



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SCOTLAND BILL COMMITTEE

Tuesday 20 September 2011

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SCOTLAND BILL COMMITTEE
5th Meeting 2011, Session 4

CONVENER

*Linda Fabiani (East Kilbride) (SNP)

DEPUTY CONVENER

*James Kelly (Rutherglen) (Lab)

COMMITTEE MEMBERS

Richard Baker (North East Scotland) (Lab)

*Nigel Don (Angus North and Mearns) (SNP)

*Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)

*Alison Johnstone (Lothian) (Green)

*John Mason (Glasgow Shettleston) (SNP)

*Stewart Maxwell (West Scotland) (SNP)

*Joan McAlpine (South Scotland) (SNP)

*David McLetchie (Lothian) (Con)

Willie Rennie (Mid Scotland and Fife) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Calum Davidson (Highlands and Islands Enterprise)

Councillor Michael Foxley (Highland Council)

Rob Hastings (Crown Estate Commissioners)

Alan Laidlaw (Crown Estate Commissioners)

Lorne MacLeod (Community Land Scotland)

Linda Rosborough (Marine Scotland)

David Whitehead (British Ports Association)

Andy Wightman

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

Committee Room 4

Scottish Parliament

Scotland Bill Committee

Tuesday 20 September 2011

[The Convener *opened the meeting at 14:34*]

Scotland Bill

The Convener (Linda Fabiani): Good afternoon and welcome to the fifth meeting of the new Scotland Bill Committee. I remind all those present, including members, that mobile phones and BlackBerrys should be turned off completely. We have received apologies from Willie Rennie and Richard Baker.

Our first panel of witnesses is from the Crown Estate. I welcome to the meeting Rob Hastings and Alan Laidlaw and inform members that the chief executive was unable to attend because of a prearranged diary commitment. I invite Mr Hastings and Mr Laidlaw to make some short opening remarks.

Rob Hastings (Crown Estate Commissioners): Thank you very much for the opportunity to appear before the committee. I am an executive director of the Crown Estate and manage the marine estate, and my colleague Alan Laidlaw is head of new business development for the rural estate and heads up our rural interests in Scotland.

As people know, the Crown Estate has a commercial mandate that we pursue in a way that reflects our values of integrity and stewardship. Our interests are very much aligned with those of the Scottish Government, Scottish councils, local communities and other stakeholders in supporting sustainable economic growth. However, we are not complacent and, in so far as we are able, we will be happy to answer questions about how we work in Scotland to inform your consideration of the Scotland Bill.

The Convener: Thank you for your brevity.

I will move straight to questions because the committee has quite a lot to get through. Mr McLetchie has indicated that he would like to open the questioning.

David McLetchie (Lothian) (Con): Good afternoon, gentlemen. I will ask a series of questions about relationships between the Scotland Office and the Crown Estate and will then explore relations with the Scottish Government and councils.

With regard to the role of the Secretary of State for Scotland, the Crown Estate Act 1961 and so

on, do the commissioners regularly discuss with the Scotland Office their future plans and budgets for their operations and specifically report to that office on their activities here as well as reporting and being accountable to the Treasury?

Rob Hastings: Perhaps I should start by explaining how the board of commissioners operates in the Crown Estate. As you know, we are not a part of Government, but an arm's-length organisation, and the setting out of business plans and the like is the province of the board of commissioners and the executives. Of course, we consult what you might call our host department, the Treasury, and invite it to discuss our business plans biannually. We also meet the Scotland Office when required to explain what we are doing in Scotland.

We try to engage with the Scottish Government and Parliament in similar ways. For example, we have asked Scottish Parliament committees whether they wish us to give evidence on our activities and ambitions in Scotland and have invited the First Minister and the Scottish Government to regular formal meetings. We have also been negotiating with the Scottish Government on a memorandum of understanding and are working on another MOU with councils in the Highlands and Islands to help us to communicate more formally and clearly and to engage with stakeholder groups so that we understand their objectives and policies and can ensure that we reflect them in our own business plans and objectives.

David McLetchie: With regard to the stakeholders you have just mentioned, to what extent are your business plans, policies and activities reflective of your engagement with, and aligned with the policies of, first, Her Majesty's Government and the Scotland Office; secondly, the Scottish Government; and, thirdly, local councils?

Rob Hastings: We seek to align ourselves as best we can with the greater policy where we can. We work closely with all Governments—United Kingdom and Scottish—to understand what those policies are, so that we can set out our plans to align with them. It is in our interest to do so, of course, because a lot of our activities are reliant in some way, shape or form on the policy objectives of the Governments that we deal with.

David McLetchie: In your recent engagement with the various levels of government, in what areas have you found that your business plans are out of alignment with the plans and policies of the Scotland Office, the Scottish Government or councils?

Rob Hastings: We do not think that we are misaligned with the existing policies of any level of

government in terms of our business objectives, the results that we expect to achieve from pursuing our business objectives and how they mirror or align with virtually all the Government policies that have been set out.

David McLetchie: In the context of your relationship with the Scottish Government, are there any areas in which there is an expressed fundamental disagreement between what you are doing and what the Government would like you to do? Is there a difference in any sphere of activity or part of the country?

Rob Hastings: I cannot express a view on the constitutional or political objectives.

David McLetchie: No—I am asking where you disagree.

Rob Hastings: At an operational level, we have a close working relationship with the Scottish Government. I cite, for example, our recent engagement on energy policy. There is quite a lot of activity in the area of renewable energy, where the Scottish Government has key policy objectives. It is important that, as the manager of the sea bed, which is an important resource in the overall context of deploying renewable energy in Scotland, we work alongside the Scottish Government to deliver the ambitions and objectives that it has set out in its policies. We work closely with the Government and have a very constructive relationship with it. We share information where we can and we provide support with, for example, spatial planning and delivery of the programmes that the Scottish Government has set out to deliver. In that context, we work closely, and I am not sure that I know of any Government policy objectives in Scotland that we are not aligned with or endeavouring to make progress on.

Alan Laidlaw (Crown Estate Commissioners): I do not believe that it is in our interests for our business to be directly opposed to Government in any way. In the rural estate, we seek to adapt to policy as it comes up and to manage the assets accordingly. If we want to have a successful business, which is our defined commercial role, we would be foolish to swim in a different direction from the tide. Therefore, when policy comes up, we seek to adapt to it. The Agricultural Holdings (Scotland) Act 2003 was a prime example of that. New legislation became available for new forms of tenancies, and we were the first major landowner to convert tenancies into those and to tender them on the open market on that basis. There has been a lot of discussion in other parliamentary committees about the formation of that legislation, but we have to use the tools that are available to manage our estate and that is what we do. Like Rob Hastings, I do not believe that there are any major policy areas—whether at the Scottish Government level or at the

local level—in which we are heading in separate directions.

It could be said that people would like more discussion on our commercial remit. My tenants in the rural estate often say that we are a good landlord and that they like doing business with us, although their preference would be not to pay any rent. However, that would be the standard position for any commercial body.

14:45

David McLetchie: I understand that. To wrap up this series of questions—at least, for me—can you tell me what is the present status of the memoranda of understanding to which you referred, and what are they meant to add to the relationships?

Rob Hastings: There are two in progress right now: one with the Scottish Government and one with the councils in the Highlands and Islands. Both are designed to enable us to clarify and set out clear relationships and responsibility for those relationships. They are not necessarily about changing anything or introducing anything new. In terms of facilitating communication and ensuring that we can streamline our relationships and maintain that alignment as we go on, we thought it important to formalise the communication process. The approach also gives us the opportunity to see how well or badly the relationship is working—for example, through an annual stocktake. That is the idea behind the memoranda.

We have gone some way in discussing the shape and structure of the agreements. We had made fairly good progress with the councils in the Highlands and islands and were nearly ready to enter into that agreement, but it was put on hold for a bit while the Scottish Government considered the broader position. That was not a matter for us to be involved in because it was about the more constitutional issues. The Government needed to discover what else could be done at that level before it entered into an operational MOU with us. However, as it stands, the agreements are pretty much ready to be entered into and to become operational.

David McLetchie: Are they in a draft form that the committee can see?

Rob Hastings: I am sure that they are.

David McLetchie: How long have the negotiations been going on?

Rob Hastings: Over about 18 months, I think.

David McLetchie: But the agreements are both presently on hold.

Rob Hastings: That is right—they have been on hold for the past six months or so.

David McLetchie: Right. At whose instance are they on hold—yours, or that of the Scottish Government or the councils?

Rob Hastings: At this point in time, I suspect that it is the Scottish Government that would like to consider its position a bit more.

David McLetchie: Okay. Thank you very much.

Joan McAlpine (South Scotland) (SNP): You talked about your constructive relationship with the Scottish Government in relation to renewables and your input in that area. Can you clarify what that input is?

Rob Hastings: It is perhaps better to explain some of the detail in terms of the two primary renewable energy programmes that we have right now. One relates to wave and tidal technology, and the other relates to offshore wind technology.

The wave and tidal programme is largely centred on the north coast of Scotland around Caithness and Orkney. It is a relatively ambitious programme—the intention is to deploy in the region of 1.5GW of wave and tidal technology by 2020. In order to develop a programme of that scale, bearing it in mind that the investment required would certainly be close to £10 billion, it was clearly necessary to engage the commercial investor community, which is what we did. There was a kind of competitive procurement programme that explored market interest in developing the technology.

Of course, in order to undertake such activity a lot of regulatory functions must be performed as well—for example, a strategic environmental assessment must be done, and an appropriate assessment of the activity in the locations that we were looking at was also seen to be necessary. Those functions are normally the province of the regulator; in this case, the Scottish Government and, latterly, Marine Scotland undertook those functions.

In terms of our working relationship, it was clearly important that we aligned our commercial process of engaging potential investors with the regulatory process to see what was potentially possible, subject to all the normal planning requirements that would follow. We worked on spatial planning with them and on understanding what their timetables would be for various activities—for example, going out to competition, or—

Joan McAlpine: I am sorry to interrupt—you have given a fulsome answer, and I thank you for that. However, I am slightly confused, because my question was about your financial input in developing renewables. You mentioned that Marine Scotland is the regulatory body. You have

a licensing system—you sell the leases—but what has your investment been?

Rob Hastings: We have allocated investment of just under £6 million to the wave and tidal programme in the Pentland Firth, to enable the development to proceed as quickly as possible. We perceive that there is a risk in the programme that the market would not usually take on its own, so we are accelerating delivery and helping it to carry that risk.

There are two separate programmes in play in the offshore wind programme, but overall we will invest around £16 million in the next five years for a similar purpose, which is to enable the private sector to come into the programme by helping it to carry some of the risks that it would not normally take in an accelerated programme of that nature.

Joan McAlpine: It is interesting that you mention the figure of £16 million. When Roger Bright appeared before the Scottish Affairs Committee at Westminster, he quoted £16 million as the amount that you had invested over the past five years. However, Scotland gave back £71 million to the Treasury in capital receipts, so there is a very large net outflow. Are you saying that that will continue over the next five years?

Rob Hastings: The movement of capital in relation to our interests in Scotland in the previous five years equates to a net outflow from Scotland of £53 million or thereabouts. That is mostly down to one specific transaction: the sale around 18 months ago of Princes Exchange, which was valued at around £55 million. Over the five-year period, that single transaction has significantly changed the flow of capital. The Crown Estate acquired Princes Exchange around 11 years ago, and the capital to invest in it came from the Crown Estate's UK-wide portfolio.

That is the history, but in projecting our investments forward, it is important to understand that in order to pursue the opportunities that exist in Scotland, we need to mobilise capital. We perceive opportunities that are important for us and for Scotland in the energy sector in particular, so we are mobilising capital now—through divestment of assets to create cash—to invest in those new activities.

