

Consultation on The Draft Strategic Management Plan for the Scottish Crown Estate

August 2019



Scottish Government
Riaghaltas na h-Alba
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Ministerial Foreword

This consultation seeks views on the first Strategic Management Plan for the Scottish Crown Estate and marks a further milestone in our wider programme of work to secure devolution and reform the management of the Scottish Crown Estate. The assets include rural estates, just under half of Scotland's foreshore and leasing rights for activities on the seabed out to 200 nautical miles.

The vision, objectives, priorities and policies outlined in the Plan build on the important work to date in securing control of the assets for Scotland, establishing Crown Estate Scotland (Interim Management) to manage the assets, ensuring a smooth transfer for staff, tenants and other stakeholders and reforming the overall framework for management of the assets through the Scottish Crown Estate Act 2019. We are also working with Crown Estate Scotland (Interim Management) to identify how wider benefits for Scotland can be enhanced and local approaches to management can be piloted. The objectives, priorities and policies have been developed to enable further progress on these reforms while ensuring alignment to Scottish Ministers' wider objectives, priorities and policies.

I am confident that the objectives, priorities and policies for the Scottish Crown Estate not only align with our wider programme presented in the National Performance Framework but that these can also make a significant contribution to our wider objectives, priorities and policies across a range of activities. These include our response to the global climate emergency, delivery of the principles in the National Planning Framework and the National Marine Plan, implementation of the Energy Strategy, National Tourism Strategy and our work on land reform. Enhancing community empowerment is also an overall priority.

The assets form a core element on how we can protect, use and develop our marine, coastal, rural and other assets in future. Crown Estate Scotland (Interim Management) is responsible for management of these physical assets but the expertise and commitment of the staff is another vital asset that Scotland benefits from through their work to maximise the opportunities that can be derived from the physical assets of the Scottish Crown Estate.

I want to ensure that Scotland can continue to draw upon this expertise and commitment. Our work in future to reform the management of the assets should have such issues at the core of their design, including discussions on how we can deliver local ambitions to enhance local control of assets where such ambitions exist in different parts of Scotland.

I look forward to receiving views on the proposed vision, objectives, priorities and policies for the Scottish Crown Estate, and to further discussions with communities on how we can further enhance the positive outcomes from managing these important assets for the benefit of Scotland while protecting their value to the Scottish Crown Estate.



A handwritten signature in black ink that reads "R. Cunningham".

Roseanna Cunningham
Cabinet Secretary for the Environment,
Climate Change and Land Reform

Responding to this consultation

We are inviting responses to this consultation by Friday 22 November 2019.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/marine-scotland/scottish-crown-estate-strategic-management-plan>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 23:59pm on Friday 22 November 2019.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Crown Estate Strategy Unit
Marine Scotland
Scottish Government
Area 1-B North
Victoria Quay
Edinburgh
EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or to scottishcrownestate.consultation@gov.scot

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Introduction

1. Scotland’s first Strategic Management Plan (the Plan) for the Scottish Crown Estate will contribute directly to the aims of the National Performance Framework (NPF)¹ and the Scottish Government’s purpose:

“To focus on creating a more successful country with opportunities for all of Scotland to flourish through increased wellbeing, and sustainable and inclusive economic growth.”

Image 1: National Performance Framework



¹ Scotland’s National Performance Framework: <https://nationalperformance.gov.scot/>

2. The scope of this Plan covers the Scottish Crown Estate assets. These include ancient rights and more recently acquired land and property which are owned by the Crown. The Plan has been prepared in line with the requirements of section 22 (see Annex D) of the Scottish Crown Estate Act 2019 (the Act).

3. The Scottish Crown Estate currently has a total capital value of £385.8 million and includes:

- 37,000 hectares of rural land with agricultural tenancies, residential and commercial properties and forestry on four rural estates (Glenlivet, Fochabers, Applegirth and Whitehill);
- Rights to fish wild salmon and sea trout in river and coastal areas;
- Rights to naturally occurring gold and silver across most of Scotland;
- Extensive coastal rights including just under half the foreshore, 5,800 moorings and some ports and harbours;
- Leasing of virtually all seabed out to 12 nautical miles, covering some 750 fish farming sites and agreements with cables & pipeline operators, and equivalent rights to the seabed out to 200 nautical miles;
- The rights to leasing for offshore renewable energy and gas and carbon dioxide storage out to 200 nautical miles;
- Retail and office units at 39-41 George Street Edinburgh.

(Please see Annex C for further details and the following maps (image 2 and 3) provide information on Scottish Crown Estate assets including the geographic extent and current distribution of the assets)

Scottish Crown Estate Scotland and the Scottish Zone

Contains information from Ordnance Survey, UKHO & Scottish Government
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Projection: UTM 30N

- Scotland (up to 12NM limit)
- Scottish Zone (up to 200NM)

