



Crown Estate: A Consultation on the Long Term Management of the Crown Estate in Scotland

RESPONDENT INFORMATION FORM

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- Individual
 Organisation

Full name or organisation's name

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SURF
Scotland's Regeneration Forum

SURF : sharing experience : shaping practice

SURF's response to the Scottish Government's 2017 Consultation on the Long Term Management of the Crown Estate in Scotland

This paper presents SURF's response to a national consultation concerning the management of Crown Estate assets in Scotland, which include rural estates, mineral rights, salmon fishing rights, and much of the coastline and seabed. The effective management of these assets make a considerable contribution to, among other things, Scotland's agricultural & industrial outputs, and leisure, transport & renewable energy infrastructure.

The Scotland Act 2016 included a UK Government commitment to devolve Crown Estate asset management responsibilities from HM Treasury to the Scottish Government via statutory transfer. In early 2017, prior to the scheduled transfer on 1 April, the Scottish Government's Marine Scotland Directorate launched a consultation on the devolved management of these assets.

In mid-February 2017, SURF members were invited to submit their views and comments prior to the consultation's end March deadline. SURF's response to the consultation's set questions follow.

Consultation Questions

Q1: Should the future approach be changed from the duty to manage the assets on a commercial basis?

YES

NO

Don't know

Q2: If YES, should there be a power to take account of wider socioeconomic or other benefits?

YES

NO

Don't know

As a forum of more than 250 cross-sector organisations in Scotland that are concerned with the regeneration of the nation's most deprived areas, SURF supports holistic, partnership approaches towards addressing poverty and inequality. SURF agrees with the Land Reform Review Group and Smith Commission recommendations that devolution of responsibilities for management of Crown Estate assets in Scotland has the potential to create significant socioeconomic benefits for Scottish communities.

The current commercial approach has some merit in generating generally successful revenue streams and supporting industry, research and tourism ambitions. It is not, however, always the most appropriate way of connecting with the specific social and economic interests of local people and the places they live in. An approach with a wider socioeconomic focus that takes the views and interests of local communities into account with respect to the best management and engagement of all Crown Estate assets in Scotland would therefore be a welcome development.

Q3: If YES, which assets should be managed on a commercial basis and which should be managed differently?

It would be wise to review the socio-economic value of potential changes of management with regard to all Crown Estate sites in Scotland, without creating a 'commercial only' subset that are exempt from wider public benefit considerations.

Q4: Should the requirement on 'good management' be retained?

- YES
- NO
- Don't know

Q5: Should the requirement on 'good management' be amended to take account of environmental implications in relation to the management functions?

- YES
- NO
- Don't know

Q6: Should the existing Crown Estate portfolio in Scotland be preserved in its current form?

- YES
- NO
- Don't know

Q7: Should Scottish Ministers' approval be required for sizeable sales?

- YES
- NO
- Don't know

Q8: Should the existing policy - the general presumption against selling the seabed - be maintained?

YES

NO

Don't know

Q9: Do you have any other views on how the management of the Crown Estate in Scotland can ensure delivery of the duties in the Scotland Acts 1998 and 2016?

The Scottish Government's argument that the preservation of the current portfolio may prevent new opportunities for communities with regard to some Crown Estate assets is logical, as is a Ministerial approval requirement for large-scale asset sales. These policies would help to ensure that ownership and management changes are in line with national policy ambitions for a fairer Scotland. The avoidance of seabed ownership fragmentation may be a sensible ambition, but if a socially beneficial alternative option is presented in future, such as a viable and productive request for local authority or community ownership of a small seabed site, it would be unwise to rule this out without considering its potential value.

Q10: How can transparency on the sale and management of the Crown Estate assets be enhanced?

Principle 5 of the proposed Land Rights and Responsibilities Statement, which states "information on land should be publicly available, clear and detailed", is instructive with regard to transparency of ownership and management.ⁱ Any Crown Estate assets made available for sale should be promoted effectively to potential owners across all public, private, third and community sectors, with generous time windows provided to support the development of high-quality, consultative bids.

Q11: How can the devolution of the management of the Crown Estate contribute to community empowerment?

With regard to some Crown Estate assets that are under-performing, neglected or located within or close to areas of severe multiple deprivation, a devolution in management could initiate community led dialogue and action. Agencies such as the Scottish Government and the Big Lottery Fund in Scotland are keen to support the empowerment of community groups that aspire to manage land and assets, and new opportunities presented by Crown Estate portfolio devolution could advance this ambition further.