One must also bear it in mind that the Crown Estate is unable to borrow; effectively, we must raise the cash for any future investments by selling assets.

Joan McAlpine: But in terms of surveying—

The Convener: I ask you to hurry up please, Ms McAlpine, because you have moved off the subject.

Joan McAlpine: I will quickly move on, convener.

You mentioned the north coast and Orkney; I understand that you have put a moratorium on tidal development in the Pentland Firth.

Rob Hastings: No, we have not put a moratorium on that particular type of development.

The wave and tidal energy programme in the Pentland Firth is the most ambitious in the world right now; it is gaining a significant amount of attention and interest, and there is huge commitment from investors and developers.

The programme is intended to deliver in the region of 1.5GW by 2020, through a competitive process to extract from commercial interests the best possible opportunities for investment in the sector. That competition has only just been completed. For us now to get involved in another programme in the same space—where we have just committed certain areas to developers for development—would not be appropriate. However, we are not preventing anybody from coming to us and suggesting that they would like to carry out some development activity in the Pentland Firth. We are absolutely open to receive any such suggestions or inquiries, but we are not actively pursuing another programme to go alongside the one that we already have, for the simple reason that we would saturate the market's capacity to support that type of investment.

Joan McAlpine: Does the Scottish Government agree with you on that?

Rob Hastings: I believe so, yes. At the operational level, we have worked closely with the Scottish Government. At the outset, it was somewhat concerned about the scale of the programme that we had embarked on, but we are both now entirely focused on delivering the programme's potential.

The Convener: I know that Ms Johnstone had a question on an issue that arose during Mr McLetchie's questioning.

Alison Johnstone (Lothian) (Green): I want to touch on the building of relationships. The Scotland Bill would put on a statutory basis the appointment of a Scottish commissioner of the Crown estate. There has been a traditional arrangement, but the bill would make the arrangement more formal. I would be interested in hearing about the previous involvement, and the intended future involvement, of the Secretary of State for Scotland in any such appointment. Will putting the appointment on a statutory basis make any practical difference to the day-to-day management of the Crown estate in Scotland?

Last week, we heard evidence relating to Fort Kinnaird in Edinburgh, where the Crown Estate appears to have taken on debts, and there was little suggestion that the Secretary of State for

Scotland knew what was happening. Will the statutory role make a real difference to transparency, governance and accessibility?

Rob Hastings: We think that the governance of the Crown estate is very transparent at present. The statutory appointment of a Scottish commissioner is probably a good thing; it will keep things nice and simple and relatively straightforward, and it will offer clarity. As for the impact on our normal operations or business dealings, it will of course provide some focus. I think that you are asking whether we are engaging appropriately with Governments—whether the Scottish Government or the UK Government. We have always worked hard on that engagement, in accordance with our requirements, which are set out in the Crown Estate Act 1961. When we think it appropriate to consult any particular part of Government in relation to any of our actions, we do that too, and we try to do it as transparently as possible.

Alan Laidlaw: It has always been the case that the Scottish commissioner as a board member has had a far greater involvement in decisions in the office in Bell's Brae. Our current Scottish commissioner, Gareth Baird, meets the senior leadership team regularly to review business process activity and to review progress against plans. He probably does that to a far greater level than other board members, because of the focus. As Rob Hastings has said, having the role confirmed properly will allow that to continue.

15:00

Alison Johnstone: That sounds like a step in the right direction, but when I read the Cuthberts' evidence last week I got the feeling that some important checks and balances are missing. I would like to hear a bit more about how the role might address that, but I do not want to take up any more of the committee's time on the subject. Perhaps we can come back to the issue.

The Convener: Do you want to comment, Mr Hastings?

Rob Hastings: Members should bear it in mind that we are fairly rigorously audited by a number of organisations. The appropriate business checks and balances are performed in accordance with our governance arrangements, as they stand. As far as I know and understand, there is nothing that I can point to that suggests that we have a problem with governance in that regard. If the Cuthberts have raised a specific issue that I can respond to, that is fine, but we are entirely satisfied with our governance arrangements, as is the UK Parliament, to which we account annually.

The Convener: Perhaps the clerk will supply you with the evidence that the Cuthberts, who are

economists, submitted to us. You might like to respond directly to their points. That might help to clarify the situation.

Rob Hastings: That would be fine.

Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): My question follows Mr McLetchie's and is fairly straightforward. You made it clear that your main line of accountability is to the UK Treasury, which you meet biannually to discuss business plans. You also made it clear that you have a great many operational discussions with the Scottish Government and local authorities on areas for which they are responsible, such as planning and development. What is not clear to me is the role of the Scotland Office. I understand that the Secretary of State for Scotland has a power of direction. Has that ever been used in the context of your activities? Where does the Scotland Office come in? What do you discuss with it?

Rob Hastings: A direction has never been applied to the Crown Estate. The Chancellor of the Exchequer and the Secretary of State for Scotland can apply direction to the Crown Estate under the 1961 act, but neither has done so in the act's history. That is entirely down to the fact that the powers of direction in the act would be invoked only if the Crown Estate was not delivering on its statutory duties. The primary statutory duty is to enhance the value of the estate, subject to good management—there are other duties, but that is the one that is most often mentioned. In the act's history, neither entity that could give a direction has sought to do so, because they have not at any time thought that we were not meeting our statutory duties. That is about our relationship with the two entities to which we are accountable in that regard.

Our engagement with Government is in two parts. First, we have an operational relationship with Government through the UK Treasury. Secondly, we have a statutory duty under the 1961 act to be accountable to Parliament and we submit our report to Parliament once a year. The operational relationship that we have with the Treasury is really about helping the Treasury to understand how we are performing in our business and ensuring that it is satisfied. We should bear it in mind that the revenue returns that the estate makes all go to the Treasury; it is a vested stakeholder and therefore it is natural that we should discuss with it what we want to achieve in our business performance. We do that annually and review the position biannually.

Adam Ingram: And the Scotland Office?

Rob Hastings: There is no direct operational relationship with the Scotland Office as there is with the Treasury. However, we consult the

Scotland Office from time to time, when we think that issues arising from our business may relate to its interests.

Adam Ingram: How would you describe the frequency of the meetings between you and the Scotland Office?

Rob Hastings: I cannot say much about that, as I simply do not know what happened in previous years. Over the past few years, however, those meetings have been quite frequent.

Adam Ingram: If you are not dealing with the Scotland Office operationally, what is the purpose of those meetings? Is it about exchanging information?

Rob Hastings: The purpose is generally to advise the Scotland Office about our activities in Scotland.

John Mason (Glasgow Shettleston) (SNP): While you were answering Mr McLetchie's questions, it struck me that quite a lot of time and effort is going into maintaining relationships, which is what this questioning is about. If you did not exist, there would be a big administrative saving because those relationships would not be needed. If all your responsibilities were divvied up among existing bodies, there would be a big saving—is that the case?

Rob Hastings: I am not sure that I can comment on that. That would require a decision by Government and politicians about how the functions that we perform could be performed differently.

John Mason: Thank you.

The Convener: That was quick. That is the kind of questioning that we like. Let us move on. James Kelly has some questions about finance and revenue.

James Kelly (Rutherglen) (Lab): In your annual report, you describe revenue under the heading "Revenue recognised in the income account". What does that mean?

Rob Hastings: In the financial reporting structure of the Crown Estate, we have a capital account and a revenue account. The revenue account is maintained almost separately from the capital account because the net revenue that we produce is all given to HMT. The capital account is kept separate, but there are some exchanges pretty much at the margins because, in certain cases, revenue can be allocated to the capital account and vice versa. However, those exchanges are at the margins and are more to do with accountancy practice and regulations.

James Kelly: That is simply a feature of the accounting; there is no other revenue that is not recognised in the income account.

Rob Hastings: No.

James Kelly: Right. You mentioned the transfer of moneys to HMT. What is the total surplus that is transferred to the UK Treasury from the Crown Estate UK-wide and what is the total that is transferred to the UK Treasury from the Crown Estate in Scotland?

Rob Hastings: We do not separate out the Scotland-generated income within our revenue accounts. In effect, there is one consolidated account that covers the whole of the UK, bearing in mind that we operate as a single portfolio. That amount is consolidated in a single line entry and is transferred to the Treasury. Last year, the net revenue was in the order of £230 million.

James Kelly: That is the total figure for the UK. Are you able to give us any figure or percentage of that that relates to Scotland?

Rob Hastings: The revenue that we generate from Scotland is measured at the gross level as opposed to the net level because there are general corporate costs that are charged across the whole UK portfolio. At the gross level, our activity in Scotland generated £9.9 million last year compared to the Crown Estate's total revenue, at the gross level, of £264 million. In percentage terms, 3.7 per cent of our gross income was generated in Scotland.

James Kelly: Given the percentages that you quoted, is it fair to say that Scotland has a Barnett benefit? Of the amounts that are transferred from the Crown Estate in the UK as a whole, you said that Scotland represents less than 4 per cent.

Rob Hastings: I am not sure whether I can comment on that, because I do not know the exact details of how the Barnett formula applies in this case. However, Scotland would intuitively be expected to achieve a slight gearing up through the Barnett formula—that is my general understanding.

Adam Ingram: That point was made by the Crown Estate Commissioners in evidence to another committee. If the status quo obtained, would you expect revenues from Scotland to increase significantly in the next few years? Would development of the marine renewables sector mean that the percentage rose?

Rob Hastings: The question is difficult to answer, but I will try. The difficulty is due to timing. Projections for the next 10 years show that activities in Scotland will be slightly out of sync with activities elsewhere in the UK. For example, revenue generation from renewable energy in the Crown Estate's UK portfolio is expected to rise quite rapidly all the way through to 2020. Initially, that increase will come mostly from offshore wind activities in England and Wales, because

development of those projects is more advanced. Beyond that point, increasing renewable energy activity is expected in Scottish waters, too. That will of course change the balance a little in the revenues that the UK portfolio receives from the relative parts.

Over the next decade to 2020, the income stream from marine-related activities will increase quite quickly. That will be the result more of activities in England and Wales than of activities in Scotland, but Scotland will catch up quite quickly beyond 2020.

Adam Ingram: It is a fact that Scotland has 40 per cent of the UK's resource for wave, tidal and offshore wind potential, so one would expect Scotland's percentage share of that income stream's value to rise significantly in the next 10 to 15 years.

Rob Hastings: That would be expected. The opportunity that is presented to Scotland is exciting, given the resource potential. Of course, exploiting those resources involves significant challenges, not least of which is the technology. Wave and tidal technology is immature and could take time to become a purely commercial enterprise. Some areas in Scotland that have been considered for offshore wind development are technically challenging.

Another challenge to deploying the resources is transmission of the electricity, which is always difficult. Moving the electricity from the point of generation—where the resource is—to the point of consumption will take a massive investment in infrastructure to achieve.

Stewart Maxwell (West Scotland) (SNP): In previous evidence, you said that you expected the income to Scotland to be in the range of £12 million to £49 million by 2020. Do you have more up-to-date figures than those that you provided to the previous committee?

15:15

Rob Hastings: I would like to say that I have but, unfortunately, I do not. That is an area of considerable uncertainty. The main uncertainty at present is to do with the economic support mechanisms that Government policies are expected to produce in the next six months. That is to do with the renewables obligation mechanism, which is under review, and which will take us through to 2017. The other contributory factor, which goes beyond 2017, is the electricity market review that is being undertaken, which is likely to give indicators to investors as to what the value of the electricity could be. That is all important in determining the level of investment that comes through eventually and therefore how much revenue we can generate from it.

