



SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

## **Minutes of the meeting of the Scottish Land Commissioners held on Tuesday 7<sup>th</sup> December 2021**

**Commissioners Present:** Andrew Thin (Chair), Sally Reynolds, Lorne MacLeod, Megan MacInnes, and David Adams (Land Commissioners), Bob McIntosh (Tenant Farming Commissioner)

**In Attendance:** Hamish Trench, Emma Cooper, Posy MacRae, Caron Munro, Kathie Pollard, Gemma Campbell, Calum Stewart, Karen Grant (Scottish Land Commission),

**Apologies:**, No apologies were received

**Declarations of Interest:** There were no declarations of interest

### **1. Minutes of previous meeting 2<sup>nd</sup> November 2021**

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

Sally noted that she has emailed those interested in the board observer role and will update the board on any uptake of the offer.

### **2. Tax Advice**

**Note:** - Calum Stewart and Gemma Campbell joined the meeting at this point.

Hamish provided the Commissioners with an overview of the changes that have been made to the paper since their previous meeting. He noted that the paper now more strategic advice, focused on land reform objectives and includes reference to previous reports published on this subject. He advised that the Commission intends to submit the report to ministers before the end of the year and will publish in the new year.

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

- The Commissioners welcomed the paper and agreed the focus and tone is appropriate.
- It was suggested that the last sentence in paragraph 2.1 does not read clearly.
- Paragraph 2.2 appears to be inconclusive. It was suggested that a final completing sentence is added.
- Paragraph 3.1 would benefit from greater clarity on what we mean by productivity and value.

- Paragraph 5.1 re capitalisation of tax reliefs should acknowledge uncertainties.
- It was agreed that it is right to highlight the reserved and devolved powers and acknowledge the limited role that the Scottish Government has in this area.
- It was suggested that Commissioners receive a short briefing on the Commission's position in regards to land value tax so that all can articulate a consistent message.
- It was suggested that publication of the advice should focus on the Commission's advice and staff were asked to consider whether publication of the background modelling report is appropriate.
- Commissioners challenged the conclusion on the potential role of Land and Buildings Transactions Tax. Concern was raised about relying too heavily on a narrow modelling approach in the Alma Economics work, noting that we have not fully explored wider scenarios for changes to LBTT. Commissioners agreed that changes to LBTT are unlikely to have a significant impact on the pattern of land ownership, but that it could be a practical tool in relation to high land values, noting the potential for hypothecated approaches. The board asked that this recommendation be adjusted to a more open conclusion that acknowledged the potential role of LBTT.
- The paper should note more clearly an awareness of the costs and benefits involved – noting in particular the administrative costs of bringing land onto the valuation roll.

The Commissioners agreed with the timescales of sending to ministers before the end of the year with publication in the new year. The board agreed the paper, delegating final approval following editing to the Chair. They noted their thanks to Hamish and Kathie for their work on this.

<b>Action 21120701</b>	Hamish to agree final report with Andrew for submission to Ministers
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**Note:** - Kathie Pollard left the meeting at this point.

### **3. Land Rights and Responsibilities Statement**

**Note:** - Karen Grant joined the meeting at this point.

Emma provided the Commissioners with an overview of the consultation and what the good practice team feels should be included in the Commission's response. She also noted that this is a good opportunity to take stock of the Good Practice programme and establish the impact of work that has already been completed.

The Commissioners discussed the key themes for the Commission's response to the consultation. The main points of discussion were:

- The Commissioners agreed with the suggestions on the opportunities available and how the LRRS could evolve.
- It was suggested that the response could include more details on the impact that the Good Practice programme has had or information on why the impact can't yet be assessed.
- The Commissioners agreed that there is not a large amount of change needed to the content of the statement, rather the focus should be on implementation.

