SUBMISSION BY HIGHLANDS AND ISLANDS ENTERPRISE

Highlands and Islands Enterprise (HIE) is grateful for the opportunity to submit its views to the Scotland Bill Committee on the subject of the role of the Crown Estate Commissioners and the future management of the Crown Estate in Scotland.

Background

Highlands and Islands Enterprise is the economic and community development agency for an area covering more than half of Scotland’s land mass, stretching from Shetland in the north to the southern tip of Argyll, and includes almost 100 inhabited islands. Our purpose is to generate sustainable economic growth in every part of the Highlands and Islands.

Introduction

The role and position of the Crown Estate, and the Crown Estate Commission (CEC) has long been a major topic of debate in the Highlands and Islands. Issues surrounding the growth of aquaculture, marine tourism, the development of ports and harbours and growth of marine renewables, led HIE to collaborate with the six Highlands and Islands local authorities to form the Crown Estate Review Working Group (CERWG) and to produce a report on ‘The Crown Estate in Scotland’ (2007).

This report provided a comprehensive account of the Crown Estate in Scotland, the operations of the CEC, and their impact in the Highlands and Islands. The report was endorsed by the HIE board and partner councils, and submitted to the Secretary of State for Scotland and Scottish Ministers in 2007, calling on them to:

“Implement an appropriately constituted review to ensure that the Crown, property, rights and interests that make up the Crown Estate in Scotland contribute more fully to the delivery of Scottish Executive policies and the well-being of the people of Scotland.”

Since 2007, and the publication of the CERWG report agreement, HIE has taken the position of supporting the full devolution of the activities of the CEC in Scotland to the Scottish Government. In particular, HIE supports the Scottish Government position of devolution of Crown Estate interests in Scotland as a two stage process with, firstly, devolution from Westminster to Holyrood and then, secondly, further devolution downwards from Holyrood to local interests, with this latter stage based on full consultations during the period leading to the enactment of devolution from Westminster.

Our position is set out in more detail in our recent submission to the UK Scottish Affairs Committee which is also looking at the role of the Crown Estate Commissioners (Appendix 1).

Rationale

HIE sees that the rationale for devolving management of the Crown Estate is as follows:
1. the current financial situation results in a net leakage of funds from the Scottish "properties" both in terms of capital and revenue (estimated at £10m in each case i.e. an average annual loss to Scotland of £20m)

2. the current arrangements lack sufficient transparency with respect to the property portfolio in Scotland and there is little accountability of what is a public asset, to the people of Scotland

3. the potential to combine both the licensing and leasing of the marine interest into one existing body (Marine Scotland), has the potential to simplify the application process, providing "one door" to developers. Additionally, putting the two functions into one office would simplify financial arrangements saving the current cost of regulation by using the lease income to pay for this aspect of management

4. the philosophy of investment in the marine estate if run through SG would have wider objectives rather than the largely commercial approach taken by the CEC

5. there is the potential of immediate benefits to lifeline services, particularly in the Highlands and Islands, with the removal of historical and arbitrarily applied ground rents (sea bed leases) for our harbours and slipways. Some rationalisation of the Estate would result in a removal of the historic references to mussel and oysters, as well as making coastal salmon fishing available to communities of the locality.

HIE would, therefore, support:

1. the Scottish Government in its position regarding reform of how the Crown Estate in Scotland is managed; firstly, to devolve management to the SG of all CEC interests in Scotland; and secondly, to manage these interests within existing departments of the SG

2. revision of the distribution of profits to include the investments in the coastal community programme and to increase investment in Scotland's renewables programme

3. the involvement of coastal communities, harbour trusts, etc., in a move to further devolve both the management of Crown Estate properties and the re-investment of the profits

4. the notion that "land based" revenue of the Estate, most of which originates in the Highlands and Islands, be reinvested in "land based" activity, including, for example, the establishment of a Community Land Fund.

Coastal Communities Fund

On 22 July 2011, the UK Government announced the formation of a Coastal Communities Fund to be financed by the Treasury from the CEC’s revenue from its marine activities each year. For each country of the UK, the funds available will be
directly linked to the revenues raised by the Crown Estate’s marine activities from that area, with separate funding for England, Wales, Northern Ireland, the Highlands and Islands and the rest of Scotland. The Highlands and Islands will receive £1.9m in 2012/3.

The UK Government is suggesting that the fund will be dispersed through a grant scheme operated by the BIG Lottery, and while details have still to be finalised, the fund will “welcome innovative bids from charities, businesses, social enterprises and local organisations, which support the economic development of the community.”