Stewart Maxwell: That is interesting. Is it fair to say that your difficulty with updating the figures or providing a more accurate estimate for the future is caused by the uncertainty that arises from the various issues that you describe and that that uncertainty is caused by the actions, or inactions, by the UK Government?

Rob Hastings: I am not sure that that would be the conclusion we would come to.

Stewart Maxwell: Sorry, but I specifically asked what the issues were and you gave me two examples, in relation to both of which the powers are reserved to the UK Government.

Rob Hastings: There is a degree of devolved responsibility in the setting out of renewable energy policy support mechanisms. It is not entirely clear how much flexibility there is, but there certainly is some. For example, under the support mechanism for wave and tidal technology, wave technology in Scotland gets a multiplier of five on the renewables obligation certificates, which are the valuable certificates, whereas, in the rest of the UK, it is a multiplier of three. That decision was made by the Scottish Government. There is flexibility for the Governments in how they apply the incentives.

I gave those challenges as examples, but there are many other challenges to deploying investments. They include the consenting challenge and the transmission and infrastructure investment that is required. Ultimately, the issue partly depends on the power price by 2020, which is related to the cost of hydrocarbons. It is complicated.

Stewart Maxwell: Most of that seems to be reserved, but I will move on.

You mentioned in answer to Mr Kelly that you do not provide a separate figure for Scotland. Given the interest in the Crown Estate's activities, not just in the Parliament but among a range of people in Scotland, including councils, other bodies and individuals, why do you not provide a separate figure for Scotland?

Rob Hastings: We provide that figure in a report that comes out annually and which explicitly identifies the financial performance of Scotland within our portfolio. When I said that we do not provide a figure for Scotland, I was talking about the statutory reporting of our accounts to the UK Parliament. We do not identify Scotland as a specific item in that.

Stewart Maxwell: So you know exactly what the figure is and you provide it separately.

Rob Hastings: Yes.

Stewart Maxwell: It is just that you do not provide it in the accounts—that is what you meant.

Rob Hastings: The figure is not in the statutory accounts that we provide to Parliament, but it is in other reports that are produced alongside our statutory reports.

Stewart Maxwell: You have the exact figure on revenue. I am slightly confused, then, because a moment ago you said that you had given a gross figure and that you could not provide us with a net figure because many of the costs are allocated on a UK basis. I am paraphrasing, so correct me if I am wrong.

Rob Hastings: If we looked at our business on a profit-centre basis, that would give the information that you are looking for: the revenue generated and the costs associated with that revenue, and therefore the net revenue. However, in our reports we do not produce profit centre-based accounts of that nature. There is a pretty simple reason for that, which is that the way in which we are organised and structured as an enterprise means that we have corporate functions that provide support and service to all our activities throughout the UK. What we do not have, because we do not see the need for it, given that it would be an administrative burden, is a transfer costing system that would deploy the costs of the corporate support activities to where the costs were being incurred to generate the revenues. As a business, we do what we do in order to simplify or manage our costs.

Stewart Maxwell: I understand what you are saying, but surely a reason for doing such a thing would be that this Parliament and its committees, outside bodies, local councils and individuals keep on asking you for the figures. There is surely a bit of a democratic deficit. You say that you do not provide the corporate figures, but is the fact that the Parliament and all those other organisations ask you for them not a reason for providing them?

Rob Hastings: It could well be. The search for information of the nature that you talk about is always there and it is progressive. It would be fair to say that the level of detail that has been required has escalated substantially over the past few years. We have tried to extract the information from our business process that we can get to reasonably readily and without too much difficulty—without having to reconstruct our entire financial reporting and control system. However, if there is an additional need, we will certainly consider that where we can.

Stewart Maxwell: That is helpful. I have one final question. I have a copy of the annual revenue and capital value of the Crown Estate in Scotland. The table gives the figures, including the net revenue surplus, up to and including 2007-08. Why did you stop publishing the figures after 2007-08? You published nothing after that.

Rob Hastings: I am afraid that I cannot answer that question. Alan Laidlaw may know the answer.

Alan Laidlaw: No. I am afraid that I am unable to answer that question.

Stewart Maxwell: Who can answer the question?

Rob Hastings: I can take the question away and we can report back to the committee, if that is acceptable.

Stewart Maxwell: Do you think that it is odd that your organisation could publish the figures that I have been asking for—the table that I have gives the figures for 2004-05, 2005-06, 2006-07 and 2007-08—but has stopped doing so? I find it puzzling.

Rob Hastings: I am sure that you do. I would probably have to consult the financial director to understand why we have done what we have done. I am afraid that I cannot answer your question today.

Stewart Maxwell: Convener, it would be helpful if we could get a detailed answer in writing from Rob Hastings on that point.

The Convener: I trust that Rob Hastings will supply that along with the other information that we seek.

I will ask a couple of questions. Many years ago, I had to deal with the Crown Estate when I was involved in rural housing development and did not find it a particularly edifying experience. I had hoped that, when I read some of the evidence, I would discover that the experience was now different. From some of the comments that you have made today about your relationships with local authorities and different levels of government, it would seem on the surface that things have improved. However, the committee has had evidence from Highland Council that describes the Crown Estate as a complicating factor in marine energy. We also have evidence from Community Land Scotland that

“Crown Estate charges can inhibit development”

of remote and fragile areas. What is your reaction to such evidence?

Rob Hastings: Maybe I can take the first question, which is about the suggestion that we are complicating deployment of renewable energy. No evidence at all has been presented to us that says that we have frustrated any type of development of that nature. In fact, from our perspective, the opposite is true. We have worked very hard to, first, understand the potential and, secondly, understand where the policy drivers are coming from—from Government or local government.

We have set out to deliver these things and we are investing quite heavily to do that. I suspect that, if you were to ask our customers, our current tenants and some of our stakeholders about that performance, that would be a good measure. I frequently talk to senior members of those organisations—chief executives and the like—and we have a very constructive relationship. I would like to think that nothing that we have done has constrained them from doing any of the things that they would like to do, bearing in mind that they are the investors in all this and that that is where the wealth creation opportunity comes from.

I am sorry, but I cannot recall your second point.

The Convener: It was to do with Community Land Scotland's opinion that the Crown Estate's charges can inhibit development of remote and fragile areas.

Alan Laidlaw: I can add something on that. The evidence that was received from Community Land Scotland, particularly with regard to the rural interests, has been responded to—late, I know—by the Scottish land and estates group. When I joined the Crown Estate six and a half years ago, situations such as the one that you outlined from your personal experience were often referred to. However, I think that people have recognised that we are on a journey of improvement and are using comments of that nature to try and improve the situation.

We do not get everything right—we really do not—but I am proud of what we do. I believe that we deliver against a lot of objectives. When I speak to a lower level of representative than Rob Hastings and our tenants on the ground, I find that many of them are supportive of the activities that we undertake to encourage co-investment and partnership working across marine and rural communities. There are some good examples of those activities, such as the work that we are undertaking in Glenlivet. Those of you who are familiar with Tomintoul will know that it is under significant economic pressure, which is why we have invested £250,000 in a £750,000 mountain bike trail project that will encourage investment in tourism, so that Moray can be the outdoor capital of Scotland. That is a prime example of engagement with and investment in communities. With regard to the marine estate, we have been investing in extremely remote communities in order to assist marine tourism and have put in infrastructure for recreational boat users and people in west Highland yachting areas.

I would not agree with the people who say that we give very little back—that is not something that I would recognise. Through our annual reporting in the past few years, we have given a number of examples of situations in which we are giving back significant benefits to communities. Organisations

that represent those communities give us regular feedback on that.

People in Morayshire still talk about decisions that were made by the Crown Estate 30 or 40 years ago. My response to that is very clear: I have been here only six and a half years—

The Convener: I am not quite that old, thank you very much.

Alan Laidlaw: My sincere apologies.

My point is that we can be judged only by what we are currently doing. People talk about a journey of improvement, which is something that I am proud of, because I have been tasked with taking that forward.

The Convener: I think that we can explore some of that with the next panel.

I read the evidence that the Scrabster Harbour Trust sent to the Rural Affairs and Environment Committee. That seemed to suggest that things are not working as well as they should be. The case involved the issue of market value, which seemed to be unilaterally determined by the Crown Estate, with no consideration of what the value of similar property had been recently.

If people feel that they have had a rough deal from the Crown Estate with regard to such developments, what is the appeal mechanism? How can communities be heard?

Rob Hastings: The Scrabster situation is not a typical one, but it is an example of one that we occasionally encounter. The specific requirement of the harbour trust in that case took a little while to determine. Admittedly, there was some frustration—probably on both sides, but certainly on the harbour trust side—over efforts to understand exactly what the deal or transaction was that we should have been undertaking. Perhaps we should have engaged better; perhaps it should have been clearer about its expectations. Once we had established that, which took a little time, we went into a process that always gives us one or two challenges: an evaluation of the asset value of the interest. I can assure you that we did not take an arbitrary view on that.

The process automatically sought out a third party to undertake an evaluation—in this case, the district valuation officer—who independently went about their business of understanding what the market value of that particular asset would be in a free market. That may not have been an easy thing to do without a large market to explore and get the values from, but that is their profession and that is what they did. Once we got to that point, we relatively quickly established the market value of the property interest that Scrabster Harbour Trust had, which was agreed by both parties and the third-party independent valuation officer. That is,

largely, the only way in which we can execute transactions of that type, for which a third-party valuation is required.

15:30

The Convener: I am aware that time is running out and there are a couple of other things that I want to ask you about. The Crown Estate manages four rural estates in Scotland, on which there are a lot of agricultural tenants. The right to register for the pre-emptive right to buy was introduced by the Agricultural Holdings (Scotland) Act 2003, to which you referred earlier. Quite a lot of agricultural tenants have registered for that right. What is the Crown Estate's attitude to that? Do you view that registration as unhelpful because it impacts on the capital value of the estate, or do you actively assist tenants who want to register for the right to buy? After all, it is part of public policy in Scotland.

Alan Laidlaw: As you say, it is part of the land reform position that is now available to our tenants. It is my view that, whenever our tenants seek to register, they are entirely within their rights to do so. Indeed, if I were in their position, I would probably do so. When we appeared before the Rural Affairs and Environment Committee a few years ago, we were asked why there had been an increase in the number of such registrations. In talking to our tenants, it became clear to us that they had registered because, although they did not think that there would be an opportunity for the land to be sold or transferred, they needed to protect their interests. I am entirely supportive of those people who register their right to buy—it is their right to do so.

From a land, property and asset management point of view, registration makes it much easier for us to have correct records. The main issue is the registration of the asset that someone is occupying—that is, their tenancy. Anybody who has been involved in a boundary dispute at home will be familiar with the curse of a thick red pen line on a boundary title deed. We support our tenants by ensuring that such boundaries are correct. It is not in the tenant's interest, the keeper of the registers of Scotland's interest or our interest for the boundaries to be incorrect, so we support our tenants through the process. However, it is interesting to note that a number of our tenants who have, in the past, registered for the right to buy have let that lapse and have not repeated their registration. Many of them have commented that they are quite happy with us as a landlord.

The Convener: That is interesting. It would be helpful if you could supply the committee with a note of the number of tenants who have registered

one or more tenancies since the 2003 act was introduced.

Alan Laidlaw: That is not a problem.

The Convener: My final question is one that I asked the Secretary of State for Scotland on an issue that I find quite puzzling. I listened to your evidence and the evidence from the secretary of state. We are told that Scotland raises 3.7 per cent of the Crown Estate's gross income, and we keep hearing about all the benefits that Scotland accrues from Crown Estate operations here. However, for less than 4 per cent of the Crown Estate's income at the gross level, what are the benefits to the UK of keeping the Crown Estate Commissioners in Scotland?