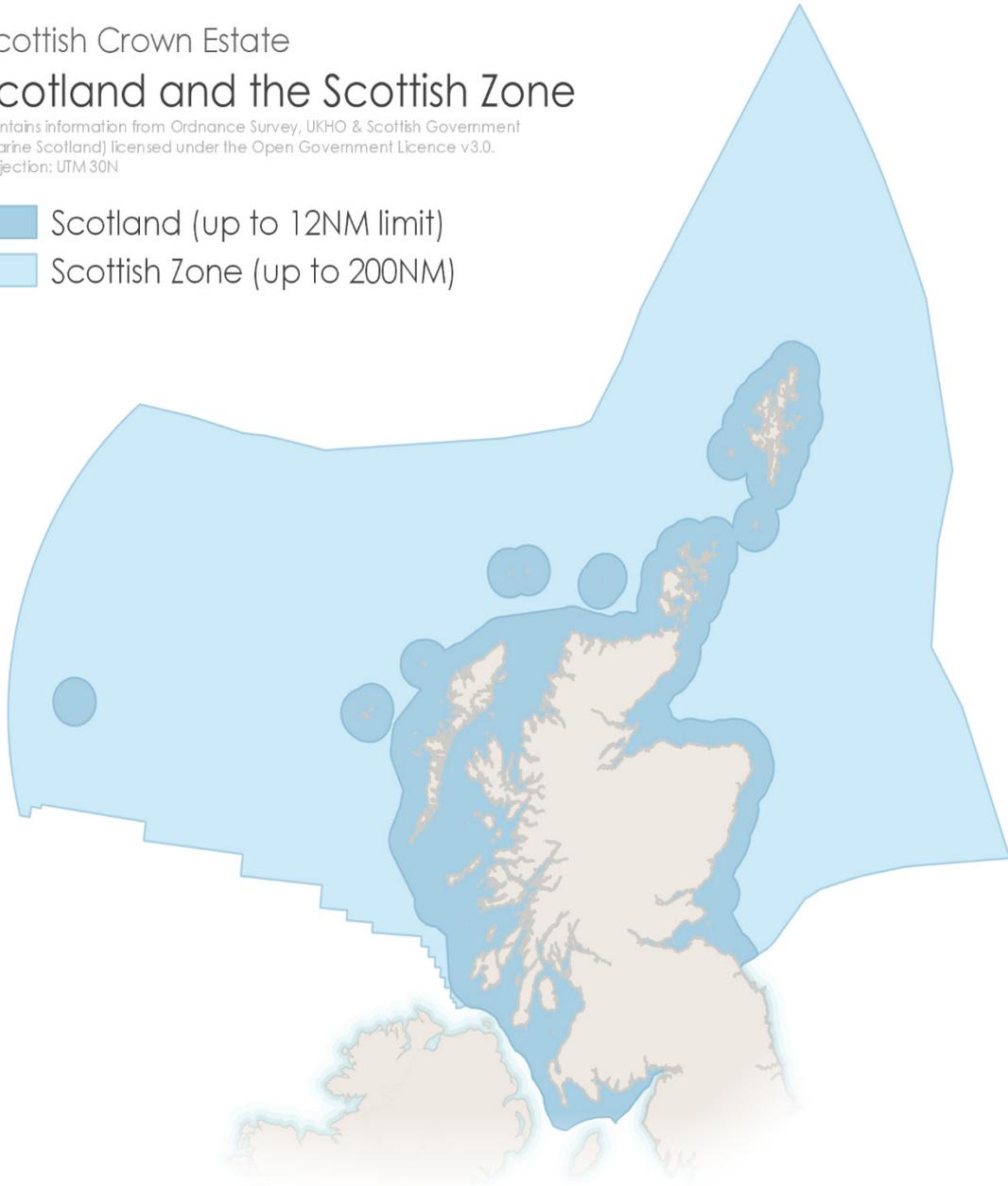


Image 2: Scotland and the Scottish Zone

Crown Estate Scotland Agreements by Sector

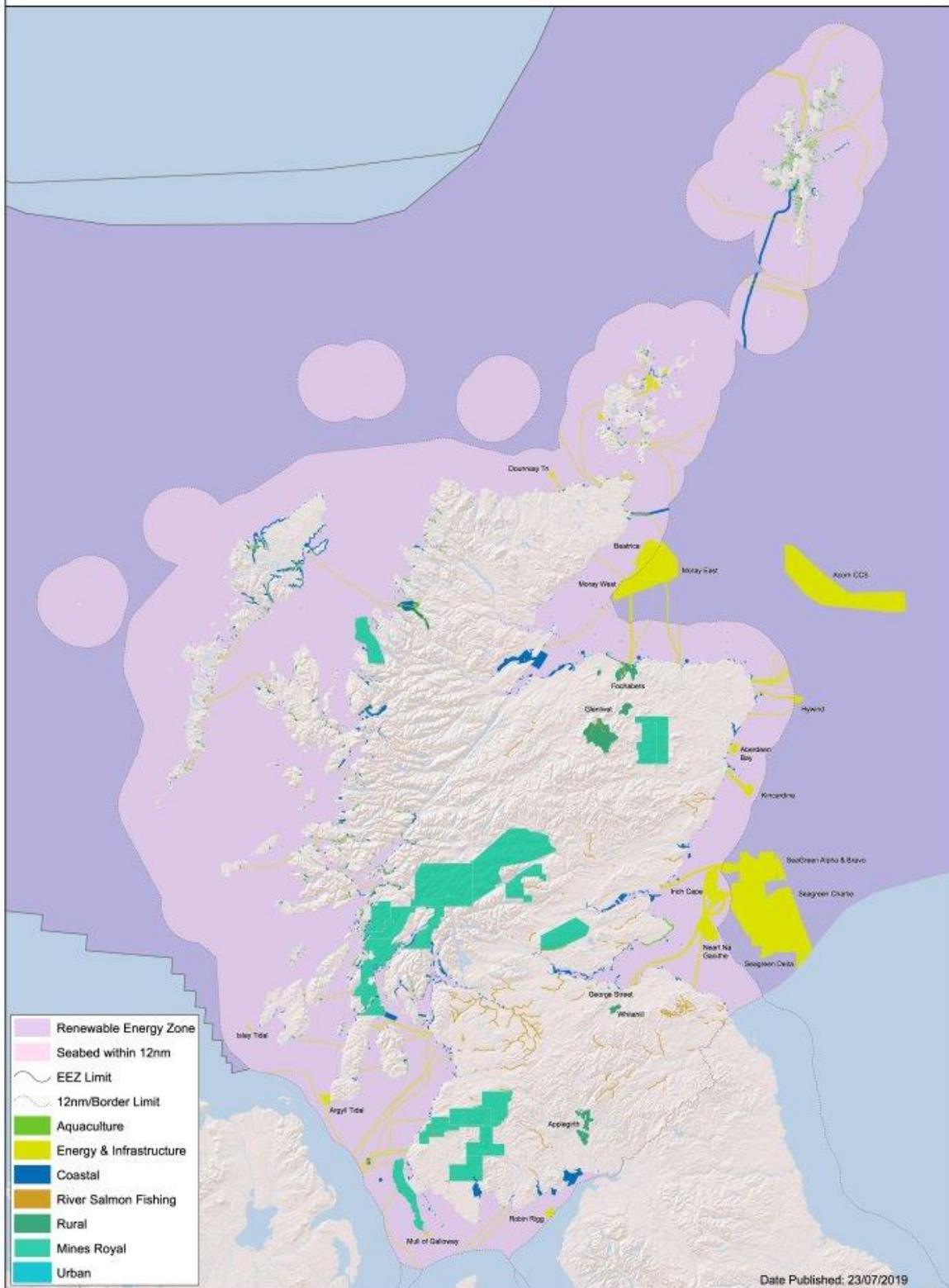


Image 3: Crown Estate Scotland Agreements by Sector – As at 23 July 2019
Data supplied courtesy of Crown Estate Scotland (Interim Management)

4. The Scottish Crown Estate includes a diverse range of assets that are an integral part of our urban, rural, coastal and marine asset base. The diversity of the property, rights and interests comprising the Scottish Crown Estate means that decisions on retention, use or sale of the assets can deliver significant economic, social and environmental benefits for local communities and across Scotland into the future. Crown Estate Scotland (Interim Management) is currently the manager of all the assets.

