



SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

## Commissioners Meeting

Tuesday 3<sup>rd</sup> October 2023, 9:00am  
An Lochran, room 0.02

# A G E N D A

Item no	Item	Paper no	Action	Lead
	Welcome/Apologies			Andrew Thin
	Declarations of Interest			Andrew Thin
1.	Minutes of the previous meeting: 5 <sup>th</sup> September 2023	1	For agreement	Andrew Thin
2.	Confidential item: Update on 2023/24 staff pay award	Verbal update	For discussion	Hamish Trench
3.	Report from ARC chair	2	For information	Megan MacInnes
4.	ARC chair appointment	Verbal update	For decision	Andrew Thin
5.	Annual Report and Accounts Annex A: Annual Audit Report Annex B: Draft Annual Report & Accounts	3	For decision	Hamish Trench
6.	Progress review of Vacant and Derelict Land taskforce recommendations – scope of review	4	For decision	David Stewart
7.	Land Governance workstream Annex A: Land Focus briefing	5	For discussion	James MacKessack-Leitch
8.	Rural land market data report Annex A: Data report	6	For information	Hanna Wheatley
9.	AOB – Community Land Leadership Group Crown Estate Scotland collaboration	Verbal updates		



SCOTTISH LAND COMMISSION  
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**Minute of the meeting of the Scottish Land Commissioners held on Tuesday 5<sup>th</sup> September 2023 at An Lochran/Teams**

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

**In Attendance:** Hamish Trench, Nikki Nagler, Karen Grant, James MacKessack-Leitch, Gillian Brown (Scottish Land Commission), Fiona Taylor (Scottish Government)

Malcolm Combe (LAHRAF Chair) attended until agenda item 3.

**Apologies:** None

**Declarations of interest:** None

**1. Minutes of previous meeting 8<sup>th</sup> August 2023**

The minutes were agreed as a true and accurate reflection of the discussion, subject to the following amendment.

Page 1 remove 'subject to amendment'.

Action tracker

One action is scheduled for the October board meeting, all other actions are discharged.

Hamish advised that the Cabinet Secretary has now approved the Commission's new Strategic Plan and Programme of Work.

**2. Land and Human Rights Advisory Forum**

James gave reflections on the Forum's work to date. The Forum has been running for 2 years and to date the staff have found it very useful, particularly when forming the response to the Land Reform Bill. The forum keeps the Commission sighted in developments elsewhere in human rights and the wider legal context.

Malcolm gave his perspective of the Forum and examples of subjects discussed and the expertise that's involved in the meetings that can be drawn on.

Discussion considered the following:

- The board sought assurance that there is sufficient diversity of opinion and challenge within the forum, in order that it can offer robust advice;
- That there will be a significant focus for the forum's advice on the land reform bill and human rights bill, but other topic specific areas should continue to be considered;
- That the board's preference is that the forum is able to hold focused discussions that are sufficiently in-depth on key topics to provide advice, rather than take a broad overview of many topics;

- That it would be helpful to keep under review the meeting format and membership to ensure it draws on an effective range of expertise for specific topics.

The chair thanked Malcolm, and all involved in the forum for their contributions and passed on his thanks to Elisa as she steps down from the forum.

The board sought clarity on the timeline for the forum, James confirmed it was initially set up for three years given the wider legislative context. The board asked that this is reviewed so that there is a clear time horizon for the forum linked to its purpose.

Action 23090501	Report back to the board under matters arising on the future programme for the forum.
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### 3. Guidance on social and economic community benefits from land

Hamish and Karen presented the paper setting out the drivers behind the guidance, the scope and stakeholder engagement. Hamish noted that while the context for this is evolving rapidly, there is value in getting some clear guidance out as a starting point, which can be developed over time. He reminded members of the expectations set out in the Scottish Government’s Principles for Responsible Investment in Natural Capital and the Commission’s Protocols. This guidance is about how these are implemented in practice.

The board endorsed the scope of the guidance, particularly that it should apply beyond the initial prompt of natural capital investment, and be used in a wider context of responsible land ownership. The board emphasised that the guidance should be framed in a way that makes clear the expectation to deliver community benefit, and that it applies to all, not just the ‘willing and interested’, albeit recognising this is good practice guidance, not presently a regulatory requirement.

The board also asked staff to work further on the drafting in order to make the document more user-friendly and concise. The following particular considerations for drafting were raised:

- Review whether case studies should be included and whether they are all appropriate. The board questioned whether all the case studies used set the bar high enough in terms of expectations;
- Include some guidance pointing to the use of mediation if negotiated approaches break down, the Commission could also consider supporting mediation as per the TFC experience;
- Suggest streamlining the document by sign posting to links rather than fully explaining in the guidance;
- Ensure the guidance is sufficiently clear in setting the expectations;
- Signal that cross compliance could be considered if necessary.

