publication is by the end of the year.

Action 23060602	Emma to keep board informed of casework report publication
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4. Diverse ownership and governance – workstream update

James introduced the paper and explained the range of work on diverse ownership and governance to date and next steps. He noted the next output will be a briefing paper to be published late summer.

James also highlighted collaboration with Dark Matter Labs over the past year which has looked to develop provocations and ideas for alternative governance structures. The output from this will be a discussion paper later in the summer.

James also noted that the project would pick up on diversification work previously led by Charlie Davis, which involved working with landowners on the ground. Hamish clarified that the intention is to replace Charlie's post to support advice and guidance on more diverse governance, but it will be a reshaped role, reflecting the development of our wider work on this.

The board also noted the relevance of the collaboration with Crown Estate Scotland and asked about timescales. Hamish noted that the Project Manager has now been appointed with a start date of 1st September.

Other considerations for work on governance raised were:

- To consider the role and governance of land owning charities;
- That there are existing examples of good governance structures to build on;
- Integration with other public bodies including enterprise companies;
- The practical challenges for communities and land owners of exploring new governance structures, noting the risks and need for legal advice at the right stages.

5. Communications update

Nikki gave an update on communications, noting the recent reports on the Crown Estate Scotland project and the Land Markets Insights Report. The communications plan for the next publication on natural capital is in hand.

Nikki also said that staff held a very useful workshop on communications messaging, with our external communications agency support, that explored our vision and organisational key messages ahead. This is informing the strategic plan development as well as wider communications.

6. AOB

Tenant Farming Commissioner update

Bob provided an update on TFC work. He noted a recent case on relinquishment and assignation has led to a legal challenge raised by a landlord for consideration by the Land Court. A judicial review is also sought by the landlord in which the TFC is cited as an interested party, though this is on hold pending the outcome of the Land Court process.

Potential Community Benefits Code

Emma summarised an additional paper circulated to the board on the opportunity to take a lead role on a FIRNS funding application to investigate the viability of a community benefits certification plug-in, which would be used alongside existing and developing nature codes (e.g. Woodland Carbon Code, Peatland Code). To date the proposal has been developed by the Scottish Wildlife Trust and partners who have proposed SLC could become the lead applicant.

Emma highlighted that opportunity of the work to test SLC guidance being published later this year and investigate whether such a Code approach could work. She also recognised risks involved in taking on such an application at short notice (FIRNS application deadline of 16th June).

Board members recognised the opportunity but felt there are considerable risks which the short deadline does not give enough time to consider. Concerns raised included staff capacity, resourcing, reputational risk and relative priority.

Board members agreed that due to lack of time to consider the project fully ahead of the FIRNS deadline the Commission should not take it on the lead applicant role. However the Commission should engage with the project in an advisory role. The board asked Emma to update the board on the Commission's involvement in the project at the next meeting.