5. Decisions on how the property, land and other assets are managed sit within the context and requirements of other elements of Scotland's broader regulatory system such as property law, environmental legislation, land use strategy and the marine and terrestrial planning systems. The Plan therefore has the principles of sustainable development and securing social, economic and environmental benefits at its core, to enable the Scottish Crown Estate assets to be managed in a way that brings value to Scotland's people, economy and environment.

6. The Plan outlines our vision for the Scottish Crown Estate, and sets out a strategic framework for the future management of the assets. This Plan sets out our ambitions for the Scottish Crown Estate and provides a strategic direction to optimise the use of Scottish Crown Estate assets and contribute to the successful delivery of wider Scottish Government strategies and policies with the objective of providing the best outcomes for Scotland.

7. The Plan sets out objectives, priorities and policies in relation to the management of the Scottish Crown Estate and an assessment of how these align with Scottish Ministers' other objectives priorities and policies, including those contained in the Climate Change Plan, National Planning Framework, National Marine Plan, Economic Strategy, Energy Strategy, National Tourism Strategy and other elements of the NPF, in which the United Nations (UN) Sustainable Development Goals are embedded.

8. For example, although we have already reduced our greenhouse gas emissions by 40% since 1990, the Scottish Government has stated that it aims to achieve net zero emissions by 2045, and become carbon neutral by 2040. These long-term climate change targets will require the near-complete decarbonisation of our energy system by 2050, with renewable energy meeting a significant share of our needs. The Scottish [Energy Strategy](#) published in December 2017 sets a 2030 target for the equivalent of 50% of the energy for Scotland's heat, transport and electricity consumption to be supplied by renewable sources.

9. The Scottish Crown Estate can make a significant contribution towards the achievement of these targets. We will work with Crown Estate Scotland (Interim Management) to ensure continued commitment to investments, projects and activities related to the Scottish Crown Estate in order to contribute to climate change adaptation and facilitate wider societal adaptation.

10. The Plan is underpinned by and takes account of the legislative requirements including the Act which paves the way for changes in how the Scottish Crown Estate may be managed in the future. For example, the Act includes new duties for the manager of a Scottish Crown Estate asset to act in a way to further the achievement

of sustainable development and promote social, economic and environmental benefits. The Act also opens up the possibility of local authorities, community organisations, Scottish Harbour Authorities² and other eligible bodies taking on the management of an asset or part of an asset.

11. In addition to the statutory requirements, the Plan also outlines policies on Scottish Crown Estate revenue, our intentions on the development of guidance on management of the assets and other information. The Plan also outlines a process whereby Scottish Ministers will invite and consider proposals for transfer or delegation of management in the future.

12. The purpose of the Plan is to guide, support and inform those with responsibility for the management of Scottish Crown Estate assets either now or in the future and to also provide information to others with an interest in how the assets are managed. This is done by setting out a vision and objectives, priorities and policies for an integrated approach to managing the assets sustainably for the benefit of Scotland.

13. The purpose of the consultation is to enable anyone with an interest in Scottish Crown Estate assets to engage and contribute to the development of the first Strategic Management Plan for the Scottish Crown Estate. In parallel to this consultation, Crown Estate Scotland (Interim Management) are consulting on a draft Corporate Plan 2020-2023. Details of both consultations are available at: <http://consult.gov.scot>.

² <http://www.legislation.gov.uk/asp/2019/1/contents/enacted> - Section 6 defines a community organisation and Scottish Harbour Authority in relation to using the transfer and delegation powers

Background

14. In 2014, The Smith Commission recommended that the management of Crown Estate assets in Scotland and their revenues should be devolved to the Scottish Parliament. This was done through provisions in the Scotland Act 2016 on 1 April 2017. Legislative powers over the revenue and management of the Scottish Crown Estate were devolved to the Scottish Parliament and Crown Estate Scotland (Interim Management) was established by Scottish Ministers in order to manage the assets. In parallel, Scottish Ministers committed to the development of proposals to reform the long-term management of the Crown Estate in Scotland and the Scottish Crown Estate Bill 2018 (the Bill) was introduced to the Scottish Parliament in January 2018.

15. The Act was granted Royal Assent on 15 January 2019. The Act provides a new legislative framework for the management of Scottish Crown Estate assets, including new duties for the manager of an asset and provisions for changes in the management of a Scottish Crown Estate asset, or part of an asset.

16. Crown Estate Scotland (Interim Management)'s core purpose is investing in property, natural resources and people to generate lasting value for Scotland. All revenue profit is paid to the Scottish Consolidated Fund (SCF). In 2017/18, the gross revenue from Scottish Crown Estate assets was £16.4 million and £9 million of net revenue was paid into the SCF.

17. Once fully commenced, the Act will bring into force a broad set of duties and enabling powers to reform the management of Scottish Crown Estate assets. These include powers for the Scottish Ministers to implement the most appropriate approach for management of the assets through secondary legislation. The powers and duties also underpin the Scottish Government's objective for the Scottish Crown Estate to enable the delivery of wider benefits to Scotland and its communities.

18. The Act provides mechanisms for the transfer or delegation of the management of individual assets to a defined range of eligible managers including local authorities, Scottish Harbour Authorities or community organisations. It is recognised that it may not be appropriate for all types of assets to be managed at the local level and that some assets may continue to be managed at national level.

19. The Act enables individual decisions to be made on a case-by-case basis within a broad national framework, which will allow for the diversity of the range of Scottish Crown Estate assets to be taken into account.

Developing the Strategic Management Plan to align with wider objectives, priorities and policies

20. The Act requires Scottish Ministers to prepare a Plan for the Scottish Crown Estate, setting out the objectives, priorities and policies in relation to the management of the estate and an assessment of how these align with the Scottish Ministers' other objectives, priorities and policies. The Plan can also include such other information about the Scottish Crown Estate and its management as the Scottish Ministers consider appropriate.

21. The Scottish Ministers must consult in preparing the Plan and lay a copy of it before the Scottish Parliament. Scottish Ministers must publish the Plan after it has been laid. The Plan must be reviewed not later than the end of each five year period.

22. Once the relevant sections of the Act have been commenced a manager of one or more Scottish Crown Estate assets must take account of the Plan when preparing a Corporate or Management Plan³ and when undertaking management functions.

23. Crown Estate Scotland (Interim Management) is currently the manager of all Scottish Crown Estate assets. The development of the Plan is being co-ordinated with the preparation of Crown Estate Scotland (Interim Management)'s new Corporate Plan. In parallel to this consultation, Crown Estate Scotland (Interim Management) are consulting on a draft Corporate Plan 2020-2023 and details of this are available at: <https://consult.gov.scot/crown-estate-strategy-unit/2020-23-corporate-plan>.