The board asked staff to work further on the document before it is ready for publication, agreeing that a final version should be signed off by the Chair.

Action 23090502	The board agreed that the Chair will sign off after amendments
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### 4. Strategic Risk Review

The board agreed the risk appetite statements presented, subject to amendment of the wording around research risk which should be revised to reflect a low risk appetite to poor quality research and a medium appetite to developing sufficiently ambitious research that will move forward the land reform programme.

The board reviewed and discussed the risk register, noting the following:

- Board succession risk will change as we approach new appointments and as they come into place, plans are in place to ensure an effective transition

- Discuss at ARC whether target risk scores remain appropriate, in context of overall risk appetite, and use ARC discussions to focus on where current and target risk scores remain apart.

Action 23090503	Discuss target risks at next ARC meeting
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## 5. Communications update

Nikki provided a verbal update noting that there has already been several applications submitted for the Communication and Engagement Manager post. She also provided an outline of upcoming communications:

- Strategic Plan and Programme of Work is with the designer and due to be published in September
- Land Focus briefing on Land Governance is due for publication September/October
- Guidance on social and economic community benefits from land due to be published early October
- James drafting a response to the Human Rights Bill consultation

The board asked for an update on conference plans. Nikki confirmed we plan to hold a smaller and in-person conference event in March, focused on specific areas of work in the new strategic plan. It is also an opportunity to introduce the new chair and Commissioners. The board asked staff to liaise closely with sponsor team on arrangements for the conference, noting the need for careful planning given the timing in relation to the Parliamentary process of the land reform bill.

## 6. Board recruitment and succession planning

Andrew provided an update and confirmed his appointment has been extended by 3 months to support an effective transition given the delay in the public appointments process. Megan and David's appointments will finish as planned in December 2023. The board noted consideration has been given to continuity of good governance and transition.

## 7. Feedback on meeting with Cabinet Secretary

Andrew provided an update following the meeting he and Hamish had with Ms Gougeon. He noted the Cabinet Secretary gave positive feedback on the value of the work of the Commission and indicated her support for the direction of the new strategic plan and programme of work. Hamish will liaise with sponsor team on timing for the next meeting of the full board with the Cabinet Secretary, taking into account the timing of new board appointments and the land reform bill.

## 8. Scottish Government update

Fiona Taylor provided an update from the Scottish Government including staffing and priorities within the sponsorship team and current work on the Register of Controlling Interests.

**Date of Next Meeting: 3<sup>rd</sup> October 2023**

**Scottish Land Commission  
September 2023**



SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

## Commissioners' Meeting 3<sup>rd</sup> October 2023

### Paper 2

#### Report from the Chair of the Audit and Risk Committee – Meeting held on Monday 18<sup>th</sup> September 2023

1. The Audit and Risk Committee (ARC) met on 18<sup>th</sup> September 2023 with full attendance from members, Deloitte (External Audit) and BDO (Internal Audit).
2. A Governance Update was provided by the CEO, highlighting that the Corporate Team had been very busy working with internal and external audit teams. An update on staffing and recruitment was also provided noting that there had been a number of gaps in the team, but that two new staff members were starting in October and two further positions were currently under recruitment.
3. External Audit Annual Audit Report:
  - a. Deloitte provided a summary of the conclusions of their Annual Audit 2022-23. They have provided an unmodified audit report, with no material errors identified to date, no uncorrected misstatements and no recommendations for further action. The final version of the report is undergoing editorial amendments and Deloitte are on track to have this ready for approval by the Board on 3<sup>rd</sup> October 2023.
  - b. Deloitte noted that it was unusual for a first-year audit to be so good and commended Hamish, Nikki, Claire and the rest of the staff for their hard work and responsiveness.
  - c. Committee members noted with concern the re-opening of discussions with Audit Scotland over the fee for external audit and recommended Hamish continue to pursue this.
  - d. Staff and committee members reflected on the Commission's experience of working with Deloitte in this first year and noted some lessons learnt for next year.
4. 2022/23 Annual Report and Accounts:
  - a. The Head of Communications and Corporate Services presented the Annual Report and Accounts.
  - b. **Following detailed consideration of the Annual Report and Accounts by the Committee, it is recommended that the Scottish Land Commission formally approve and adopt the accounts for the year ending 31 March 2023 at its meeting on 3<sup>rd</sup> October 2023.**
- Internal Audit:
  - BDO presented a verbal report of the conclusions of their recently completed audit (Review of Financial Processes) noting an overall satisfactory conclusion and that the full report will be presented to the Committee at the next meeting.
  - Confirmation was also given by BDO that progress was well underway for the rest of the 2023/24 internal audit plan and that remaining stages were on track.

