



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

Minute of the meeting of the Scottish Land Commissioners held on Tuesday 1st October 2024 at An Lochran, Inverness

Commissioners Present: Michael Russell (Chair) Deb Roberts, Craig Mackenzie, Lorne MacLeod, Sally Reynolds (Land Commissioners), Bob McIntosh (Tenant Farming Commissioner)

In Attendance: Hamish Trench, Nikki Nagler, James MacKessack-Leitch, Kathie Pollard, Hanna Wheatley, Scarlett Macfarlane

Apologies: None

Declarations of interest: None

Minutes of previous meeting 3 September 2024

The minutes from the meeting held on 3 September 2024 were agreed as a true and accurate record with no matters arising.

1. Commissioners Updates

The Commissioners provided updates on their key activities and events since the last meeting. Michael also provided an update on progress in board member recruitment.

2. Report of Audit and Risk Committee meeting

Lorne gave an update following the Audit and Risk Committee meeting of 9th September noting that it had agreed to recommend approval of the annual report and accounts, had reviewed internal audit reports, the risk register and risk interrogation. He further noted that undertaking a resource review to inform business planning remains a standing item for the committee. He confirmed the committee held a closed meeting following the main meeting with the internal auditors, as a standard matter of good practice, and that no issues of concern were raised.

The board expressed continuing concern about the level of external audit fee which appears disproportionate to the nature of the organisation and audit requirements. Given the impact this has in context of tight spending restrictions, the board asked the Chief Executive to make contact again with Audit Scotland to seek a review of the fee level.

Action 24100101	CEO to contact Audit Scotland re external audit fee level
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3. 2023/24 Annual Report and Accounts

The board considered first the external auditors' annual report, noting the key messages and assurance provided.

The board approved the draft annual report and accounts subject to a minor amendment to correct two of the board member profiles which referred to roles they no longer hold.

Action 24100102	Nikki to amend Commissioner bio profiles; Chair and CEO to sign annual report and accounts
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4. Advice on Land Reform Bill

The board considered the proposed advice on the land reform bill. The board welcomed the draft advice aimed at strengthening and simplifying the bill.

Key issues discussed were:

- That the avoidance risk of using company structures should be addressed;
- The implications of using a lower threshold for Land Management Plans, including resourcing and the need for a proportionate template/burden on land owners. The board agreed to advise aligning the threshold at 1000Ha, recognising that implementation will need to take account of resourcing, potentially with a phased approach.
- That the framing of 'Land Management Plans' should make clear the difference between these and other existing operating plans; a different terminology may be appropriate and helpful.
- That the SLC is well-placed to host the proposed online portal for land management plans;
- That there needed to be a clearer reference to the opportunity to introduce a simplified initial registration step in the existing Part 2 Community Right to Buy provisions;
- That there needed to be an understanding that earlier stage land acquisition by Ministers could actually reduce costs in some cases due to shorter time frame (and avoidance of interest on any end stage Court of Session judgement) whilst also offering greater certainty for the public finances;

With these adjustments, the board endorsed the proposed advice on holdings in scope, prior notification, transfer test and lotting, and land management plans.

The Chair confirmed that he and the CEO will be meeting with the Cabinet Secretary on 10th October to discuss the land reform bill and that they will update the board following that discussion.

The board agreed that our advice should be finalised for publication and shared with the NZET committee in due course, in a format and with a timing to be agreed by the Chair.

Action 24100103	CEO to share interim advice with the Land Reform Bill team
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5. Advice on tax

The board considered the proposed key messages for refreshing our advice on land reform and taxation. Commissioners queried whether there is a strong enough case made for the inclusion of all land on the valuation roll. It was agreed that this remains an important step without which any land-based system of taxation would be difficult.

It was also agreed that our advice should emphasise the need for government to develop a clear route-map for improving the way land is taxed, so developing more clarity with regard to the end point and benefits for the country.

Commissioners sought more clarity on the LBTT surcharge proposal, noting it would be helpful to make clear that it is intended to apply only to large scale land transactions, rather than all high value transactions.

Commissioners agreed that consideration of the government's commitment to explore a carbon land tax should include clarity of purpose and whether other interventions or mechanisms may also be able to achieve the same objective.

Commissioners agreed that our advice should continue to recommend reforms to capital taxation, albeit these are reserved, not least because this issue should be drawn to the attention of the new UK government.

Commissioners also noted caution was required when using the phrase 'active farming' in the advice, agreeing that the focus of our advice in relation to tax and agriculture would be best focused on supporting tenure models, including tenant farming.

The board agreed the overall approach and key messages, subject to improving clarity as indicated above.

Commissioners noted that refreshed advice will be provided to Scottish Government in the next month, in advance of their tax strategy, and that we expect follow-up work over the coming six months.

Action 24100104	Kathie to provide refreshed advice in line with agreed key messages to Scottish Government ahead of tax strategy
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6. Rural land market data report

Hanna introduced the rural land market report, pending publication, which reports on transactions during 2023. The board welcomed the further development of trend information that the report provides and the relevance of the data to the land reform bill and wider policy work.

The board discussed the data challenges identified in the report, noting the constraints associated with the legal framework within which Registers of Scotland operate.

Commissioners identified the potential for the Commission to undertake further work to advise on reforms to land data and information, something to be considered in future work planning.

Commissioners sought more information on the trend of recording 'implementation of missives' in place of the financial consideration, which has the effect of reducing transparency and making it difficult to know the sale price. The board asked staff to continue to engage with Registers of Scotland on ways to provide more transparency on this, including options to identify in future reports any transactions using this approach.

7. Communications update

Scarlett provided an update on planned communications through Quarter 3 including:

- The Land Links webinar series
- Publication of the report on international experience in natural resource governance
- Publication of the rural land market data report
- Publication of TFC Review of Agents progress report
- Blogs including TFC and the natural capital market framework
- Forthcoming events

8. AOB

No other business was raised.

Next meeting 5th November 2024
09.30 – Online by Microsoft Teams