24. The Plan and Crown Estate Scotland (Interim Management)'s Corporate Plan will be used by Crown Estate Scotland (Interim Management) to inform the development of a separate Business Plan for each financial year which will include the following:

- The purpose and principal aims of Crown Estate Scotland (Interim Management);
- Key objectives and associated key performance targets for the period of the Plan, the strategy for achieving those objectives and how these will contribute towards the achievement of the Scottish Government's primary purpose and alignment with the National Performance Framework; and
- Indicators against which performance can be assessed.

25. In future, any other manager of a Scottish Crown Estate asset will be required to develop an equivalent Management Plan.

³ Crown Estate Scotland (Interim Management) prepare a Corporate Plan while all other managers prepare Management Plans

Relationship between the Strategic Management Plan, wider policies and other plans

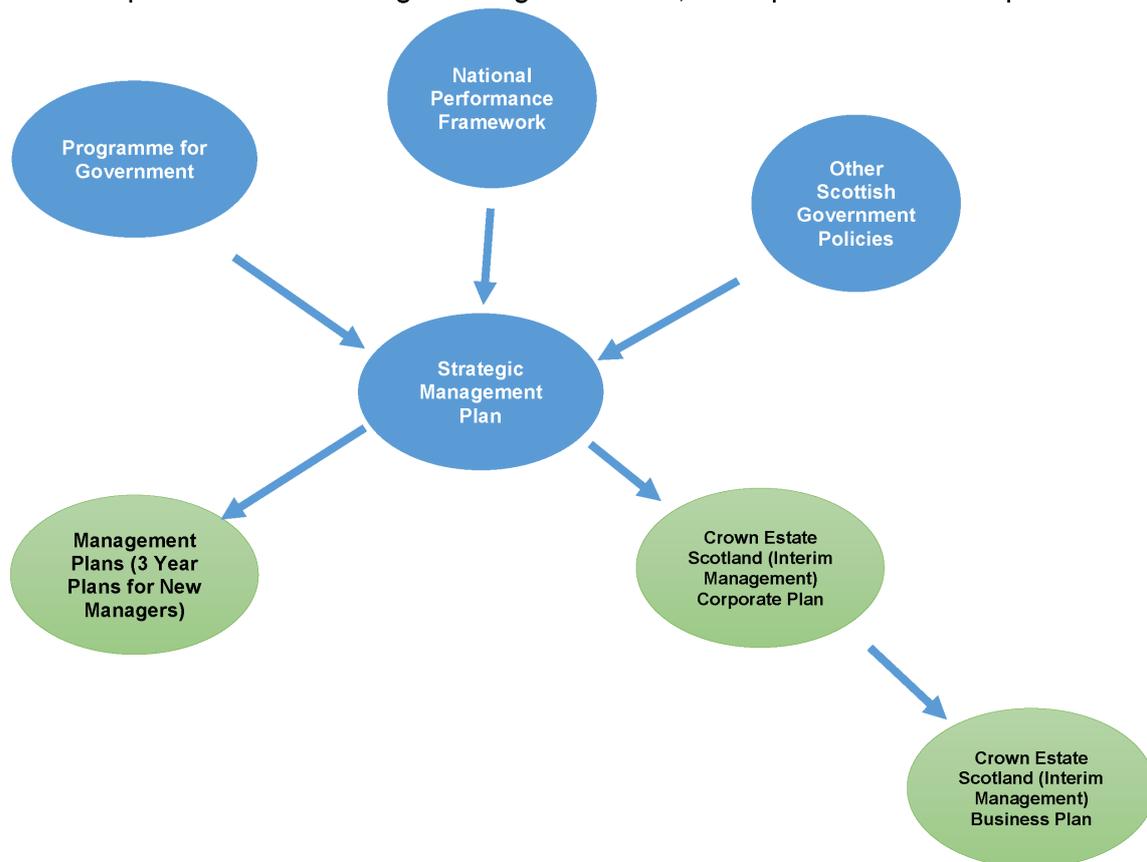


Image 4: Relationship between the Strategic Management Plan, wider policies and other plans

Alignment of objectives, priorities and policies

26. There is a requirement for the Plan to assess how the objectives, priorities and policies for the Scottish Crown Estate align with the Scottish Ministers' other objectives, priorities and policies.

27. The objectives, priorities and policies have been developed to enable further progress on reform of the Scottish Crown Estate, while ensuring alignment to Scottish Ministers' wider objectives, priorities and policies.

28. The objectives, priorities and policies for the Scottish Crown Estate align with the wider programme presented in the NPF and can make a significant contribution to these wider objectives, priorities and policies across a range of activities (see Annex B). This includes our response to the global climate emergency, delivery of the principles in the NPF, the National Marine Plan, implementation of the Energy Strategy and our work on Land Reform and to enhance community empowerment.

Scottish Crown Estate - Sectors and Activities



Image 5: Scottish Crown Estate – Sectors and Activities

29. The following sections illustrate how the objectives, priorities and policies align with and contribute significantly to Scottish Ministers' wider objectives, priorities and policies, recognising that the particular opportunities and benefits will need to be considered on a case-by-case basis and in accordance with the legal framework for the Scottish Crown Estate.

Sustainable Development

30. Sustainable development has been defined in many ways, but the most frequently quoted definition is from Our Common Future also known as the [Brundtland Report](#):

“Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

31. The UN has set a series of [Sustainable Development Goals](#). These ‘global goals’ and targets are part of an internationally agreed performance framework.

32. The Scottish Government has committed to implement the Sustainable Development Goals and has developed the NPF whose goals share the same aims. The NPF has a focus on tackling inequalities so that no one in Scotland is left behind as we work together to achieve the goals.

33. Scottish Ministers accept that not all of the UN’s 17 Sustainable Development Goals and the goals within the NPF are directly relevant to the Scottish Crown Estate assets due to their diverse range. However, the diverse range of property, rights and interests including rural land, urban property and coastal and marine rights provide an opportunity for the Scottish Crown Estate to make a significant contribution to delivery of the NPF. The assets will be managed in a way that optimises the contribution to these wider goals.

34. Scottish Ministers have reformed the powers and duties relating to the management of the Scottish Crown Estate through the Act, which requires a manager of a Scottish Crown Estate asset to maintain and seek to enhance:

- (a) the value of the asset, and
- (b) the income arising from the asset.

In complying with that duty the manager must:

- (a) act in the way best calculated to further the achievement of sustainable development in Scotland, and
- (b) seek to manage the assets in a way that is likely to contribute to the promotion or the improvement in Scotland of:
 - (i) economic development,
 - (ii) regeneration,
 - (iii) social wellbeing,
 - (iv) environmental wellbeing.