Rob Hastings: That is quite a difficult question to answer. That is probably a debate that needs to be had at the Government level or the political level. In our activities on the ground, we are sensitive to the fundamental issues that exist in Scotland, which may be summarised as remote communities needing support and the great opportunities that we talked about earlier, such as renewable energy. Those are the things that we tune ourselves to and that we spend a lot of time trying to understand how we can contribute to. As we have discussed, in the past few years we have invested in the region of £3 million in harbours and marinas to support local communities and propagate the socioeconomic condition of those communities. However, I am afraid that I must leave the bigger matter to the politicians and Governments to resolve.

The Convener: Given the benefits that you say that you have got for us in renewable energy, can you do anything about the charges for linking to the national grid?

Rob Hastings: Unfortunately, we cannot. That is regulated by the Office of the Gas and Electricity Markets.

The Convener: I thought that, with the influence that you have, you might be able to help.

Rob Hastings: We would like to be able to do something.

The Convener: Thank you very much for coming to the committee—it is appreciated. We are going to write to you on a couple of the points that have been raised and it would be appreciated if you could also respond to any questions that we did not have the chance to raise and anything that comes up in further evidence that we take.

Rob Hastings: Of course. Thank you very much.

15:35

Meeting suspended.

15:40

On resuming—

The Convener: I thank people for their patience and I welcome our second panel. As quite a few gentlemen are before us, it will be best if they introduce themselves. I ask them to say no more than a couple of introductory sentences, as we have much to get through.

Councillor Michael Foxley (Highland Council): I am Highland Council's leader. We work closely with Orkney Islands Council, Shetland Islands Council and the Western Isles Council on the issue.

Andy Wightman: I am a self-employed writer and researcher on land rights.

Lorne MacLeod (Community Land Scotland): I am one of the voluntary board members of Community Land Scotland, which is a relatively new organisation that represents the interests of many areas in which there have been buy-outs, including Eigg, Gigha, South Uist and Harris.

David Whitehead (British Ports Association): I am the British Ports Association's director.

Calum Davidson (Highlands and Islands Enterprise): Good afternoon. I am Highlands and Islands Enterprise's director of energy and low carbon.

The Convener: Mr Whitehead must leave before the expected end of our session, so it will be useful if we ask immediately about points that are relevant to him. I understand that Alison Johnstone has questions for him. I am sorry—I have just landed her right in it. Perhaps you would like to sing a wee song or something.

Alison Johnstone: I do not know whether I want to inflict that on the committee.

The Convener: I was speaking to the panel.

Alison Johnstone: I see. Your suggestion would be fine.

Before the Crown Estate review working group report and the work of the Rural Affairs and Environment Committee in the previous parliamentary session in 2007, a survey—I do not think that it was public—was undertaken of ports in Scotland, which seemed to show considerable consensus that the ports would appreciate devolution of the Crown estate for their affairs. That view seems to have changed somewhat. Will you comment on that?

David Whitehead: I am glad that you have noticed that that view has changed. Had we been

asked to respond to the proposal a few years ago, we probably would have made different comments. The view that I have received from most people is that the leasehold deals and the general relationships with the Crown Estate have improved considerably. What we have said reflects that. A significant change has taken place.

Alison Johnstone: So, working relationships have improved over the years and ports' fairly strong view now is that they do not want devolution of the estate.

David Whitehead: Ports want whatever best suits their businesses. Our submission portrays a business view on the Crown Estate's relationship with ports. It shows that negotiations have gone well recently. Beyond the normal tensions in any landlord-tenant relationship, nothing in particular is to be remarked on. The situation might be different in a few years, but that is the snapshot.

Alison Johnstone: Your submission says that the majority of your members

"are unconvinced of the benefits of a change".

Is that the majority of your British membership? What is the figure among your Scottish membership?

David Whitehead: The position is based purely on the views of members in Scotland—it is their view about devolution. There is a bit of a mixture of views. The councils would probably say that the land that the Crown Estate owns should return to them. My member Mr Mackie spoke the other day about reverting the land to trust ports. If the land could just be given back to the ports, that would be wonderful and we would all be in favour of that. If change is to take place, the majority ask on practical grounds what will be in it for them on a business level.

Alison Johnstone: You have registered your concern that the use of Crown Estate revenue for community purposes would risk distorting lease costs into

"a hypothecated tax on new developments."

How do you see that as being substantially different from the Crown Estate Commissioners' existing plan to use 50 per cent of revenue from current marine activities for the coastal communities fund?

15:45

David Whitehead: That is 50 per cent of a figure that is as near a market rate as possible. If the Crown Estate chooses to spend that 50 per cent in a particular way, that is its decision. However, if you start to charge for something on the basis that you want to pay for something else that you have not previously paid for—community

schemes or whatever—that is a disruption to the normal business relationship between the ports and the Crown Estate or whoever owns the particular piece of sea bed. That is our concern.

John Mason: You talked about a business view. Business normally likes to get rid of red tape and make things simpler. If we took the Crown Estate Commissioners right out of the picture, that would mean one fewer body to deal with and one fewer set of forms to fill in. I accept that it would make little difference if it were just replaced by an equivalent Scottish body, but if the powers were pushed down to council level or another level, would not that simplify things and help your members, from a business point of view?

David Whitehead: I do not really know, but the suspicion is that it probably would not—I am sorry that I cannot give any evidence for that, but that is the suspicion. With all due respect to my members that are councils, I do not think that there is great faith that councils would be able to provide a better service.

Joan McAlpine: You mentioned your member Mr Mackie from the Scrabster Harbour Trust. He gave to the Rural Affairs, Climate Change and Environment Committee evidence that has been submitted to this committee for our investigations. Mr Mackie did not paint a picture in which the Crown Estate is doing anything to enhance the development of his harbour in Caithness. One of his complaints was that he had to incur considerable extra costs when he was trying to develop the harbour for the purpose of renewable energy development and oil exploration west of Shetland. In fact, he said that he has to pay the Crown Estate £40,000 a year and when he developed and improved the harbour he had to make another £130,000 one-off payment. The Crown Estate did not invest in the improvement, but will get revenues back. That did not seem to Mr Mackie to be a particularly good deal.

David Whitehead: Mr Mackie is a member of my organisation, and I have sympathy with his situation.

Joan McAlpine: His views do not seem to be reflected in your submission.

David Whitehead: They are in a sense, as he is saying that it would be better if the ports owned the sea bed and developed them in the way that they wished for the benefit of business and communities. I am entirely happy with that. As I said earlier, the reality is that we have a landlord that sometimes takes part in developments. We are now involved in a scheme with the Crown Estate in London—a UK project to examine the cost of renewable electricity. The communities scheme is also starting to come through.

The reality is that we are talking about a landlord-tenant relationship, which has improved. We could always get more money back, but it seems to be what we are stuck with. If anyone has any good ideas on how it can radically change, we are always interested to hear them.

Joan McAlpine: Can I interject on the landlord-tenant relationship? We are talking about the sea bed. I do not know how much of the legal background you have gone into, but are you aware that the Crown Estate does not actually own the sea bed that it rents to you?

David Whitehead: I have always expressed it that the Crown Estate is the owner because the net effect is one of ownership.

Joan McAlpine: When the Scottish Law Commission and Treasury Select Committee looked at the issue, they were clear that we are talking about public rights and public land that the Crown Estate administers. Were you aware of that?

David Whitehead: No, I was not—strictly speaking—aware of that.

Before I am too nice to the Crown Estate, let me say that, although deals are done, the slowness of the deals is a real issue. That takes us back to the earlier questions on red tape. It takes a heck of a long time to sign off negotiations, so improvement in that would really help.

Joan McAlpine: That takes us back to the point that was made by Mr Mason earlier: the existence of the Crown Estate creates a lot of extra administration. That administration would be swept away if the Crown Estate did not manage those public lands, which would make everything simple.

David Whitehead: If that is the case, bring it on.

Councillor Foxley: I am a little surprised by those statements. I was a member of the Mallaig Harbour Authority for 21 years, and the local council and the Government have been very involved with the developments at Scrabster. The feedback from both the local authorities is that dealings with the Crown Estate have been protracted, convoluted and difficult—and then a bill comes in at the end.

The local authority view is simple: we do not want to control the sea bed where there are properly constituted harbour authorities that control the water and its surface. Those authorities should also control the sea bed. Properly constituted authorities, such as the ones at Mallaig and Scrabster, can get on with developing their ports and harbours in the interests both of harbour activities and of the wider communities that depend on them. We should be getting full support from the British Ports Association.

Adam Ingram: Can you substantiate your fear that potential developers will have to pay over the odds for leases on the basis that they will have to contribute to local community projects? Where does that fear come from? Have you any evidence that such a practice would be adopted in such developments?

David Whitehead: I do not have any evidence, because it has not happened yet. However, the fear exists. One of the earlier papers considered what might happen, and it was clearly stated that revenue might be used for particular schemes.

The ports industry is a private sector industry; it receives no subsidy. Ports compete with one another, and paying the Crown Estate is one of the burdens. If money were used for a purpose that was quite separate from leasing the land, it could increase costs.

Adam Ingram: In onshore wind farms, developers make a contribution through community benefit funds. They receive a substantial subsidy to bring forward developments. From what I can see, offshore developers would benefit in the same way, so your fears are baseless.

David Whitehead: If certain ports were subsidised, that would create great difficulties for the industry and for my association. Where would the subsidy go? The ports industry is a market-based private sector industry.

Adam Ingram: We are talking about the developers of offshore energy.

The Convener: Mr Maxwell has a small question and then you will be off the spot, Mr Whitehead.

Stewart Maxwell: The British Ports Association is unconvinced by the idea of devolving the management of the Crown estate to Scotland. Is that a fair summary of your position?

David Whitehead: Yes.

Stewart Maxwell: Why? Mr Mason described a future in which the Crown Estate was swept away and, therefore, all red tape was swept away. If the management of the Crown estate were devolved to Scotland so that responsibility fell to the Scottish Government and the Scottish Parliament, but it remained roughly as it is just now, what objection would you have?

David Whitehead: I do not think that we would have a problem. If things were pretty much the same, that would be satisfactory.

Stewart Maxwell: You mentioned a number of possible scenarios that you would be satisfied with—in fact, you would welcome some of them, such as transfer of ownership of land to the ports. Would it be fair to say that your position is that, far

from being unconvinced, you may well be convinced, depending upon what happened after devolution?

David Whitehead: Yes.

Stewart Maxwell: Thank you.

The Convener: I will now refer to the Crown estate review working group report. A couple of people here served on the group and the report has been mentioned in much of the evidence that we have received. Can we have opinions on how relevant the work that it carried out still is, how it relates to the proposals in the Scotland Bill and, generally, how we should move forward in Scotland with regard to the Crown estate?

Councillor Foxley: The Crown estate review working group, which involved HIE and the local authorities, did an excellent job of work with its report. The report was produced because we found the status quo unacceptable, based on the track record on things like fish farming, harbours—which we have touched on—moorings and the potential for marine renewables, which was more distant in 2007.

From the Highlands and Islands perspective, we see the asset—as has been said—as being Scottish; it is owned by Scotland. It is its management that is not devolved. We want the management not only to be devolved to Scotland and to rest purely with the Scottish Parliament in Edinburgh, but to be further devolved to local authorities in the Highlands and Islands and, indeed, directly to harbours and communities. There should be an extensive process of devolution, because we think that that would maximise the benefits—whether from harbours, moorings or the future of marine renewables. Communities and local authorities would benefit directly and the business interest, in working with the grain of communities, would be able to assist with planning and development so that we would all—and, in particular, Scotland—benefit.