5. Risk Management
  - a. Risk Appetite Statements
    - i. The Committee welcomed the agreement of the Risk Appetite Statements by the Board and discussed their use in supporting scrutiny of the Risk Register and Risk Interrogations
    - ii. The Committee discussed progress towards achieving the risk target scores and agreed that the standing agenda item on Risk Interrogation enabled ARC to scrutinise and review the target scores for each risk, as well as identifying potential up-coming risk factors and how they could be mitigated.
  - b. Risk Register
    - i. The Committee noted that Risk 3 *“Changes in Board appointments or failure to recruit timeously result in disruption to effective governance or lack of clarity in strategic direction”* was increasing.
    - ii. The Committee noted that although Risk 6 *“Effective management of strong relationships with key stakeholders in policy development and also identify opportunities for collaboration, maximising the potential of relationships with a broad range of stakeholders”* was currently decreasing, it may increase once the Land Reform Bill is laid before Parliament.
6. Budget Monitoring 2023/24 – Committee members reviewed and discussed the year-to-date budget for 2023-3 24, noting overall good progress and the ongoing uncertainty in staffing costs.
7. AOB
  - a. The Chair gave an update that this was her last meeting as Chair of ARC and that the Board are expected to discuss and approve Lorne MacLeod taking over as Chair as of the 3<sup>rd</sup> October 2023.

**Megan MacInnes, Chair, ARC, 18<sup>th</sup> September 2023**



SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

**Commissioners' Meeting 3<sup>rd</sup> October 2023  
An Lochran, Inverness**

**PAPER 3**

**2022/23 Annual Report and Accounts**

<b>Purpose:</b>	To approve the Commission's annual report and accounts for 2022/23
<b>Business Plan context:</b>	N/A
<b>Previous board papers:</b>	N/A
<b>Action required:</b>	For approval

The Audit and Risk Committee met on 18<sup>th</sup> September to consider the annual audit report and the annual report and accounts for the financial year 2022/23. The Committee has recommended to the board approval of the annual report and accounts.

In doing so Commissioners are asked to consider the annual audit report and opinion provided by our external auditors, Deloitte, in particular the key messages set out in section 1.

The accompanying papers include:

- Annex A: External Auditors Annual Audit Report
- Annex B: Draft SLC Annual Report and Accounts

If approved by the board, the annual report will be signed on behalf of the Commission and our external auditor, before being submitted to Parliament ahead of our required deadline in December.

***Hamish Trench***  
***Chief Executive***



SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

## Commissioners' Meeting 3<sup>rd</sup> October 2023 Inverness

### PAPER 4

#### Review of Progress with Vacant & Derelict Land Recommendations

<b>Purpose:</b>	To agree the scope of the progress review of recommendations from the Vacant & Derelict Task Force.
<b>Business Plan context:</b>	5. Advising on policy and practice to support land development and regeneration: Review progress to support momentum in tackling vacant and derelict land
<b>Previous board papers:</b>	June 2020
<b>Action required:</b>	For decision

#### 1. Introduction and Background

Our Business Plan for this financial year sets out the intention to undertake a stock-take review of progress on delivering the recommendations of the cross sector Vacant and Derelict Land Taskforce

It is now 3 years since a comprehensive series of recommendations were [published](#), with the aim of transforming Scotland's approach and significantly reducing the long standing legacy of vacant and derelict land.

While the delivery of the recommendations is largely for other organisations, the Commission can continue to bring a valuable leadership, convening and research role to support and maintain the strengthened focus we have seen in tackling Scotland's vacant and derelict sites.

#### 2. Policy Context

The work of the Taskforce helped secure stronger policy support for the re-use of vacant and derelict land. Since 2020:

#### ***National Planning Framework 4***



The Scottish Government has adopted a new [National Planning Framework 4](#) (NPF4), which sets out a framework for the delivery of development and infrastructure until 2045. NPF4 has two clear overriding objectives – to deliver net zero and to support biodiversity net gain. For urban development, this will require a change to our approach to the way we create new places with a focus on land re-use and the creation of higher density 20-minute neighbourhoods.

The Scottish Government has published a [NPF4 Delivery Programme](#), which it will review and update annually. It has also set up a [Planning Infrastructure and Place Advisory Group](#), in which the Commission's Chief Executive is a member.