- It was suggested that bullet points 3 and 5 in paragraph 4.2 need to be stronger to highlight the benefits of improving the legal weight of the LRRS.
- It was also suggested that there is a gap around the principles for Natural Capital which should be considered.
- Commissioners suggested there is benefit in being open about the levels of resource that the Commission has put in to interpret the LRRS for landowners within the Good Practice programme.
- It was suggested that public bodies need to be seen as leading by example. Emma noted that the Commission is working with the Scottish Government on this but there is still work to be done. Commissioners agreed there should be a strong focus on public body leadership in strengthening implementation of the LRRS.
- Commissioners also asked that the response draws the relevant parallels with the experience of the Tenant Farming Commissioner and Codes of Practice and what we learn from this to strengthen LRRS implementation.

The Commissioners agreed that there is a need to be strong about the implementation of the LRRS. They agreed to delegate finalising the response to Emma, Hamish and Sally.

<b>Action 21120702</b>	Emma, Hamish and Sally to agree final response for submission by 28 <sup>th</sup> January.
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**Note:** - Calum Stewart, Gemma Campbell and Karen Grant left the meeting at this point.

#### **4. Natural Capital and the Land Market**

Hamish provided the Commissioners with an update on this developing area of work. He noted that the team have turned their attention well to this area of work over a short period of time. He noted the key components of work comprising the land market analysis, development of interim principles, and consideration of community benefit mechanisms.

Commissioners welcomed the focused approach to the Commission's role in this topic. In discussion the following points were raised:

- The relevance of crofting and the need for guidance on crofting tenure implications, in a similar way to tenant farming, noting the role of the Crofting Commission in this;
- That a review of windfarm community benefit schemes, including current experience of offshore development, would be a valuable piece of work to learn lessons;
- That there remain fundamental questions about ownership rights and legal framework;
- That it would be helpful if the market analysis work could identify whether option agreements are playing a big role in the market to date;
- Noted the significant role played by agents, and therefore the need to engage closely within this sector;

- Noted the opportunity for the interim principles to connect to international standards, reflecting that Scotland is not unique in seeking to address these challenges.
- Noting the need to think ahead about potential mechanisms to implement the emerging principles.

Commissioners agreed that the current focus of this work is appropriate, noting the need to retain clarity for the Commission's role in what is a complex and rapidly developing area of policy and practice.

## **5. Medium Term Financial Strategy**

Hamish asked Commissioners to consider any factors affecting our medium term financial strategy. He advised that the Scottish Government budget for 2022-23 will be published on 9<sup>th</sup> December.

Commissioners welcomed the table setting out costs on page 2 of the paper and noted this would be helpful for any future discussions around staffing. Commissioners noted that they would like the fixed costs budget to remain at 70% or less. Commissioners welcomed the suggestion to reduce accommodation costs though asked how long this will take in practice to be realised. Hamish noted that the Commission is liaising with Scottish Government over this although pandemic restrictions have impacted the analysis of office space that the Commission requires.

The potential for additional resourcing to the Commission was queried. Hamish advised he has been in regular contact with the sponsor team about priorities and resourcing, noting that at present we do not anticipate increases in grant-in-aid. Commissioners noted the need to continue discussions on resource requirements as and when new areas of work or additional asks of the Commission emerge.

It was agreed that development of the next Corporate Strategy in 18 months time also offers an opportunity to review the business model of the Commission as appropriate.

## **6. Programme of Work and Business Plan priorities**

Hamish proposed development of a refreshed Programme of Work for April 2022 alongside the 22/23 Business Plan. He emphasised the discussion at this point is about agreeing a set of priorities to enable staff to develop the detail of these.

A concern was raised on the risk of over-emphasis on rural and reducing urban focus. Commissioners acknowledged this risk and considered the drivers coming from Parliament and Government at the current time. It was noted that there is not an expectation from government currently on further policy advice on housing land, but that there is significant ongoing urban focus in supporting land rights and responsibilities implementation in practice. The potential for land reform to support the

ambitions of the recently published National Planning Framework 4 was also noted as an area for consideration.