Q12: How can the devolution of the management of the Crown Estate contribute to land reform?

SURF promotes the revitalisation of socially and economically challenged communities through greater diversity in land and building ownership and use, particularly with regard to abandoned buildings and derelict land in economically challenged villages, towns and city neighbourhoods. Opportunities for diversified ownership of land in Scotland will clearly be enhanced if some existing Crown Estate assets are made available for sale under a new

devolved approach.

Q13: How can we further improve alignment with Scottish Ministers' objectives to deliver on the national outcomes?

Effective internal marketing – ensuring all key public sector staff are adequately aware of the policy context and the new opportunities presented by devolved Crown Estate asset management – would help to deliver on ambitions concerning the accrual of greater socio-economic benefits across all public policy.

Q14: Do you have any views on the proposed application of the above principles to guide the long term framework for managing Crown Estate assets?

YES

NO

Don't know

As stated previously, SURF would wish to see the principles implemented in an approach that places the alleviation of physical, social and economic deprivation as a key ambition of asset management changes.

Q15: Which of the three proposed options for managing Crown Estate assets in Scotland do you prefer?

Option 1 (national)

Option 2 (local)

Option 3 (hybrid)

Don't know

OTHER

A hybrid model has advantages in supporting further devolution to regional and local levels while maintaining a national policy focus and enabling the possibility of a Scottish Government agency managing large-scale/large-geography assets where this is deemed the most appropriate fit.

Q16: If OTHER, what approach to management do you propose?

N/A

Q17: Should a geographic or a functional approach guide the reform of the management of the Crown Estate in Scotland?

Geographic

Functional

Don't know

Other

It is difficult to argue for a purely functional or purely geographic approach in the context of the diversity of the Crown Estate's portfolio in Scotland.

Q18: Do you have a preference for management on a geographic basis being led by either local authorities or communities?

Local authorities

Communities

Don't know

Local authorities would present the logical regional leadership role, although there may be some well-governed and experienced community groups with the capacity to perform the management role in certain geographies.

Q19: Should Scottish Ministers have the power to hand responsibility for management of the estate, or parts of it, to a particular person or persons?

YES

NO

Don't know

Q20: Should Scottish Ministers have a power to vary management arrangements held by other parties over time?

YES

NO

Don't know

Q21: Should Scottish Ministers have the power to extinguish rights currently held in the Crown Estate where management of the asset can be adequately covered by other legislation?

YES

NO

Q22: Do you have any views on which assets should be managed at the (i) national level (ii) by local authorities or (iii) by communities?

SURF's preference is for this to be decided on a case by case basis, given the diverse portfolio of assets, the level of management required, and the respective strengths and weaknesses of national, regional and community level bodies.

Q23: Should local authorities or communities be expected to make a case for further devolution?

YES

NO

Don't know

Q24: If YES, should they demonstrate the capability to ensure appropriate management, to maintain service delivery and to deliver increased benefits?

YES

NO

Don't know

As with other land and asset transfer processes in Scotland, it would be appropriate for local authorities and community groups to: make a rationale for Crown Estate asset transfer evident; describe the social and economic benefits the transfer would be expected to create; and demonstrate adequate governance, financial planning and local capacity to effectively manage the asset(s) in question.

Q25: Replicating functions in each area is likely to lead to fragmentation of the estate which would pose significant risk to realisation of new revenue – how can these risks be avoided?

Partnership and consortium arrangements can be encouraged to enable the pooling of assets and resources in circumstances across two or more asset owners, in situations where this is required to realise best value opportunities across fragmented sites.

Q26: Should shared services be a requirement of devolution to the local level of decision-making on property, rights and interests of the Crown Estate?

We would like to see further clarity on the practicalities of a shared services approach as the consultation paper's description has limited information on this. Regardless of who the owner or would-be owner of a devolved asset is, meaningful community engagement should form a key part of asset transfer considerations.

Q27: What are the opportunities, if any, of further devolution?

Further devolution can be an effective way of raising energy, enthusiasm, aspirations and impact around asset use and management. This is demonstrated well by notable community land transfer processes, such as the former Royal Air Force Machrihanish base in Kintyre, Argyll, which was sold to a local community group in 2008. Since then, the site has helped address local economic decline by becoming a popular home for 40 businesses, creating hundreds of new jobs and attracting international investment.ⁱⁱ

Q28: What are the challenges, if any, of further devolution?