### ***Reform of Compulsory Purchase Orders (CPOs) and Introduction of Compulsory Sales Orders (CSOs)***

The Scottish Government has committed to review and reform CPO legislation in the [Programme for Government](#), and to consider the proposal for Compulsory Sales Orders. CPOs and CSOs have the potential to enable re-use of vacant and derelict land and buildings.

### **3. Rationale for Review**

The policy landscape has developed significantly since the Task Force recommendations were published, strengthening the focus on re-use of vacant and derelict land and buildings. Reviewing progress of the recommendations will help maintain a focus and momentum on transforming vacant and derelict land, supporting delivery of NPF4.

The review provides an opportunity to:

- Highlight and celebrate progress;
- Highlight areas where more focus is still needed;
- Analyse the impact to date on the ambition to tackle the longstanding persistent and problematic sites.

### **4. Proposed Purpose and Scope**

The proposed purpose of the review is to assess whether there has been a positive change in the re-use of vacant and derelict land sites since the taskforce recommendations and to maintain a focus on where action continues to be needed.

It is proposed that the review will seek to:

- Identify changes that have been implemented and highlight successes;
- Identify recommendations not implemented and whether action is in hand;
- Understand the trends in types of site being re-used and whether this has changed since the 2019 position;
- Assess whether the last 3 years have seen an impact on the persistent and problematic sites identified by the taskforce as a long-term challenge.

### **5. Proposed Approach**

#### ***Stakeholder engagement***

Staff will lead engagement with key partners to undertake a desk-top analysis of progress against the taskforce recommendations, the impact of these changes, barriers and opportunities. Initial discussions have been held on the scope of the review and these indicate support for the value a review at this point can bring.

### ***Research and data update***

We intend to commission a research contract to provide up to date analysis that can be compared with the 2019 baseline analysis we commissioned from Ryden to support the Taskforce. This will include analysis of sites previously identified as typical to determine trends in site re-use, the rate of re-use and whether current work is impacting on the ambition to tackle long term legacy of 'stuck sites'.

The research will provide valuable evidence for the impact of the changes to date and to further inform policy and practice in the context of NPF4.

### **6. Proposed Outputs:**

- Report of progress with implementation of the Task Force recommendations;
- Commissioned research on the data and trends of land re-use that highlights the impact of the recommendations and informs future policy on land re-use.
- Case Studies to illustrate the positive impact of recommendations on land re-use and support further implementation.

The work will be undertaken during Quarters 3 and 4 of 2023/24 with the intention of publishing a final review report in spring 2024.

**Recommendation: Commissioners are asked to agree the approach and scope of the Review.**

**David Stewart**

**September 2023**



SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

**Commissioners Meeting  
3<sup>rd</sup> October 2023**

**PAPER 5**

**Land Governance Workstream**

<b>Purpose:</b>	To update Commissioners on the land governance workstream.
<b>Business Plan context:</b>	Advising on reforms to law, policy, and practice: More diverse land governance
<b>Previous board papers:</b>	6 <sup>th</sup> June 2023 – Paper 3: Diverse Ownership & Governance
<b>Action required:</b>	For Discussion

**Context**

This paper provides an update to the paper of 6<sup>th</sup> June noted above, focusing on the delivery of outputs from the Governance workstream.

**Briefing Paper – Land Focus: Land Governance**

This ‘Land Focus’ briefing paper draws together our work to date on governance and our direction of travel. The paper is complete and due to be published in the coming days. A copy can be found in Annex A.

**Dark Matter Labs Collaboration**

The Commission’s collaboration with Dark Matter Labs (DML) has been progressing well over the summer, and the outputs outlined in June are on track to be delivered.

The first of these is the Landlines discussion paper, which introduces our collaboration, and sets out five provocations to stimulate thinking around governance. As with all Landlines papers the purpose of this paper is to prompt discussion, challenge thinking, and open up new opportunities to further land reform in Scotland. The paper is due to be published in the coming weeks, and a verbal update will be provided during the board meeting.

Following the publication of the Landlines paper, we will be holding an event at the end of November to test the rationale for governance reform as well as the individual provocations with

relevant stakeholders. We intend for this event to lead to new collaborations and the development of practical outputs, such as pilots, where possible.

### **Advice and Guidance**

The Good Practice Team continue to lead work supporting Land Governance improvements within existing frameworks. Recognising the need for Practice and Policy to develop closely together in a challenging and rapidly evolving area, we will be taking forward guidance on specific opportunities to support more diverse governance models.

There are two distinct focuses for guidance, firstly guidance on disposals of land to support diversifying the pattern of ownership, which will include a practical model policy and templates for landowners to use. The second set of guidance will focus on supporting hybrid governance models – community partnerships, joint ventures, shared decision making, etc – across existing landholdings, highlighting the opportunities that new Natural Capital investment presents, but applicable in all scenarios. We anticipate these outputs being ready in Quarter 4.