What has changed is that, in the last 18 months, there has been unprecedented interest at UK, Scottish Government and Scottish parliamentary levels in the Crown Estate and its activities. We are looking for substantial, radical but fairly simple change.

Andy Wightman: The working group report is authoritative and has done much to inform the debate that we are having today. It is, perhaps, surprising that we did not have the debate when the report was published in 2006. It has taken us a long time to get here. The report highlighted a lot of what I call anachronisms in how Crown property rights in Scotland are administered, many of which could be sorted out without recourse to legislation. It also clarified some fundamental questions, such as the issue that Joan McAlpine referred to, which

is that the Crown Estate does not own any of the land, but merely administers and manages it. The report was helpful in clarifying that the debate today is about who should administer those rights.

The Convener: That probably leads on to some of the evidence that Mr MacLeod has given the committee.

Lorne MacLeod: CLS was not involved in the Crown estate working group because we are a new organisation, but we very much endorse the review that was undertaken and the group's findings.

We would very much like to see accountabilities come to the Scottish Parliament, but we want to go the next step further, which is for some responsibilities to be allocated to community landowners throughout Scotland. Those bodies manage fairly large estates and have a fairly good track record so far. There are also safeguards in place, as many of those bodies were formed under the Land Reform (Scotland) Act 2003; governance structures exist and there is full democracy in terms of voting for board members and so on.

We feel that currently many community landowners do not have all the tools in the toolbox to pump-prime economic and social development. Many of our members—in fact, nearly all of them—are in remote and fragile island communities and we are about creating jobs, population retention and promoting social development.

One of the difficulties that we have with the Crown Estate approach is that it looks mostly commercially at all developments, whereas we would encourage development in very fragile areas through a couple of years of capital interest deferment to give people opportunities to develop further. That is the kind of thing that we would like to see from whatever reform comes out of this.

16:00

Calum Davidson: We have been working closely with the consortium of councils in the Highlands and Islands for the past 25 years, as the increasing focus on the Crown Estate has taken us forward. We were keen to be involved, and we fully concur with the report.

Our major focus going forward is not to look back but to ask how we can maximise the assets for the benefit of the Highlands and Islands. I guess that there are four reasons why we fully support devolution of management of Crown estate assets to the Scottish Government and then, through the Parliament, to local interests. The first is financial: there is a leakage of income from Scotland, particularly from the Highlands and Islands. The second reason is about transparency:

there is a lack of accountability around what is basically a public asset. The third is about simplification: we work closely with Rob Hastings and his team on development of marine assets, especially marine renewables, but there is no reason why we could not work with Marine Scotland rather than the Crown Estate. The fourth is philosophical: we think that investment in marine renewables, along with what HIE and local authorities do, should be focused on economic and social gains as set out in the act that set us up. You cannot argue with the Crown Estate, but it is trying to maximise assets rather than invest for economic and social benefit.

Andy Wightman: I add briefly that it is my understanding that the Crown estate review working group's report has been endorsed by the Scottish Government and the Scotland Office as an accurate analysis of the situation.

The Convener: Thank you. Before I open up the debate, I have a question for Councillor Foxley. Given your years of experience of discussing the issues, do you have a view that you can share with us about the feeling of other local authorities beyond Highland Council?

Councillor Foxley: Within the Highlands and Islands, the leaders and conveners of councils whom I meet most regularly to discuss the issue are from Western Isles Council, Orkney Islands Council and Shetland Islands Council. In the view of the four authorities, the announcement by the UK Government that half the revenue from the marine resource will go to the communities of the Highlands and Islands through the coastal communities fund is the first substantial move that we have seen in about 30 years of campaigning. We have made it clear that we would like all the marine resource rather than just half of it. We have also made it clear that it is not appropriate to exercise that community fund through the Big Lottery Fund—it needs to be dealt with by representatives from the Highlands and Islands communities that Lorne MacLeod described, and we have been in discussion with the UK Government about that. There have been a number of meetings and parliamentary inquiries to maximise the benefits.

As we heard just now from my colleagues, the Crown Estate must maximise its commercial return; it cannot take a view about what is in the best interests of the Highlands and Islands in the long term.

This is all history—I have said it before. Fish farming arrived, for most communities in the Highlands and Islands where it is done, 35 to 40 years ago when the cages arrived on the loch system. There was no accountability and no government: the kit just arrived. Some of those loch systems were leased for 100 years for a one-

off payment of £75. That was completely unacceptable. As recently as two years ago, a community found that somebody had applied for the mooring rights within their bay, in which generations of people had been fishing. After an enormous amount of local angst, a situation was created whereby the commercial interest had some moorings and the local fishermen and other local interests had the rest. Those are just two examples—one historical and one more recent—but it goes on.

We read about the recent leases in the Pentland Firth, and the lease around Tiree in *The Herald* about 18 months ago, which involved the head of planning in Argyll and Bute Council, next to whom I sat at a meeting the following night. It is totally unacceptable to carry on like that and we all think that we can do far better, working together with the communities and local business interests.

Calum Davidson: I want to highlight that the marine estate is a Highlands and Islands issue. Almost all aquaculture is in the waters around the Highlands and Islands and, on marine energy, all the consented activity on wave and tidal energy and at least half the offshore wind activity is in the waters around the Highlands and Islands, so that is a particular focus for us.

Joan McAlpine: Councillor Foxley mentioned the coastal communities fund, but it seems as though that fund will not do anything to address the concerns about how the Crown Estate operates and its accountability.

Councillor Foxley: The fund will not address that. The key issue that needs to be addressed is management, so that communities and local authorities in Scotland know what is happening. We have written letters to and had meetings with UK Government ministers on that and we are pressing for substantial change, which is one reason why we are here today.

Joan McAlpine: Have those ministers given any indication that they will change?

Councillor Foxley: It is fair to say that not everybody understands the issues with the Crown Estate. We sometimes need to have the same conversation several times. For people who do not live on a coastline that is affected, the issues are a bit difficult to understand. We have just heard that the British Ports Association does not understand that ownership rests in Scotland, which is another common difficulty. We are making progress, but we need to make more.

Joan McAlpine: Earlier this year, you raised concerns about crofters in Glenelg who lost out on marine development to a larger company, which got the lease from the Crown Estate. That seems to me to be similar to the scenario that you

described in the 1970s with fish farms, when big companies were given fish farm leases.

Councillor Foxley: That is correct. Just yesterday, I spoke to someone who is actively involved in that issue, and they will have a meeting with the First Minister next month. The crofters are concerned because two leases were issued for the straits of Kyle Rhea. They are very interested in what is a narrow stretch of water that is literally at the bottom of their crofts. They rightly want a direct say in management of that stretch of water and in the benefits that come from it, including the financial benefits from jobs and training. The crofters want to work and co-operate with the business interests to ensure that the developments proceed. The power will need to come ashore, so there will be issues about land acquisition for development. We want everybody to be involved so that the benefit is for the greater good, but currently that is not happening.

Joan McAlpine: I ask the other panel members, apart from Mr Whitehead, who has already done so, to comment on the coastal communities fund.

Calum Davidson: HIE sees that as our bread and butter—it is the sort of thing that we can deliver with our existing staff and systems. The fund involves a relatively modest sum of money in the context of development in the Highlands and Islands, so we are a little perplexed as to why another layer of activity needs to be introduced.

Lorne MacLeod: We welcome the coastal communities fund as a first step, but we have reservations. We would like more details, but as yet they have not been forthcoming. We also have reservations about the Big Lottery Fund administering the scheme, because many of our members find the lottery funding to be very process driven and bureaucratic. We want ease of approach.

To return to the point about Glenelg and Kyle Rhea, I believe that an organisation there has applied to join our organisation. The frustration there was about not even being at the table. That issue reflects feedback that we had from another member on a case in which a marine renewables development was proceeding. The first time people heard about the lease being allocated was when it had been signed, so they were presented with a *fait accompli*. Communities are very much involved with land-based developments, so it is a natural progression for them also to have input in discussions on the development value of marine renewables.

Andy Wightman: The coastal communities fund is an unashamed political move and it should be made clear, as HM Treasury made clear in a press statement, that the fund is not half of the Crown estate marine revenues, but a sum that is

equivalent to half the marine revenues. The Crown Estate Act 1961 would have to be amended to allow the revenues to be passed on directly. Of course, HM Treasury could stop the fund a year after it starts. It is entirely within the Treasury's gift whether the fund continues and on what terms it is run.

James Kelly: Mr MacLeod, you argue in your submission for greater local control and local accountability. Can you give specific examples of how that would allow you to extend community land ownership and promote economic growth in your area?

Lorne MacLeod: It would be helpful if many of the community land organisations had certain responsibilities that currently lie with the Crown Estate. I am talking about development licences for salmon farms, aquaculture and shellfish farming, and organisations being able to go ahead at their own hand with coastal erosion projects, harbour developments and the like. Many of our communities, including our island communities, obviously—I am involved with the community estate for South Uist, Eriskay and Benbecula, which is 93,000 acres—are keen to develop marine tourism in relation to sailing and pontoons. Encouraging mini harbour developments and pontoons is beneficial to the community and the general economy, and many of our members would like to be able to progress such developments at their own hand, as they complement other developments.

We are about running commercial businesses. The Gigha organisation, which is one of our members, has a turnover of the best part of £1 million from a community-owned wind farm, a community-owned hotel and a quarry, as well as from the estate, where there are 15 jobs. We can see the benefits: the population has increased by 60 per cent in the past nine years; the primary school roll has gone from six to 24; and there are 10 new private businesses—in the previous 10 years, there was none. There are also up to 30 new houses on the island.

That is what we are all about. We need all the tools in the toolbox to encourage community and economic development.

Alison Johnstone: My question is for Mr Wightman. In your submission, you draw attention to the three requirements for any change to the Scotland Bill, as set out by Michael Moore when he visited the committee a few weeks ago. The last of those requirements refers to the potential impact of any change on the rest of the United Kingdom. It is clear that you believe that those three conditions will be met by the Government's proposals, but will you elaborate on the suggestion that devolution of the Crown estate to Scotland

would not be detrimental to the rest of the United Kingdom?

Andy Wightman: First of all, the Scottish Government already administers some Crown property rights through the Crown Office. The Crown Estate Commissioners administer the rights that are not already administered in Scotland, and in fact, in doing so, incur additional costs, including separate lawyers' fees and public relations costs. Given that the revenues from Scotland are of the order of 3 or 4 per cent, I would argue that it would save HM Treasury money if the Crown Estate Commissioners were to stop having any role in Scotland. It would make the administration and management of the rights that they currently administer far more efficient, as those could be allocated to the organisations that are most appropriately suited to administering them.

At the moment, we have a body that administers everything from mussels to the sea bed, the foreshore, agricultural estates and gold and silver. If we rationalise, there could be administrative efficiencies, and opportunity costs that are not currently being unlocked could be unlocked, as it is perceived that the Crown Estate Commissioners for whatever reason—right or wrong—are a difficult organisation to deal with, far away and unaccountable. Opportunities are going missing, and those opportunities could be exploited better if those rights were administered by different bodies.

Alison Johnstone: Thank you. That is helpful.

16:15

David McLetchie: I want to ask some questions about the financial aspects and how the reform proposals might work in practice.