The key risk is devolving a Crown Estate asset to a body that lacks the capacity to manage it appropriately. As SURF argued in its 2016 Manifesto for Community Regeneration, despite some national policy rhetoric to the contrary, community ownership is not always the most appropriate form of land and asset ownership in the public interest. Even a well-intended community asset transfer process can end up causing damage in cases where a lack of consideration is given to the purpose and outcomes of the transfer process and the capacity of the purchasing body.ⁱⁱⁱ

Q29: Is there a need for strategic planning and a long term investment strategy, in order to co-ordinate work to enhance the value of the estate?

YES

NO

Don't know

Q30: Do you have any views on the value of a national framework to guide local decision-making?

A national framework clarifying rights, responsibilities and processes for Crown Estate asset management and transfer would be helpful in supporting consideration towards further devolution.

Q31: Should there be consistent charging approaches between areas to avoid competition between different parts of Scotland?

YES

NO

Don't know

Q32: Are there any other issues that should be covered by a national framework for management of Crown Estate assets in Scotland?

The proposed contents of a national framework as set out in the consultation paper appear to be comprehensive.^{iv}

Q33: Should the future arrangements in Orkney, Shetland and the Western Isles be considered first?

YES

NO

Don't know

Q34: Is a phased approach needed to introduce reforms to the management of Crown Estate assets across Scotland?

YES

NO

Don't know

Q35: Is there value in a pilot scheme prior to implementing reforms?

YES

NO

Don't know

Q36: How can people influence decisions in relation to the management of the Crown Estate assets?

SURF supports existing efforts across policy-makers, practitioners and academics towards the shared aspiration of engaging civil society more widely and meaningfully in regeneration and planning processes. Innovative models such as Community Charrettes, Participatory Budgeting forums and Landscape Observatories can help support this ambition.

Q37: How should the long term governance arrangements differ from the interim arrangements?

The outcomes of the pilot should be reviewed with a view to considering what aspects of governance could be improved in the longer term.

Q38: Should the future framework include flexibility for Scottish Ministers to vary the proportion of revenue retained by the manager?

YES

NO

Don't know

Q39: Should the arrangement where the capital value of one part of the estate can be used to enhance opportunities elsewhere in the estate be continued?

YES

NO

Don't know

Q40: Should the current duty of maintaining the value of the estate and the return obtained from it be continued or amended for the investment of capital proceeds?

Continue

Amend

Don't know

Q41: Should capital proceeds from a sale in one area be invested in the same area, or should there be discretion to invest anywhere in Scotland?

Invest in same area

Discretion to invest anywhere

Don't know

Q42: Should it be possible for the capital or maintenance requirements for an individual asset to be funded from another part of the estate, even if management of the assets are devolved to the local level?

YES

NO

Don't know

Q43: Should funding of strategic activities from Crown Estate resources continue?

YES

NO

Don't know

Q44: If YES, should these strategic activities be managed at the national level?

YES

NO

Don't know

Q45: Should the person taking on the responsibility for management of an asset normally take on the responsibility for managing the associated liabilities?

YES

NO

Don't know

Q46: Should the liabilities for land restoration and residual liabilities after decommissioning of marine infrastructure be managed:

Locally

Nationally

Don't know

Q47: Should the costs associated with management of liabilities be included in the overheads for estate management?

YES

NO

Don't know

End of SURF's Consultation Response (references follow)

Derek Rankine, Policy & Participation Manager; 23 March 2017

References

- ⁱ The Scottish Government, 2016, *Land Rights and Responsibilities Statement: a Consultation*, Edinburgh: The Scottish Government/APS Group. Available online at: <http://www.gov.scot/Resource/0051/00511857.pdf>
- ⁱⁱ Community Land Scotland, 2017, *Million Acres Case Study: Machrihanish Airbase Community Campus*, Isle of Harris: Community Land Scotland. Available online at: <http://www.communitylandscotland.org.uk/wp-content/uploads/2017/01/MACC.pdf>
- ⁱⁱⁱ Milne, A., & Rankine, D., 2016, *Planning Ahead for Regeneration: SURF's 2016 Manifesto for Community Regeneration*, Glasgow: SURF. Available online at: <https://www.surf.scot/wp-content/uploads/2014/12/SURF-2016-Manifesto-Final-Draft.pdf>
- ^{iv} Marine Scotland, 2017, *Crown Estate: A Consultation on the Long Term Management of the Crown Estate in Scotland*, Edinburgh: The Scottish Government/APS Group. Available online at: <http://www.gov.scot/Resource/0051/00512706.pdf>

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