Existing partnerships established by the Commission, such as the Crown Estate Scotland Land Accelerator, may also be good platforms from which to explore innovative governance approaches.

### **Common Good Reform**

Work will begin shortly to develop proposals for modernised Common Good governance. This will also provide a refresher of our previous work in this area, with an initial discussion paper to be published in the New Year.

This will be followed up with establishment of an expert working group in the spring, who will work through the detail to reach robust practical proposals for reform. This working group will follow a similar timeline and process to previous working groups established by the Commission, with outputs published along the way.

Final advice to Ministers on Common Good reform is anticipated for autumn 2024.

### **Conference**

The Scottish Land Commission Conference taking place in spring 2024 will have a governance focus. Work is underway to develop the programme, ensuring we make the best use of the conference and maximise the opportunities available presented by hosting in person.

### **Resourcing and future research**

The Commission has successfully recruited a Land Governance Advisor to support this workstream.

It seems likely further supporting research will be necessary and useful as Scotland is not unique in facing the challenges of climate driven land use change, the role of private investment, or questions of public interest and benefits. Although scoping is yet to begin in earnest, there appears to be value in commissioning research exploring how other jurisdictions tackle these issues, and what lessons we can learn. Pending the outcome of internal scoping work, research will be taken forward as budget is available.

### **Recommendation**

Commissioners are asked to discuss the progress and planned outputs for the Land Governance workstream in the context of delivering against our new strategic plan, bearing in mind:

- The opportunity for long term thought leadership; and
- The opportunities for shorter-term implementation in practice.

***James MacKessack-Leitch, Policy & Practice Lead***



SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

**Commissioners Meeting  
3<sup>rd</sup> October 2023**

**PAPER 6**

**Rural Land Market Data Report 2023**

<b>Purpose:</b>	To note the findings of the Rural Land Market Data Report 2023 and future market reporting strategy
<b>Business Plan context:</b>	Reforming Land Markets - Ongoing engagement and monitoring of land market implications
<b>Previous board papers:</b>	07/03/23 – Paper 4: Land Market Insights Report 2023
<b>Action required:</b>	For Information

**Rural Land Market Data Report 2023**

Following our approach to rural land market reporting adopted last year, the Commission published the Rural Land Market Insights Report 2023 in May this year and committed to publishing a supporting Data Report subsequently. That Data Report is almost complete, and on schedule to be published in the coming weeks.

A final draft of the Report is attached to this paper as Annex A.

The Data Report provides quantitative backing to the key findings of the Insights Report, and in combination these two reports provide one of the most detailed analyses of the Scottish rural land market available.

Additionally, the report combines market data for the calendar years 2020 and 2021, with 2022 to provide an updated and comparable dataset to better identify patterns.

The report acknowledges the various challenges and caveats around the data available, particularly highlighting issues with estates data given the small number of transactions, opacity around some of the details, and uncertainty of definitions within the data. The methodology used is also new, varying significantly from the methodology used last year, however, the strong match with the findings of the Insights Report demonstrates that despite these uncertainties the approach is robust.

Commissioners may wish to take particular note of Table 5 in Section 3 of the Report which breaks down the number of transactions per year by area, banded at levels relevant to discussions on the Land Reform Bill.

Although completed internally by Commission staff, this work benefited from support and advice from staff at SRUC, and particularly their help with the methodology which enabled a much more comprehensive analysis than initially thought possible.

### **Future Market Reporting Strategy**

As noted above, collaboration with SRUC, both in support for the Data Report as well as being the contractor for the Insights Report, has been vital to the Commission's Market Reporting this year and last.

SRUC are currently leading on land market research as part of the RESAS Strategic Research Programme, which makes use of the same data the Commission is interested in, and their work strongly complements the Commission's work in this area.

Given our existing close working relationship and complementary interests, Commission staff have been negotiating a collaboration with SRUC and RESAS to better integrate our work.

These negotiations are nearing a positive conclusion, which will guarantee Insights and Data Land Market reporting for the coming three years (2024, 2025, and 2026), significantly reducing data and contracting expenditure for the Commission. This approach will also allow more access for staff to ongoing relevant research, the Commission to benefit from additional opportunities to collaborate, and collectively ensuring greater value for public resources.

### **Action**

Commissioners are asked to note the Data Report and approach to future market reporting.

***Hanna Wheatley, Researcher & Data Analyst***

***James Mackessack-Leitch, Policy & Practice Lead***