My first question involves an issue that Mr Wightman raised in his submission. The Crown Estate generates about £10 million a year from its Scottish assets, which goes to the Treasury. If the management of those assets was devolved, that money would not go to the Treasury. Would there be an adjustment in the block grant because the Scottish Government had that source of income? If the Government got £10 million in net terms from the Crown estate, would it get £10 million less in its block grant allocation?

Andy Wightman: I am no expert on territorial funding in the United Kingdom but the limited consultation that I have had with those who know more about these things suggests that, were the revenues to cease to flow to the Treasury and were they to join the rest of the Crown revenues in the Scottish consolidated fund, the Barnett base would drop by £10 million. That means that the net effect on the Scottish finances could be neutral: £10 million less would come through the block grant, but that would be compensated for by the

£10 million that used to flow to the Treasury. Basically, yes, there would be an adjustment.

David McLetchie: In your paper, you say that the Treasury would be better off.

Andy Wightman: Again, I am not a territorial expenditure expert, but I would argue that the Treasury would be better off. The UK Treasury currently receives somewhere in the region of £250 million from the Crown Estate Commissioners. Around 60 per cent of that is Barnettised—if I may use that awful term—in the sense that 40 per cent is retained expenditure on defence, social benefits and so on. The percentage used in the Barnett formula is currently 10.03 per cent, I think, which means that it could be argued that Scotland gets somewhere in the region of £15 million through the Barnett formula as a consequence of the revenues that are raised by the Crown estate. What I am arguing in the paper, therefore, is that the proposal would result in a saving for the UK Treasury.

David McLetchie: I do not quite see that, because the £10 million comes off, and the rest of the money from the Crown estate just goes into the Treasury's pot. The Barnett formula is calculated not by reference to receipts coming in from the Crown estate or any other source, but by reference to the expenditure of English spending departments. There is no correlation at all between what Scotland gets through the Barnett formula and money that flows from the Crown estate.

Andy Wightman: I make that claim purely on the basis that, were the £250 million not being received by the Treasury, the UK Government would have £250 million less to spend. You would have to speak to someone who was far more versed in—

David McLetchie: My point is that the proposition that the UK Treasury would be better off cannot be true, because, although there is a £10 million plus or minus adjustment relative to the grant that Scotland gets—so that is neutral—the rest of the money still just goes into the Treasury pot and is allocated to Scotland in accordance with spending levels in the UK departments. In other words, it ceases to have any connection at all with the source of the money that comes into the pot.

Andy Wightman: You may well be right.

The Convener: It is not often that someone says that to you, Mr McLetchie.

David McLetchie: Not in this committee. I will count this as one of my few red-letter days.

My second question involves the general proposition made by a number of the witnesses that the management and administration of the Crown estate should, at the first stage, go to the

Scottish Government, and that there should then be further discussion—presumably among a variety of public bodies—about how the individual assets in that estate are managed thereafter. Let us leave aside the marine aspects for a moment and focus on the urban estate, which I understand amounts to a couple of property investments in Edinburgh.

We have heard that the last major property transaction generated £68 million from the Crown Estate's urban estate of the Princes Exchange. Do you envisage the urban estate being separated from the other property interests? If so, who would own it? Would the Scottish Government effectively give that flow of income to the City of Edinburgh Council—it could finance the trams—or would the Government just keep it, hold it through some property-holding body and take the receipts? What would happen to that flow of income and the capital asset? Would it be separated from the rest of the Crown estate, which I understand is your proposition?

Andy Wightman: All the property rights that the Crown Estate Commissioners currently administer are Crown land, so ownership would not change were the Crown Estate Commissioners to be removed from the picture. There would be no change in ownership purely as a consequence of that. However, I imagine that were that to happen, and given that the Scotland Bill is not due to come into force until 2015, the Crown Estate Commissioners would probably divest themselves of their urban property interests, given that they are managed as part of a United Kingdom-wide capital asset base. It hugely depends on what the Crown Estate Commissioners do prior to any potential devolution.

David McLetchie: Right. So there might not be any assets.

Andy Wightman: There may well not be. In fact, over the past 10 or 20 years, the Crown Estate Commissioners have divested themselves of large amounts; they used to own a lot of urban property in Glasgow and Edinburgh, but they own hardly any now. They manage urban property as part of a UK-wide portfolio, and have little left in Scotland.

David McLetchie: But as I understand it, because the Crown Estate cannot borrow—we heard evidence on that earlier—and all the revenues have to go every year to the Treasury, investments must be financed by capital receipts and reserves that have been generated from sales. Effectively, it is a kind of circular pot.

I also understand from earlier evidence that the sums that have been and are being generated from capital receipts—£6 million, £16 million and so on—provide the Crown Estate's investment in

some of the marine programmes that we heard about. Presumably, if the urban assets were sold off, that source of funding for other projects would disappear.

Andy Wightman: If, indeed, that is where the revenue comes from.

David McLetchie: Well, I think it was capital—that is the point. It is not from revenue; it must be done from capital. If the capital asset and the capital receipts are taken away, they are not there to fund the capital investment.

Andy Wightman: Yes, that is correct.

David McLetchie: Right. So, if the Crown Estate's urban estate in Edinburgh were sold off in the course of the next five years—however much Kinnaird Park and so on are worth—there will be no capital in the pot to reinvest in the marine projects, will there?

Andy Wightman: If that is the source of the capital.

David McLetchie: Well, it is the source of the capital. The accounts show that the £6 million and the £16 million come from the receipts that are generated from sales. There is no other source. Am I missing something here? I note that Mr Davidson is anxious to get in.

Calum Davidson: I have a couple points to make. First, to go back to the point about the Barnett consequentials, our advice is—I hasten to add that I am no expert on this—that there would be a one-off Barnett consequential. However, the perspective from where my interests lie is that income from marine renewables going forward could grow significantly. That would come into the Scottish pot, so there would be no long-term Barnett consequentials.

Secondly, if the Crown Estate's assets are devolved to the Scottish Parliament, it is really up to the Parliament to decide what it wants to do with them. My understanding is that the Crown Estate Act 1961 would not constrain any investment in that regard. So, future income from offshore renewables could then be used to reinvest in those renewables.

David McLetchie: That is right. However, the point that I am labouring to make is that it seems to me that the asset disposals that have taken place in the past few years have generated substantial capital receipts that fund an on-going investment programme, and that if there is no access to such capital, questions arise over how the investment programme will be funded. You may say that in the longer term a stream of income and so on will be built up, which is a perfectly fair point. However, in the short term, do we not risk some disruption to the investment programme?

Calum Davidson: Not necessarily, because we are at the stage at which a significant investment has been made and income will be coming back out of the system.

The sums that we are talking about in the context of the Scottish block grant are relatively minor. It is for the Scottish Parliament and Mr Swinney to decide whether that could be done through Marine Scotland or the enterprise agencies. It is just a way of taking it forward; it is a procedural matter.

John Mason: I want to follow up on that point—I do not know whether Mr Davidson wants to respond. To clarify, the suggestion seems to be that, if the Crown Estate Commissioners chose to do so, they could take all their investments from Scotland and put them in England, and Scotland would not get a share. Presumably we are talking about the assets being split up—we would get 8.4 per cent, 4 per cent or whatever from wherever they happen to be investing in at the time, be it Scotland, England or Hong Kong.

Calum Davidson: We need to differentiate between the urban, the rural and the marine estate.

John Mason: I am thinking of the urban estate.

Calum Davidson: I have no real observations on that, other than to note that it is simply a property transaction. The Crown Estate Commissioners buy and sell property on an on-going basis for a variety of reasons. From my viewpoint, there is one significant asset—the sea bed around Scotland—which needs to be taken forward.

Joan McAlpine: To follow up on that, I was a little confused when the Crown Estate said today that it had made significant capital investments in marine renewables. It has made an overall investment of £16 million in the past five years. How important has the Crown Estate's investment been in relation to the balance of public agencies involved in the development of marine renewables in Scotland?

Calum Davidson: The Crown Estate is investing in projects and project teams. My understanding is that in some cases it is taking a variety of shares in projects.

To give you some context, this year Highlands and Islands Enterprise is spending about £15 million directly in marine renewables. Scottish Enterprise, in its renewables activity, is probably spending £40 million. So, over the next three or four years, we are looking to invest in the region of £40 million or £50 million in marine renewables, on infrastructure and on specific projects.

Joan McAlpine: That is considerably more than what the Crown Estate will be spending.

Calum Davidson: It is different. We are investing in chunky infrastructure—ports and harbours. The Crown Estate is investing in specific projects. The two approaches are complementary.

Joan McAlpine: We talked earlier about the coastal communities fund. My understanding is that the Scottish Government's plan is not only to have a communities fund but to take a large part of the revenues for further investment in marine renewables.

Calum Davidson: That is my understanding as well.

Joan McAlpine: So in that sense the Government's plan is focused more on long-term investment than, say, on handing 50 per cent over to the Big Lottery Fund—

Calum Davidson: The real benefit from marine renewables for rural Scotland is in jobs and wealth creation, in ports, harbours and fabrication facilities, in long-term operations and maintenance on the coasts around Scotland, and in reinvesting cash in the infrastructure that we need for that and in skills for young people.

Joan McAlpine: I was struck by the evidence of Scrabster Harbour Trust, which is a real hotbed of marine development. The trust makes profits but reinvests them for the community. It talked about expanding its harbour in order to help marine development. As you know, infrastructure is very important. It saw the Crown Estate as inhibiting that development. When the trust wanted to develop its harbour, it had to pay the Crown Estate extra, yet the Crown Estate did not seem to be putting anything into the development of the infrastructure.

Calum Davidson: No. We have been working closely with Scrabster Harbour Trust on its development. Trust ports in the Highlands are interesting because they are almost the earliest form of social enterprise—they started as Victorian social enterprises. Their job is to create wealth and economic benefit for the region through maritime activities. The Highlands are different. We do not have a Forth Ports or a Clyde Port Authority, or commercial ports such as Peel Ports. Trust ports have a critical role to play.

In that sense, anything that takes from trust ports' bottom line can create difficulties, leaving them requiring additional public sector support. We and the Scottish Government have invested significantly in Scrabster Harbour Trust's development.

16:30

Councillor Foxley: I will come back in on the investment issue. There are two elements to it, the first of which concerns the whole philosophy of

investment. The Crown Estate will, for example, put £5,000 to £10,000 into a community marina project, or hundreds of thousands of pounds into a proven development that is already a commercially viable prospect, but it will not do anything in between. We—Community Land Scotland, Highland Council and Highlands and Islands Enterprise—take a different view, as we would invest in projects that we expect to be commercially viable.

The second element relates to the earlier questions to the Crown Estate on Scottish reporting. Some of the figures are hard to disentangle. The information that we have is that salmon farming, which is currently doing well, brings in £5 million from the Highlands and Islands. Some of that—around £0.5 million—goes back into research, but there is an income stream of £4.5 million a year, which is greater than some of the figures that we have heard for investment in the previous five years and for the five years ahead.

Lorne MacLeod: We got feedback from one of our members on the Crown Estate's potential investment in a project. One difficulty was that the Crown Estate was seeking a 6 per cent internal rate of return, which is quite high, as part of an overall funding package for developing a harbour. The funding could easily be obtained elsewhere more cheaply—many of the social enterprises can get preferential rates of interest from Social Investment Scotland, Triodos Bank, and The Co-operative Bank—which brings us back to the Crown Estate's approach of considering developments purely on a commercial basis.

Nigel Don (Angus North and Mearns) (SNP): To return to Calum Davidson's earlier point, the first of the four reasons that he gave for supporting devolution of the management of Crown Estate assets was, as he described it, the "leakage" of funding. Councillor Foxley has just commented on the salmon position. Has Mr Davidson anything to add to the general mix of numbers?