Given HIE’s specific and unique remit in both economic and social development in the Highlands and Islands, allied with our extensive experience in delivering support direct to the most remote and fragile communities, we see no need for the additional overhead of a new grant scheme for our region delivered by an external body for what is a relatively modest sum. To that end, we would suggest that HIE could have a role in delivering this fund, whilst ensuring the unique nature of the fund and its specific objectives are met.

In relation to other energy matters, as our understanding is that proposals around Scottish Parliament control over power company activities and CERT have focused on impacts on domestic consumers, HIE would offer no comments on these issues.

We hope that these comments are useful to the Committee and welcome the opportunity of giving oral evidence on September 20th.

Highlands and Islands Enterprise
9 September 2011
Appendix 1

Scottish Affairs Committee Inquiry into the Crown Estate in Scotland

Introduction

1. Highlands and Islands Enterprise (HIE) welcomes the opportunity to respond to the Scottish Affairs Committee Inquiry into the Crown Estate in Scotland. HIE is the economic and community development agency for an area covering more than half of Scotland’s land mass, stretching from Shetland in the north to the southern tip of Argyll, and includes almost 100 inhabited islands. Our purpose is to generate sustainable economic growth in every part of the Highlands and Islands.

Background

2. HIE’s response to this consultation is set in the context our Operating Plan 2011-2014 and the four priorities contained therein, as follows:-

- Supporting businesses and social enterprises to shape and realise their growth aspirations,
- Strengthening communities and fragile areas,
- Developing key sectors, particularly distinctive regional opportunities (including renewable energy),
- Creating the conditions for a competitive and low carbon region,

3. The Crown Estate Commissioners (CEC) role in Scotland impacts on all our priorities, and it is worth noting that the Highlands and Islands and HIE have a long history of working with and through the CEC. The region has half the entire length of Britain’s coastline, the vast bulk of aquaculture production and half the total number of ports and harbours in Britain, as well as the majority of the UK’s wave and tidal resource, and the best off-shore wind resource.

4. Of particular interest to HIE and in the context of this review, is the unprecedented opportunity presented by the renewable energy revolution in Scotland, and in particular the offshore renewable opportunity. The recent commitment to increase Scotland’s renewable electricity target to 100% of demand by 2020 has further heightened HIE’s efforts in this regard, recognising the potential for realising economic growth, community resilience and cohesion throughout the region. The enviable natural resources in terms of wave, wind and tidal, provides a distinct competitive advantage upon which HIE is keen to build and sustain vibrant economic growth.

Relationship with the Crown Estate Commissioners

5. Historically HIE has engaged with the CEC in Scotland in three specific areas; firstly as the provider of seabed leases for the aquaculture industry in the waters of the Highlands and Islands, secondly as a rural landowner, and thirdly in their role as administrator of the Scottish seabed in the context of off-shore marine
renewables. In our wider community development work we also interact with the CEC in foreshore use, small harbours, pontoons and marine leisure.

6. In aquaculture, HIE and its predecessor the HIDB, were key players in the early stage development of the industry. We worked closely with the CEC in all areas of aquaculture, but as both an economic and community development agency HIE has found the CEC’s primary focus on the maximisation of income from rents, their strong commercial focus, and limited reinvestment can mitigate against wider community benefit.

7. The CEC own a number of rural properties in Scotland, two in the HIE area. Bought on the open market in the 20th century by the CEC, HIE’s predecessor the HIDB worked closely with the CEC, through a staff secondment, in best practice agriculture, tourism and rural development projects based on CEC properties. In our experience the CEC’s land based properties are well managed.

8. In the area of renewables the CEC have facilitated significant opportunities in the offshore renewables market with the advent of Rounds 1, 2, 2.5 and 3, and Scottish Territorial Waters for offshore wind and in the Pentland Firth and Orkney Waters Commercial scale marine energy leasing round. Further, CEC have worked closely with Scottish Government to deliver leasing rounds to support the Saltire Prize. Combined, these leasing rounds have resulted in a potential offshore market in excess of 45GW for the UK – representing the worlds largest offshore market. In pursuit of the delivery of these leasing rounds CEC have sought to work with relevant regional development agencies and in the case of Scottish leasing programmes, has worked closely with the Scottish Government, Highlands and Islands Enterprise, and our sister agency in the South of Scotland, Scottish Enterprise.

9. In respect of the Pentland Firth and Orkney Waters leasing round, CEC are members of a Co-ordination Committee, chaired by HIE, and co-chair the Delivery Group along with Scottish Government. These groups work to identify barriers to development and to consider and develop solutions. CEC have, in our opinion, been effective in developing highly professional teams, securing competent individuals, and undertaking professional due diligence in their leasing programmes. However, their traditional “modus operandi”, particularly when dealing with commercial interests, and internal processes which can lack transparency have on occasion affected quality partnership working.