35. Sustainability is therefore an overarching principle in the management of the assets through the environmental, social, regeneration and economic requirements within the Act. They are intended to be complementary with one another as elements of overall sustainability.

36. Each decision on sustainability will be unique, depending on the type of asset being managed, the location, setting and the specific circumstances for that asset as well as wider factors including the potential use and demand for the asset and the environmental sensitivity of the asset.

37. A number of high-level examples are outlined below to illustrate how the objectives, priorities and policies for the Scottish Crown Estate align with and can contribute to Scottish Ministers' wider objectives, priorities and policies on social, environmental, economic wellbeing and regeneration.

Social Wellbeing:

38. This could include the incorporation of such factors in direct improvements or creation of opportunities forming part of the Scottish Crown Estate. It could include, but is not restricted to, for example:

- The direct improvement or creation of specified local services and infrastructure in the short to long term (e.g. including services/infrastructure such as social housing, power, access to information, recreation facilities or providing or improving other local amenities and services) which will contribute to the wellbeing of communities or individuals linked to living on land that forms part of the Scottish Crown Estate;
- The contribution to the reduction of social disadvantage in the community (e.g. the proposal encourages activities that will involve the participation of members of a community thereby creating a stronger, vibrant and thriving community);
- Activities that can help people lead healthier lives through access to recreation opportunities;
- Reduce inequalities - this refers to tackling poverty or social deprivation and the other associated issues, such as health problems, low quality housing and lack of access to services and employment recreational facilities;
- The direct improvement or retaining of cultural wellbeing and history (including historic sites) of society and individual groups for future generations;
- Reducing inequalities through diversifying and improvements of participation in projects and community activities.

Environmental Wellbeing:

39. This could include the incorporation of such factors in direct improvements or creation of opportunities forming part of the Scottish Crown Estate. It could include, but is not restricted to, for example:

- Addressing the impact of climate change through improved recycling or reducing rubbish or plastic within the land-based assets or marine assets;
- The enhancement of the sustainable use of land, foreshore and seabed resources (e.g. contribute to local environmental sustainability,

- improved land, foreshore and seabed management, improvements to the land and marine environment etc.);
- The enhancement or development of alternative green renewable energy, which reduces dependency on fossil fuels;
 - The improvement or provision of new amenities for locals and visitors in terms of access, interpretation and education;
 - The enhancement of natural resources, wildlife or habitats (e.g. through developing woodlands, implementing or contributing to a Habitat Action Plan, Biodiversity Action Plan, Marine Plan etc.);
 - Regeneration and making the area a better place to live and work, for example providing new housing, bringing empty buildings or unused land back into use, increasing access to services and social and leisure facilities, improving the marine environment etc.;
 - Activities that contribute towards the protection and encouragement of local wildlife or by rewilding and conservation aimed at restoring or protecting natural areas of land and marine habitat(s);
 - Management of rights relating to rivers, farms, forests, coast and seabed can contribute to future action needed to halt the loss of biodiversity in Scotland and restore healthy ecosystems; enhancing our natural capital; reducing greenhouse gas emissions and air pollution, waste and diffuse pollution of water courses;
 - Expanding, protecting and enhancing forestry and woodlands can deliver greater economic, social and environmental benefits;
 - The management of the rural estates can support tenant farmers to adapt their practices to cope with climate change.

Economic Wellbeing:

40. This could include the incorporation of such factors in direct improvements or creation of opportunities forming part of the Scottish Crown Estate. It could include, but is not restricted to, for example:

- Exploring the potential to incorporate such factors in the criteria for leasing rounds, funding decisions and other activities or favourable terms for leases if specific success factors for wider benefit are achieved;
- The promotion or management of the assets that leads to the creation of new jobs or to protecting existing jobs (e.g. employed directly/indirectly, training opportunities, bringing more custom to existing businesses and/or supporting the development of new businesses);
- Developments to enhance existing local transportation infrastructure to assist in the long-term sustainable development of communities, and develop alternative transport solutions to enable long-term sustainable growth and movement within local communities;
- The diversification of the economic base of the area by the introduction of new activities (e.g. development of new sectors such as renewables; adding value to local food or wood products, or new marine based activities within the blue economy);
- The generation of new income into a community in locations that are linked to or form part of the Scottish Crown Estate, which would stem the loss of income from the community;

- Development which will contribute to improvements to infrastructure in the area;
- Proposals that will contribute towards an increase of the revenue generated by the asset or the overall growth of the capital of the Scottish Crown Estate, which will increase contributions made into the SCF or bring additional capital that can be used to contribute to the improvement of economic, social, or environmental wellbeing.

Regeneration:

41. This could include the incorporation of such factors in direct improvements or creation of opportunities forming part of the Scottish Crown Estate. It could include, but is not restricted to, for example:

- Exploring the potential to incorporate such factors in the criteria for leasing rounds, funding decisions and other activities or favourable terms for leases if specific success factors for wider benefit are achieved;
- Appropriate opportunities for regenerating communities, such as bringing underused land or buildings back into a productive use and providing or enhancing services for the benefit of the wider or local community;
- Supporting local organisations to take on ownership or management of assets, such as buildings or land, foreshore and seabed to benefit the whole community;
- Helping people to co-ordinate action and respond to challenges in areas through projects linked to or forming part of the Scottish Crown Estate, which will deliver transformational change with strong regeneration outcomes.

Delivering benefit:

42. When considering opportunities to charge less than market value for a lease, sale or other agreement in order to further the achievement of sustainable development or contribute to the promotion or the improvement of economic development, regeneration, social wellbeing or environmental wellbeing, a manager must:

- Ensure the benefits will be delivered for Scotland, either at a national level, for a sector of the economy or at the local community level in line with the relevant state aid rules;
- Be able to demonstrate why they have decided this course of action and keep a record of the evidence used to support decisions, including the predicted type and scale of wider benefits; and
- Have regard to the likely effect on the overall value of the Scottish Crown Estate of making the relevant transaction for less than market value.

43. A manager should also monitor and evaluate the delivery of the expected wider benefits.

44. The powers contained in Section 7 and 11 of the Act (see Annex D) must not be used to the benefit of an individual person, family, or company. Managers must ensure the requirements of the Act are met.

Q1 Are the opportunities to contribute to sustainable development appropriate for the Scottish Crown Estate? If not, please provide examples of additional or alternative opportunities.

a) Yes

b) No

Delivering the Vision

45. Devolution of the management of the Scottish Crown Estate creates significant opportunities for local communities and industry. This includes enhancing the financial, social, economic and environmental benefits that we can obtain from the assets, and ensuring decisions are taken in Scotland based on Scottish priorities in a transparent and inclusive way.