Calum Davidson: We have some numbers—I do not have them in front of me, but we can supply them to the committee. We are saying clearly that there is leakage from the Highlands and Islands, and—as we understand it—wider leakage from Scotland.

Nigel Don: I appreciate that you may not have the figures with you, but I would certainly appreciate seeing them.

Calum Davidson: We are happy to pass them on to you.

The Convener: I want to get on record your views on a couple of issues; Councillor Foxley can go first. Why do you and many of your colleagues in local authorities believe that management of the

foreshore would be better undertaken at local authority level?

Councillor Foxley: There are two points. Looking back, we certainly could have managed fish farming far better in terms of location and the ownership model that has been developed over the past 30 years. Twenty-five years ago, Highland Council had the first fish-farming framework plans in Scotland and our first-generation plans were better than the Crown Estate's second-generation ones.

We feel that the same can be done with marine renewables, which need a lot of work. That may involve building the interconnectors to get the energy out of places such as Orkney and Shetland; ensuring that local communities gain the maximum benefit with regard to Calum Davidson's comments on harbours and local businesses; and working with organisations such as the Scottish Further and Higher Education Funding Council and Careers Scotland to ensure that local people are trained to work on offshore marine renewables.

The doomsday scenario is that a vast ship comes in from Bremerhaven and the kit is loaded in over the side at a location that nobody knew until they read about it in the newspapers. Nobody will benefit from that apart from a couple of kitchen porters in the local hotel and a couple of ferrymen. We all need to work very hard to ensure that that scenario does not take place.

The way to prevent it is initially to sort out who gets the leases, and the related procurement issues and expectations of community benefit. Whoever gets the lease must, to a certain extent, use local businesses and put money in for training. Roger Bright said in Caithness two years ago that if there was a line of sight on training, the Crown Estate would put money in to help train people to work on offshore marine renewables, but that has not happened.

We want to maximise what comes out—we do not want the doomsday scenario.

The Convener: What is your view on the further devolution of some foreshore management to community land companies where the foreshore adjoins the land under their ownership?

Councillor Foxley: The view in the Highlands and Islands is that the big strategic issues—the total scale of the developments that should take place—should be jointly decided between local authorities, HIE, business representatives and representatives of the Scottish Government. There is also a role for Marine Scotland, which needs to be worked through. Although Marine Scotland has been established, we do not have local stakeholder groups, so there is quite a bit of discussion to take place about that.

I am still director of the Isle of Eigg Heritage Trust, which is maximising its assets. I see no problem with devolving the foreshore further to communities such as Eigg or Gigha, which are similar to properly constituted harbour trusts, so they can maximise what happens on their coastlines. We are talking about the waters immediately in front of where those people live. The area is not off the continental shelf; it is right in front of them.

The view from the north of the Highlands and Islands—Highland, the Western Isles, Orkney and Shetland—would be in favour of such further devolution.

The Convener: Lorne MacLeod will have a view on that. Does Andy Wightman have a view?

Andy Wightman: On which question?

The Convener: On the further devolution of the foreshore to community landowners.

Andy Wightman: As the Crown estate review working group showed, detailed discussion is needed on where a whole suite of property rights and interests is better administered. Were the Crown Estate Commissioners to be removed from the picture, we would have four years before the Scotland Bill came into force, and that is plenty time to discuss that.

I am strongly of the view that the foreshore should be in the ownership of local authorities and community groups. There have been legal battles about its ownership going back to the 19th century. It is the one place for which there is an assumption of Crown ownership unless it can be proven otherwise.

That is a difficult situation in which to put many landowners, because it inhibits development. It is difficult for a landowner to know whether they have good title to the foreshore when the presumption is that the Crown owns it unless they can prove otherwise. In fact, Donald Trump himself is facing some problems of that nature in Aberdeenshire. That is one of the areas that would benefit from being sorted out.

Lorne MacLeod: All our members are coastal communities, so the marine environment as well as the land environment is important when trying to stimulate economic development.

As I understand it, at the moment, a film company that wished to undertake TV recording on the foreshore would have to seek permission from the Crown Estate. That is the kind of thing with which a local community body should be involved. It would allow for development to take place and we strongly wish to encourage media developments, such as BBC Alba.

The issue is wider than that. It is also about stimulating job creation, whether in aquaculture or marine tourism, which we talked about earlier. We need involvement in all those aspects.

Calum Davidson: I make the observation that we are talking about the control of the foreshore and sea bed rather than ownership. There is an interesting example in Shetland where, as a historical by-product of the Zetland County Council Act 1974, made as a result of oil, Shetland Islands Council has control over things that happen on its sea bed; it issues the work licences. It may be worth while examining the experiences there. I was up there with the Scottish Affairs Committee examining the Crown estate a few months ago, and it was clear from the council that the work licences that it approves for any maritime activity are an effective way of ensuring local control and local development access. Those licences do not quite sideline the Crown Estate, but they have a different effect.

Alison Johnstone: We discussed earlier how benefits from investment in urban property might enable us to invest in marine renewables. Under the Crown Estate Act 1961, the Crown Estate is not allowed to borrow. However, with the Fort Kinnaird deal, the Crown Estate appears to have taken on considerable debt. That is fantastic if everything goes well and we all benefit, but how would it impact on the Crown Estate's ability to invest in marine renewables if its urban property deals went badly wrong? How has it been allowed to get involved in such property deals that seem to have a negative balance when it is not allowed to borrow? Could Andy Wightman answer that question?

Andy Wightman: I cannot comment in detail on the Fort Kinnaird deal. I have read the Cuthberts' evidence on that, and the Crown Estate Commissioners have certainly got involved in a partnership with a Gibraltar-based company to invest in the deal.

The Crown Estate Commissioners work as any other developer with their urban investment portfolio. They buy and sell offices, shops and industrial premises. Precisely who owns Fort Kinnaird or 39 George Street is neither here nor there. They are prime retail sites and it would not be any great loss to us if the Crown Estate Commissioners did not have control over them any more.

I cannot comment on your specific question on Fort Kinnaird. You would have to put that to the Crown Estate Commissioners themselves.

Alison Johnstone: My question was more about what the mechanism for borrowing is, as the 1961 act suggests that the Crown Estate Commissioners are unable to borrow.

Andy Wightman: Yes. They are not allowed to borrow under the act.

Alison Johnstone: Thank you.

The Convener: I have a final question for Mr Davidson. As Marine Scotland will give evidence in the next panel of witnesses, I wondered whether he had any views on how marine development and renewable energy could be better integrated.

Calum Davidson: I have one observation. I will touch on Scottish territorial waters and round 3 of offshore wind farm leasing.

We have built up issues. The Crown Estate went ahead and offered a number of sites for lease in advance of a strategic environmental assessment, which was then carried out by Marine Scotland. That is a bit like giving planning consent before doing the local plan. We then had the problem that a number of those consented sites, in which a number of companies had invested significantly in carrying out sea-bed surveys, were not recommended for lease under a strategic environmental assessment. I am thinking particularly of sites around Kintyre and Dumfries and Galloway.

To me, that is a classic example of how the wrong approach has been taken. A single, integrated approach through Marine Scotland would be a much more satisfactory way of proceeding.

The Convener: On the work that HIE does throughout the Highlands, does the Crown Estate bring to the table or do anything that HIE itself could not?

Calum Davidson: We work closely with Rob Hastings's team. They are, in effect, project managers; they are marine experts and do things that we cannot do. At the operational level, they add some value, but there is no need for them to be in the Crown Estate; they could just as easily be in another part of Government.

Joan McAlpine: Will you clarify the point that you made about duplication, with developers having to work with two different bodies: Marine Scotland and the Crown Estate? My understanding is that that is an unusual situation and that it does not exist elsewhere in Europe.

Calum Davidson: You are correct. It does not exist anywhere else.

Joan McAlpine: Does that put us at a competitive disadvantage on development?

Calum Davidson: It adds another layer to the system.

The Convener: I think that that is all that Mr Davidson is willing to say on that point. Perhaps

we can include that point in questions to our next witnesses.

I thank all the witnesses very much. Time has run on. On the one hand, I apologise for that but, on the other, it is a mark of how interesting we have found their evidence. Should we wish any further evidence, I assume that the witnesses will all be happy to submit it in writing.

16:43

Meeting suspended.

16:49

On resuming—

The Convener: I am very pleased to welcome our third panel. Linda Rosborough is the acting director of Marine Scotland and the representative of the energy directorate—*[Interruption.]* Oh, that's not you. Is that someone else who did not come?

Linda Rosborough (Marine Scotland): Unfortunately, as we were invited only at the end of last week, I was unable to get someone from the energy directorate to accompany me. It would have been good to have had that evidence; however, it might make the session shorter, which might appeal to members.

The Convener: I just thought that you had a particularly long and important title.

Linda Rosborough: I am afraid not. If members have any questions about energy, I will take them back with me.

The Convener: So we are joined by Linda Rosborough, acting director of Marine Scotland. Thank you for attending at such short notice, Ms Rosborough. I invite you to make some introductory comments about Marine Scotland and its contact with the Crown Estate Commissioners.

Linda Rosborough: A relatively new organisation, Marine Scotland is a core part of the Scottish Government with responsibility for integrated management of the sea, working for sustainable economic growth and to protect and manage the marine environment.

A particular aspect of our relationship with the Crown Estate is the offshore energy industry. As the body responsible for marine planning and licensing, we have a process parallel with that of the Crown Estate's leasing process that extends to aquaculture and other uses of the sea bed.

The Convener: Is it not the case that although on the one hand you work very closely and constructively with the Crown Estate, which is managing things just now, on the other hand the Scottish Government wishes to dispense with the Crown Estate?

Linda Rosborough: You have put the issue in a nutshell. In June, the Scottish Government published a paper on a change to the present arrangements and, indeed, had previously consulted on the matter for the document “Securing the Benefits of Scotland’s Next Energy Revolution”. Its position is that it is not convinced that the current arrangements for the management of the Crown estate in Scotland reflect Scotland’s best interests and that there are serious accountability, revenue and governance issues that need to be addressed. As a result, we have proposed an amendment to the Scotland Bill to devolve the administration of the Crown estate to the Scottish Government.

The Convener: Do you have a particular role in contributing to the Scottish Government’s position on this matter?

Linda Rosborough: Yes. As I said, Marine Scotland is a core part of the Scottish Government. As the part of Government that has substantial dealings with Crown estate matters, we have been involved in the general Scottish Government position on the Crown estate.

Stewart Maxwell: I have already pursued with the second panel in particular the question of a two-stage devolution, in which responsibility for the Crown estates would be devolved to Scotland and then probably further devolution to local authorities, trusts or some form of community land ownership. We have heard a wide variety of views on this particular proposal for the Crown estate but responses have very much depended on whether there is two-stage devolution or, indeed, on what might happen after powers are devolved to the Scottish Parliament. What is your view on the impression that people’s responses to the committee seem to be based on what they expect to happen post-devolution?

Linda Rosborough: The paper that the Scottish Government produced in June set out a two-phase approach to this issue and proposed that, when the situation was reached in which the Scottish Government became responsible for Crown property rights and the powers had been devolved to the Scottish Parliament, there would be a wide consultation during which the Government would bring forward proposals. It is recognised that the nature of the Crown rights administered by the Crown Estate Commissioners are varied and that there might need to be a different response depending on those rights to deal with, for example, streamlining processes and ensuring good governance and adequate accountability in relation to the different sorts of properties that might arise.