The role of the Crown Estate Commissioners

10. The most prominent issues relating to the CEC in Scotland, and within the Highlands and Islands, are with the CEC’s approach to managing Scotland’s seabed and foreshore, and their primary focus on maximising revenue from offshore developments with limited re-investment in Scotland. That there is particular potential for the management of the seabed and foreshore to contribute far greater benefits to the region’s communities is indisputable, and in 2006, HIE was a member of the the Crown Estate working Group (CEWG), along with COSLA and the six local authorities that cover the Highlands and Islands, that strongly recommended that :-
11. The Secretary of state for Scotland and Scottish Ministers should, given the changed circumstances of devolution, implement an appropriately constituted review to ensure that the property, rights and interests which make up the Crown Estate in Scotland contribute more fully to the delivery of the Scottish Governments policies and the well being of the people of Scotland. (Ref – CERWG final report Dec 2006)

12. As part of HIE’s activities to growing the economy and communities of the Highlands and Islands, HIE has been at the forefront of utilising an asset-based community development approach. This has involved assisting in the acquisition and development of income-generating assets such as land and property, and in designing and implementing the Land Reform Act. However, the legislative and administrative framework overseeing the area’s significant marine-based assets has remained largely unchanged in a devolved Scotland, and is increasingly appearing anomalous.

- Do the CEC serve a useful purpose in Scotland?

13. The CEC administer Crown property rights in Scotland, a range of rights which the Scottish Parliament has legislative authority over. In both administrating these rights, and undertaking activities aimed at maximising the commercial return of these rights, there appears to be a conflict of interest for the CEC.

- What is/should be the role of the CEC in investing in Scotland?

14. Investment in Scotland is welcome, but it is clear that there is a conflict between the administration of Crown rights and investments in the assets that comprise those rights. Furthermore it is difficult to see any logical reason why the CEC would invest further in rural estates in Scotland, unless it is on purely commercial ground, and increase returns to the treasury.

- What is the legacy of the CEC in Scotland?

15. In its role as the historical controller of the sea bed, the CEC has made a useful contribution to the development of key industries in the waters around the Highlands and Islands. However its focus on asset maximisation has meant that the potential for wider community benefit, and full public accountability have not been met.

- Are the current management, administration and accountability arrangements of the CEC appropriate?

16. All other public land in Scotland is administered by public bodies that are directly accountable to the Scottish Parliament. For the best governance of the Scottish public estate all Crown rights should be brought under the full control of the Scottish Parliament. The model of the Forestry Commission in Scotland, operating as part of the Scottish Government and delivering Scottish Government objectives is worthy of note.
• How could the CEC best act in the public interest in Scotland?

17. HIE remains of the view that a modification of the relationship between the Scottish Parliament and the CEC, the only public body to benefit directly at present from off-shore renewable energy developments, is now necessary. This would make it more accountable to the devolved Scottish Government for the management of its Scottish Estate. It would then be for the Scottish Government, working with local authorities and local communities to design mechanisms to ensure that the revenues raised from the developments in Scottish waters are re-invested for community and business benefit in Scotland. The current progress of the Scotland Bill through Westminster may provide an opportunity for this legislative change. However, in recognising that legislative change would be required, HIE would stress that the process needs to be swift and transition seamless, so not to halt or delay further leasing rounds or adversely affect industry confidence.

18. In conclusion, we firmly believe that the exploitation of the off-shore energy resource around our coastlines, in particular, offers an unprecedented opportunity for communities across the Highlands and Islands, including many in the more remote and fragile areas of our region, to share in the benefits of this green energy revolution. From a HIE viewpoint, we consider that the most tangible benefits of these developments for our region will be realised by the creation of sustainable well-paid employment in the research, design, manufacturing, operation and maintenance supply chains required to service offshore wind wave and tidal developments, creating an industry sector which will be embedded within the Highlands and Islands for generations to come.

19. Yet in order to achieve this, decisions need to be made in local areas regarding large scale infrastructure investments with resulting impacts on communities. Local accountability and a locally orientated consultative process is critical, yet the Crown Estate as currently constituted does not have a legitimate role in this regard, whilst the Scottish Government, their agency Marine Scotland and Local Authorities around the Highlands and Islands do.

20. HIE was worked well with the CEC in taking this fledgling industry to its current stage, however, in order to fully realise this opportunity, strategic control of Scottish seabed resources most appropriately fits with the Scottish Government.

21. As ever, we would be happy to discuss any aspect of our above response in more detail with your officials.

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