46. Scottish Ministers have developed a vision for the Scottish Crown Estate, which is based on the above principles:

“The Scottish Crown Estate is managed sustainably, responsibly and fairly, and in a transparent and inclusive manner, to deliver financial benefits and wider and long term social, economic and environment benefits for Scotland and its communities.”

47. To support our vision, we have developed a set of objectives, priorities and policies in relation to the Scottish Crown Estate, which this Plan must deliver over the next five years and beyond. The purpose and legal framework for the Scottish Crown Estate have guided the development of the objectives, priorities and policies in relation to the Scottish Crown Estate but these have also been designed to maximise alignment and contribution to Scottish Ministers’ wider objectives, priorities and policies including opportunities to support the NPF.

48. This Plan sets out how the management of the Scottish Crown Estate contributes to the Scottish Government’s central purpose and will build on the policy direction established through the Act and existing commitments. The Plan also builds on specific Scottish Government policies relevant to the management of the Scottish Crown Estate. Scottish Ministers will continue to take account of all these existing commitments in policy and decision-making and encourage those who take decisions affecting the Scottish Crown Estate to do likewise.

49. The Plan will provide strategic direction for the management of the Estate and will also be a key reference point across the Scottish Government and beyond. It will therefore help to ensure that decisions in relation to the management of the Scottish Crown Estate are influenced by a common vision and objectives for sustainable management, thus optimising the contribution which the assets can make to achieve sustainable and inclusive economic growth.

Q2 Do you feel that the Vision in the Strategic Management Plan meets your expectations for the Scottish Crown Estate for the next 5 years? Please explain your answer.

- a) Fully
- b) Partially
- c) Not at all

Objectives, Priorities and Policies

50. The Plan includes 22 objectives, priorities and policies to realise the vision. These are arranged by theme in the following three sections.

THEME 1: DELIVERING BENEFITS AND REALISING OPPORTUNITIES

The following objectives, priorities and policies are focused on Delivering Benefits and Realising Opportunities.



Scottish Crown Estate assets should be managed for the benefit of Scotland and communities, with market value being charged for sales or leases, unless the manager of the asset can demonstrate that wider benefits of equivalent scale will be delivered.

51. It is important that the capital value and revenue generating potential of the Scottish Crown Estate is maintained as the Monarch owns the assets and the Scottish Government's block grant was reduced by an amount equivalent to the estimated net revenue from the assets in the year prior to the transfer. It is also important that the assets of the Scottish Crown Estate are managed for the benefit Scotland with opportunities to also deliver local benefits.

52. The principle of equivalent scale is intended to recognise that it is possible to charge less than market value, but that it is important any return to the Scottish Crown Estate being foregone by a manager should be complemented, or balanced, by wider benefits of an equivalent scale as a result of any sale or use of the asset for less than market value. Managers should consider – and demonstrate – that it can be reasonably expected that the non-monetary benefits which will accrue as result of a transaction for less than market value are equal to or greater than the income or capital foregone by the transaction. The prospect of achieving these wider benefits should be equally as certain as the financial benefits being foregone to realise these benefits.

53. A manager must also consider the impact on the overall capital value of the estate when making the decision to charge less than market value. For example, the sale of a small area of foreshore to the local community for less than market value may not have a significant impact on the capital value of the Scottish Crown Estate as a whole.

54. Scottish Ministers consider it important that managers favour the delivery of long-term benefits and projects that can be self-sustaining when agreeing to charge less than market value to derive wider benefits, and also those which will not require future financial support from other managers of the Scottish Crown Estate. Decisions to charge less than market value to derive temporary or one-off benefits should normally only be agreed where there will be no significant impact on the value or revenue of the Scottish Crown Estate.



In order to realise the benefits potential, and in recognition that some land and property has been acquired over time for specific investment purposes, there is likely to be sales of assets or parts of assets over the five year period of the Plan, particularly on land or at the coast in response to requests for public benefit purposes or opportunities to increase value to Scotland, recognising that the seabed is a national strategic asset that Scottish Ministers do not wish to become fragmented.

55. In order to maintain and seek to enhance the capital value and revenue, and make future investments to maximise wider benefits, Scottish Ministers acknowledge that parts of the Scottish Crown Estate need to be sold from time to time.

56. The nature of some assets or the arrangements for future management may mean that sales are not appropriate. A one-size-fits-all approach on handling sales is also not appropriate for the unique nature of some of the Scottish Crown Estate assets. The seabed and some Scottish Crown Estate assets may be better retained within the Scottish Crown Estate and managed on a national basis.

57. To manage the risk of fragmentation, consent of Scottish Ministers is required for seabed disposals. Consent is also needed where a manager intends to sell the last remaining asset for which a manager has responsibility. In order to support such decisions, Scottish Ministers require a business case and further guidance may be developed on what is required.

58. A manager of a Scottish Crown Estate asset that has powers to dispose of an asset and acquire new assets should incorporate an Investment Strategy in their Corporate Plan or Management Plan so that stakeholders can express views on the proposed sales. It is acknowledged that some opportunities for sales or acquisitions may arise once a plan is finalised.



Strategies and Plans for Scottish Crown Estate assets should consider the potential for delivering benefits to island communities and assessment of possible impacts will be completed as required under the Islands Act 2018.

59. The Scottish Crown Estate Act requires a manager of one or more Scottish Crown Estate assets to prepare a Corporate Plan or Management Plan in respect of the assets. The plan will set out how the manager plans to manage the asset over a three year period. In particular, how the manager proposes to carry out the duty to maintain and seek to enhance the value of the Scottish Crown Estate assets, and what plans the manager has as regards the disposal of any Scottish Crown Estate assets during the period covered by the plan. Management Plans are an important part of the framework for public scrutiny of managers.

60. The Islands Act places a duty on relevant authorities to undertake an impact assessment when developing, redeveloping and delivering a policy, a strategy or a service, when it is likely to have a significantly different effect on an island community compared with other communities in Scotland (including other island communities as well as non-island communities).

61. Relevant authorities are defined in the Islands Act and include Scottish Ministers, Crown Estate Scotland (Interim Management) and local authorities. It is expected that each Corporate Plan or Management Plan prepared by a manager of a Scottish Crown Estate asset, who is a relevant authority, will include measures which underpin the Scottish Government's objective of ensuring that there is a sustained focus across the Scottish Government and public sector on meeting the needs of island communities where a manager is responsible for assets in any of the island communities. If in future, other organisations take on the management of a Scottish Crown Estate asset in any of the island communities, that manager will be expected to deliver the aims of the assessment required under the Islands Act.