Stewart Maxwell: That answer is helpful. You were right to describe a variety of bodies that have different views. In your experience, are those

bodies more interested in or more willing to support—or at least be neutral about—devolving Crown Estate powers when they find out about the proposals? If they understand that two-stage devolution and full consultation would be involved, is much of the fear removed? The British Ports Association representative seemed to accept that that was the case for ports.

Linda Rosborough: Initially, people are hesitant about any change. Many earlier panel members spoke about the opportunities that would be presented by doing things differently from the present way. Once people start to think about those possibilities, a different approach emerges. As earlier witnesses made clear, some time would pass before a change happened, so plenty of opportunity would be available for discussion about the best way forward.

Joan McAlpine: The Crown Estate representatives talked at some length about the memorandum of understanding that they want to sign with local authorities and the Scottish Government. Will you say a little more about the Scottish Government’s position on that?

Linda Rosborough: The Crown Estate has been keen for the Scottish Government to commit to several agreements, one of which relates to supply-chain implications and support for marine renewables manufacturing. The Crown Estate has signed such an agreement with the Welsh Assembly Government and is keen for us to sign a similar agreement. The Crown Estate has also approached us about a memorandum of understanding. It has signed such an agreement with the Marine Management Organisation in England, which is similar to but not quite the same as us.

Those existing documents are modest in their aspirations and in what they set out to achieve. They reveal that the Crown Estate duplicates in many ways what other organisations do. It is significant that its role in relation to renewables differs from that of other marine industries, because it takes on much more of a developer role.

The letter of intent with the Welsh Assembly Government is about the Crown Estate co-ordinating discussions with developers and advising the Welsh Assembly Government on where it should invest in harbours. The Scottish Government does not see itself as needing such an approach. The enterprise agencies are working on supply-chain issues through wide-ranging consultations in which 80 or more stakeholders—including the Crown Estate and Marine Scotland—are involved. We have a national renewables infrastructure plan and a national renewables infrastructure fund. All the agencies are working together on a whole set of activity.

The Crown Estate operates on a UK basis and wants to do the same things in Scotland as it does in the rest of the UK. The memorandum of understanding with the Marine Management Organisation recognises that the Crown Estate and the Marine Management Organisation are two separate organisations and says that they will exchange information and let each other know about prospective announcements. That does not amount to an awful lot.

We have had discussions in which we have set out a much more far-reaching set of expectations, but those discussions have not gone far.

Joan McAlpine: Mr McLetchie is not here at the moment, but he made play of the fact that the memorandum of understanding with the Scottish Government had not been signed. You say that signing it would not be in Scotland's best interests.

Linda Rosborough: The Crown Estate wishes to operate on a uniform basis across the UK. Scotland has a different policy position, different organisations, different structures and different processes. Our relationship with communities on some renewables issues tends to differ from that in other parts of the UK. Scotland would not wish to bind itself to a narrow relationship that would impede a wider policy view for the future.

17:00

Joan McAlpine: Earlier, you said that the Crown Estate's proposals lack ambition. Will you elaborate on the Scottish Government's ambition for renewable development versus the Crown Estate's proposals?

Linda Rosborough: I do not want to be unfair to the Crown Estate, because it is working energetically to ensure the development of the renewables industry in the waters around Scotland. However, under the planning responsibilities that the Scottish Parliament and UK Government have placed on the Scottish Government, it is working with communities to identify the best locations for development. It is key to the development of a successful industry in the waters around Scotland that we find the appropriate places and get the support of the community and that we ensure that jobs and economic benefit are delivered and that communities are engaged and involved. That is very much what the legislative framework puts in place, with the new focus not only on national marine planning, but on regional marine planning. That is the direction in which we have been going. The Crown Estate's focus tends to be more on looking for the bottom line and the profit. That is the sort of body that it is, and that leads to a different approach.

Alison Johnstone: You have just answered my question, I think. You mentioned the developer role. We heard earlier how the Crown Estate behaves as any normal developer does and that it has a substantial portfolio of property interests. I want to investigate a bit further how that role might skew the way in which the Crown Estate reacts and inhibit developments in marine renewables or in harbours or ones that relate to other uses of the sea bed. You obviously have concerns.

Linda Rosborough: An example that was mentioned was the moratorium—or not—in the Pentland Firth and Orkney waters. That exemplifies the issue. At one stage, Crown Estate staff said that they were not prepared to consider any other proposed developments, but they are now a bit more flexible. However, it took quite a lot of time to move from one position to the other. The Crown Estate's first thought was not about what the impact might be or about how it could be flexible; it was about how to protect the assets and expected developments for which it had already issued leases.

That exemplifies the fact that it is not a normal public sector organisation. It is not subject to parliamentary questions and does not have to report directly to ministers on a day-to-day basis, as other public bodies do. The Crown Estate is in a different place. The question is whether that is the right way for Scotland's sea to be managed.

The Convener: Ms McAlpine can ask a very small question if she promises that it is directly related to that point.

Joan McAlpine: It is directly related. Linda Rosborough mentioned the Pentland Firth, which I asked about earlier. She obviously heard the evidence from the Crown Estate, which suggested that there is no moratorium and that the Scottish Government is inhibiting development.

Linda Rosborough: At one stage, the Crown Estate certainly was not prepared to consider further developments, although it now has some flexibility. However, the Scottish Government is not inhibiting development. Marine renewables are a novel technology and it is challenging to get the developments, which are experimental, into the water. There are many stakeholder perspectives to be managed, including environmental ones. So the issue is complicated.

The Crown Estate's initial approach to the Pentland Firth and Orkney waters was, having leased plots to a number of people, not to consider anything further. It has now been persuaded to be more flexible, where that makes sense, but that took time.

Joan McAlpine: The area of marine technology is nascent, as you say, and some of the most exciting companies—the ones that will win the

prize at the end of the day, if people invest in them and have faith in them—might be quite small at the moment and be engaged in experimental work. Would it be fair to say that, because it is focused on maximising revenue, the Crown Estate might not be thinking ahead in those terms, whereas Marine Scotland would be?

Linda Rosborough: That is the risk, and the risk is increased by the fact that the body is, essentially, unaccountable in its day-to-day management and decision making.

Nigel Don: Good afternoon. Thank you for waiting so patiently.

I want to ask you about the frequency with which you find that the Crown Estate is duplicating some function or other. I recognise that the Crown Estate has a legal footing and is doing what it does because that is what it does—I am conscious that the director is still here, so I should make it clear that I respect that that is how it operates, and that it does so because that is what it is told to do. However, if it were not there, would it be possible for its functions to be given to appropriate, pre-existing Scottish bodies? In other words, do those bodies exist? My second question—which I ask with the greatest respect to the individuals concerned—is, would we miss it?

Linda Rosborough: You are putting me on the spot. We work well with the Crown Estate. We have good working relationships with its staff and value the expertise that they bring. Marine Scotland's staff are not experts in setting levels of rent and leases. However, I know from meeting my counterparts in other European countries that they do not have a dual process similar to ours. I also know that when developers are faced with a separate leasing process and a licensing process, they are a bit baffled, as are people around Scotland sometimes.

I think that you are basically asking whether it would be possible to save resource. I certainly think that the situation could be simplified, which would probably lead to some saving of resource. However, through my involvement in bringing together bodies to create Marine Scotland, I know that you never save quite as much resource as you expected to.

Nigel Don: That is not quite my tack. I was thinking more of simplicity than of saving resource. I am asking about whether it is possible to simplify the landscape and eliminate some of the duplication, which, as you say, cannot be helpful to any developer or investor. Can we put the serious technical functions and skills—which I respect—into different places? It might be that that might save no resource at all, but putting people in the right places—which probably already exist—might simplify the whole process.

Linda Rosborough: Yes, I think that that would be possible. Marine Scotland is a body with research and marine environment expertise and would see itself as being the key place in Scotland that is developing the capacity to ensure that there is good decision making about development in the marine environment. We also have bodies such as the Forestry Commission and the rural affairs department of the Scottish Government that administer land in Scotland. In any case, the Crown Estate uses a network of people who carry out a lot of its day-to-day work, and that could be taken over. Legal input and other necessary functions could be brought together as well. What you suggest could be done.

Nigel Don: I am not trying to put words in your mouth but would you agree with me if I were to say that, although we accept that we need the people and the skills, we could disperse the functions of the Crown Estate, and that the body that is the Crown Estate in Scotland is unnecessary?

Linda Rosborough: Yes, and the Crown property rights could be administered by other routes. A number of options could be used to do that.

Adam Ingram: I will follow up on that. Some of the functions would need to be separated. For example, the regulatory function would have to be separated from the landlord function, which we might want to disperse to others. Do you foresee any issues or difficulties in doing that?

Linda Rosborough: We would not want to put ourselves in the position of having a body that was increasing its revenue through its decision making. In other words, we would not want there to be a tendency to consent in a way that was counterproductive, without checks and balances, in order to maximise revenue. We would want there to be some checks and balances on where the revenues go and the nature of the controls over that, as well as the regulatory function.

Adam Ingram: The Crown Estate representatives suggested that the Crown Estate intended to invest around £20 million over the next five years—roughly £4 million a year—in the marine environment. What is the Scottish Government's position with regard—

Linda Rosborough: Mr Swinney will unveil his budget shortly.

Adam Ingram: I understand that the Scottish Government said that it would at least equal that investment.

Linda Rosborough: Yes. That was in the paper that I referred to earlier. In relation to the discussions that took place earlier, I would also refer you to the complicated and quite carefully

crafted paragraph that talks about the Barnett formula discussions. It says:

“Given the relatively small sums of money involved, the variability of revenues, past sales of assets and future investment plans, the Scottish Government believes that this should be taken forward on a no detriment basis and will negotiate on a block grant adjustment.”

Taking all that into account, the Scottish Government believes that there is the basis for a negotiation with the UK Government that would ensure that there was no detriment to either party.

Adam Ingram: I have another question on a different topic entirely.

As you are perhaps aware, in July, in response to a question from me, the Cabinet Secretary for Rural Affairs and the Environment signalled his support for a scheme to transfer Crown salmon fishing rights to the public angling associations that currently rent them from the Crown, if the commissioners’ responsibilities were devolved. Has the Scottish Government considered possible future options for the various other Crown property rights and interests that make up the Crown estate in Scotland?

Linda Rosborough: There are a number of Crown property rights that are unique to Scotland, of which the salmon fishing rights are, as you say, one. There are also archaic rights in relation to things like oysters. In many cases, those rights do not need to be continued with and could be abolished. There are certainly rights associated with some of the slightly more historical assets that the commissioners currently administer that could perhaps be handled differently in the future, but there would have to be a serious discussion in Scotland about all the rights that the commissioners currently administer.

Adam Ingram: I presume that that would be part of your second-phase approach.

Linda Rosborough: Yes.

The Convener: You will be aware of what the Secretary of State for Scotland has said about the tests that must be met before changes can be made to the Scotland Bill. One of those tests is that any such change should not be detrimental to the UK. I will ask you what I have asked others. Given that less than 4 per cent of the Crown Estate’s income for the UK comes from Scotland, can you think of any reason why it would be detrimental to the UK to devolve Crown Estate functions to Scotland?

Linda Rosborough: I do not think so. If we can get Scotland working together to maximise the benefit to the country and its people from the Crown Estate’s assets, that will be of benefit to Scotland and to the UK. The renewables project is much more likely to be successful if we can work

with communities rather than have someone administer the landlord’s rights so remotely.

The Convener: Thank you very much for your evidence, which is much appreciated. I am sorry that we kept you waiting. In thanking you, I will give you your proper title: Linda Rosborough is the acting director of Marine Scotland.

That concludes the public part of the meeting.

17:15

Meeting continued in private until 17:44.

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