Commissioners highlighted the ongoing and very current relevance of diversification of land ownership, noting that this should remain a high priority. Commissioners noted the opportunity to support practical work on governance models and rather than necessarily further research being needed.

Commissioners agreed that the Commission should continue to reduce its overall resource commitment to vacant and derelict land, now that the recommendations and implementation is being taken up through other relevant bodies. It was noted that the relevant ongoing work is likely to be focused on our core land rights and responsibilities role.

It was suggested that there remains further work to be considered on enabling community land ownership and streamlining possible routes to ownership. Hamish noted that the Commission will return to this area of work in the new year once we have received the commissioned report on ways to complement the land fund in financing community ownership.

Commissioners agreed to develop a refreshed Programme of Work for April 2022 and to the proposed priorities set out in the paper as a basis for developing the 22/23 Business Plan. Hamish noted that a draft Business Plan will be considered in February.

## **7. Staffing and Remuneration Committee Terms of Reference**

Posy presented a draft Terms of Reference (ToR) for the Staffing and Remuneration Committee, if Commissioners wish to amend the format of the Committee following best practice. She noted that the ToR follows the same format as the Audit and Risk Committee although a co-opted member may not be relevant for this committee.

Sally queried if there was a need to be as prescriptive as to say that the committee's self-assessment would be tabled at a board meeting. It was agreed that this was not necessary.

<b>Action 21120703</b>	Remove the second sentence in paragraph 8.3.
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The Commissioners discussed whether it is desirable to change the structure of the committee at this stage. The board noted that the committee currently operates effectively and addresses the business and governance role expected of a Staffing and Remuneration committee. Concern was expressed that the proposed format is unnecessarily burdensome in a small organisation, introducing an additional advisory stage, when remuneration decisions would still require to be agreed by the board. Commissioners expressed differing views on whether the structure should change

now, or whether to hold the new Terms of Reference for now. The board agreed not to change the structure of the Committee at this stage, but to hold the proposed terms of reference for future consideration. Sally Reynolds and Megan MacInnes asked that their dissent from this decision is recorded.

## **8. ARC Annual Report 2020/21**

Megan presented the Commissioners with the Annual Audit Report from the ARC. She advised that the Committee operated within the Terms of Reference and carried out a self-assessment in February 2021. She advised that there were no instances of fraud within the year.

The Commissioners noted their thanks to Megan and Lorne for chairing the Committee.

## **9. Any Other Business**

### 2021-22 Budget

Hamish provided the Commissioners with an update on the current budget position. He advised that the Commission has been working to ensure spend is on time and to bring forward appropriate areas of work to this financial year. He advised that the current position is projecting a 5% underspend.

### SLE letter to the Scotsman

Lorne raised a public letter in the Scotsman newspaper from the Chair of Scottish Land and Estates about the role of the Commission. Hamish has noted the letter did not feel a public response was required.

### Conference Evaluation

Sally asked if the evaluation of the Commission's conference was available for the Commissioners to view. Posy advised that she has seen the final version so it will be shared with the Commissioners soon.

### Pandemic update

Posy advised Commissioners that staff were advised on 6<sup>th</sup> December that the Commission's office is closed apart from essential business and wellbeing needs and have advised against in-person meetings as well as moving the staff Christmas activity to online.

### Meeting with the Minister

Hamish advised that he is liaising with Scottish Government to arrange an annual meeting for the board with Ms McAllan online in early 2022.

### Public Meetings

It was noted that David, Sally and Hamish will be attending the next public meeting. Andrew advised that Sally will be chairing the meeting.

Staffing

The Chair noted thanks from the Commissioners to Shona Glenn for her work with the Commission as she will be leaving shortly to take up a new role.

**Date of Next Meeting: 1<sup>st</sup> February 2021**

**Scottish Land Commission  
December 2021**