62. A manager of a Scottish Crown Estate asset should also recognise the National Islands Plan and support its implementation as appropriate.



Managers should consider the potential to contribute to wider policies on land reform and community empowerment by offering opportunities to own or manage these assets directly, and as part of strategies to consider the wider value of the existing land assets remaining part of the Scottish Crown Estate.

63. Scottish Ministers are committed to furthering community empowerment in relation to aspects of land use and ownership. This key commitment has been incorporated and developed into a number of wider policies and strategies designed to further deliver the community empowerment objective. Such policies include:

- Land Use Strategy;
- Land Rights and Community Engagement Statement;
- Land Rights and Responsibility Statement;
- Guidance issued by Scottish Ministers or other organisations such as the Scottish Land Commission; and
- New opportunities for community empowerment (through Asset Transfers/Improved Community Right to Buy/Forest Transfer Scheme).

64. A manager must be open, give consideration to these wider policies and be transparent in making decisions regarding land forming part of the Scottish Crown Estate. A manager should engage with their local communities when developing long-term proposals on land, foreshore and seabed. Equally, a manager must have regard to the likely effect on the overall value of the Scottish Crown Estate when developing policies around community empowerment for the estate.

65. Scottish Ministers expect it to be standard practice for a manager of a Scottish Crown Estate asset to involve their communities. Where a request by a community organisation is received to purchase or manage an asset, a manager should, as a matter of course, help to support these requests. The manager should assist the community with the development of their proposal by providing background information at the appropriate level of detail while protecting tenant confidentiality and other sensitive information.



By 2025, the balance between activity related to management of coastal and marine assets is likely to have grown compared with the rural land assets, to reflect the new opportunities that can be realised, but the Scottish Crown Estate is likely to still include a significant amount of land and property assets.

66. Now that we have secured control of the Scottish Crown Estate, any increase in revenue or capital value is a net gain for Scotland.

67. Some elements of the estate might not be expected to generate significant increases in revenue or capital value over the 2020-25 period.

68. For example, at present the scope for increases related to the current rural land assets is limited. While the rate of return on the capital invested in the rural estates is currently low, there are financial and non-financial benefits to the local community, social and other infrastructure benefits and benefits for the environment. The continued investment in rural assets also provides an opportunity to showcase best practice in tenanted farms; for example although it is mainly composed of secure agricultural tenants, the Scottish Crown Estate has a role to play in encouraging new, young entrants into the industry.

69. Other assets or activities are likely to generate increased revenue over the 2020-25 period. As regards the coastal and marine assets, there are a range of opportunities that justify increased activity:

- Scotland's long-term climate change targets will require the near-complete decarbonisation of our energy system by 2050, with renewable energy meeting a significant share of our needs.
- Potential for new commercial scale offshore wind projects to be sited within the spatial locations identified by the sectoral marine planning process. Marine Scotland, as Planning Authority for Scotland's seas, is currently undertaking the preparation of the draft Offshore Wind Plan and associated assessments.
- The Scottish Crown Estate is also a key player in the sustainable development of ports, harbours and marine transport in Scotland. There are opportunities to contribute to investment partnerships to improve ports and harbours infrastructure.
- Crown Estate Scotland (Interim Management) currently leases around 750 sites to fish farm operators to grow finfish and shellfish and issue licences for seaweed harvesting to help ensure sustainable practices are followed.
- Opportunities to support delivery of the National Tourism Strategy and contribute to the sustainable development of new uses of our seas that would require a seabed lease.

70. These opportunities are illustrated by recent studies undertaken by Crown Estate Scotland (Interim Management).

- A study commissioned by Crown Estate Scotland (Interim Management) looked at scenarios linked to a number of renewable technologies such as floating wind, wave, and tidal energy. The study analysed how they could

support the development of key industries, including whisky and salmon farming, in coastal locations. The study sets out the potential, as part of a wider future strategy, for a more localised approach to offshore renewable energy deployment in coastal and island communities.

- Crown Estate Scotland (Interim Management) has also funded research by the Centre for Energy Policy at the University of Strathclyde into the potential economic opportunities for Scotland in the further development of Carbon Capture and Storage to help sustain jobs and build supply chain, helping the 'just transition' to a net zero emissions economy.

Example: Potential opportunities relating to ports, harbours and marine transport

There are over 200 ports in Scotland, from major commercial operations to small leisure and fishing harbours. Ports must continue to adapt and develop, to support trade, oil and gas sector, fishing and cruise tourism, as well as developing renewable support.

Scotland has the most comprehensive network of ferry services in North West Europe. Routes vary hugely, from arterial freight-focussed sailings linking Scotland to Northern Ireland to lifeline passenger services sustaining island communities.

Pleasure yachts and smaller holiday vessels are increasing in popularity and there is huge potential in the development of the marine and coastal tourism sector. Scotland is already the market leader in the UK for inbound cruise tourism, and the cruise sector is confident that Scottish ports are on course to shortly welcome a million cruise passengers annually.

For all of these uses, further development of port and harbour facilities are likely to require seabed leases and dredging agreements.

Example: Aberdeen Harbour

Construction of Aberdeen Harbour Board's £350 million development of additional facilities in Nigg Bay, to the south of the existing harbour, will provide the largest port in Scotland in terms of berthage.

It is expected that the expansion will support the creation of 2,300 jobs by 2026, as well as providing increased opportunity in decommissioning activity, cruise tourism and the renewables market in Scotland. This development has been facilitated by the seabed lease and dredging agreements with Crown Estate Scotland (Interim Management).



Scottish Ministers would like managers to consider the potential for investments that contribute to the achievement of Scotland’s Climate Change Plan, and would also like managers to consider the potential for increased investment activity for the purpose of regeneration for community or national benefit, including land on the coast around ports, harbours and other infrastructure, to realise opportunities for Scotland and local economies, and for these investments to normally be prioritised over other new commercial property investments.

71. The Scottish Crown Estate assets currently have a total capital value of £385.8 million. These assets can be used in a variety of ways to make a substantial contribution to our work on climate change and wider investment strategies over the next five years and beyond. For example, capital receipts from sales or other activity will be reinvested to grow the value of the assets or to fund essential capital expenditure on assets. Future priorities for capital investment will be outlined in Crown Estate Scotland (Interim Management)’s new Investment Strategy which forms part of their 2020-23 Corporate Plan.

72. Investing in the regeneration of communities can promote sustainability and play a key part in ensuring that communities are resilient, vibrant and thriving. As part of a wider Investment Strategy, a Scottish Crown Estate manager can explore and promote opportunities for aligning budgets through joint development activities with other organisations, including coastal regeneration projects. A manager can work with partners to identify priority locations for investment and the types of development that can best meet their financial, sustainable development and regeneration objectives. Where appropriate, they can consider the development of vacant and derelict land in order to increase the capital value of the land, realise untapped potential income and deliver wider social and economic benefits for local communities and beyond.

73. Community-led regeneration is at the heart of the Scottish Government’s [Regeneration Strategy](#) and there is potential for a manager of a Scottish Crown Estate asset to make investment that supports community-led regeneration which:

- Increases the number and strength of locally-controlled, enterprising community organisations;
- Supports local organisations to take over management of assets such as land or foreshore;
- Helps people to co-ordinate action and respond to challenges; and
- Helps people identify and act on the priorities in their areas.

74. In particular, given the Crown’s ownership of just under 50% of the 18,000 km length of Scotland’s foreshore, the Scottish Crown Estate can make a significant contribution to regeneration in coastal areas.

75. An example of investment for the purpose of regeneration for community or national benefit and which also delivers transport and tourism aims is the new pontoons for public use installed in the village of Dunvegan, on the Isle of Skye, by the Dunvegan Mooring Association with support from Crown Estate Scotland (Interim

Management). The new visitor pontoons have been installed in the heart of the village as part of a development programme to attract and retain visitors.



Investments in the Scottish Crown Estate should not be limited to the land or property that currently forms part of the Estate, if returns or wider benefits to the Estate and Scotland can be realised. For example, to make it possible to deliver benefits to communities living on the coast adjacent to parts of the seabed contained in the Estate.

76. During the Parliamentary progress of the Act, MSPs expressed the view that there are significant potential benefits in Crown Estate Scotland (Interim Management) having the ability to hold capital reserves for strategic investment and management of the Estate.

77. The Scotland Act provides that the property, rights and interests of the Scottish Crown Estate must be maintained as an estate in land.

78. The Scotland Act also enables assets to be sold and new assets to be purchased, reflecting the fact some assets, or parts of an asset, have been sold to realise their capital value and to enable reinvestment in other assets. The reforms contained in the new legal framework provided by the Act retain the powers to buy, sell and derive revenue from capital assets that are part of the Scottish Crown Estate. The flexibility provided by these powers will be important in maintaining the value of the estate in future.

79. The new legal framework also enables managers to recognise the wider social, economic and environmental benefits that can flow from the way in which the estate is managed. This approach to recognising the potential to generate wider benefits should be considered when making decisions on investments. This could allow new investments to be made that can create greater capital value or income for the estate and generate wider benefits.

80. A manager may decide to invest in a project, or acquire land adjacent to an area of seabed, where the investment can be expected to increase the value or income of the adjacent seabed or derive other benefits.

81. Consideration will be given to whether further guidance should be developed to guide a manager of a Scottish Crown Estate asset, taking into account the Scottish Government's strategic ambitions for marine, energy, transport, economic development, community and tourist sectors.

Q3 Do you believe that the objectives, priorities and policies contained in theme 1 will allow us to achieve our vision for the future management of the Scottish Crown Estate? Please explain your answer.

- a) Yes
- b) No

THEME 2: HOW SCOTTISH CROWN ESTATE ASSETS ARE MANAGED

The following objectives, priorities and policies are focused on how Scottish Crown Estate Assets are managed.



The diversity of the Scottish Crown Estate means that a one size fits all approach to management is not practical and there are potential benefits of local control, management or enhanced input to decision-making within the national governance framework provided by the Scottish Crown Estate Act, and this framework provides the potential for different approaches in different parts of Scotland.

82. The national framework seeks to provide for the continuation of strategic planning for the assets, while enabling local management to maintain consistency where appropriate. The national framework, including the potential for guidance on accounting provisions, also ensures common standards of openness, transparency and accountability across the Scottish Crown Estate.

83. The Act includes powers for Scottish Ministers to transfer or delegate the function of managing a Scottish Crown Estate assets. Decisions on the most appropriate arrangements for management of each asset will be taken on a case-by-case basis, taking account of the ambitions of local communities.

84. The Act specifies accounting and reporting procedures to ensure sufficient openness about the management of asset at the local or national level. In addition to the Plan, the framework also comprises managers' Management Plans, Annual Reports from managers, and measures to promote consistency in reporting and accounting. The Plan and Annual Reports will be laid in the Scottish Parliament and accounts will be audited by the Auditor General for Scotland.

85. Annual Reports will provide an assessment of how a Scottish Crown Estate manager has performed against the objectives and carried out the activities set out in the Management Plan. Annual Reports and Management Plans will be sources of information about the performance of the managers of the assets. Should the Scottish Ministers be concerned about the performance of a manager, they have the power under the Act to transfer the function of managing the asset to another manager.

86. As part of the governance framework, the Act provides for financial accountability. There is a requirement to keep separate income and capital accounts, which obliges the manager of a Scottish Crown Estate asset to appropriately identify and account for activities that contribute towards net revenue and those that maintain and enhance the capital estate.

87. The governance framework outlined above will provide assurance and transparency to support different models for management of the Scottish Crown Estate assets.



It is anticipated that by the end of the five year period there will be a variety of managers of Scottish Crown Estate assets with individual assets managed at the appropriate level and opportunities through either transfers, delegations or pilots for councils, communities and other eligible organisations to contribute to or control decisions on how assets are managed and used.

88. At present, the portfolio of property, rights and interests are managed as a whole by a single manager, Crown Estate Scotland (Interim Management). Scottish Ministers are aware of the ambitions of some local communities to have the opportunity for enhanced control or greater involvement in decision-making about Scottish Crown Estate assets in their community.

89. The Act provides the mechanism for local management of specific assets by local authorities, Scottish Harbour Authorities or community organisations, and or for another part of the public sector to manage parts of the estate. It also sets out the regulatory framework within which all managers must operate.

90. The Act creates two mechanisms for devolving the function of managing a Scottish Crown Estate asset – transfer and delegation. Scottish Ministers acknowledge that a one-size-fits-all approach is not appropriate for such a diverse range of assets. The Act provides for a case-by-case approach and for some individual assets to be managed and developed by eligible communities and councils. This approach would enable local control over decision-making, with the potential for shared supporting arrangements to reduce duplication and fragmentation. The intention is for the process of further devolution to be as inclusive as possible, while assessing each case on its merits and being mindful of the duty to maintain and enhance the value of the asset.

How management of a Scottish Crown Estate Asset can be transferred or delegated.

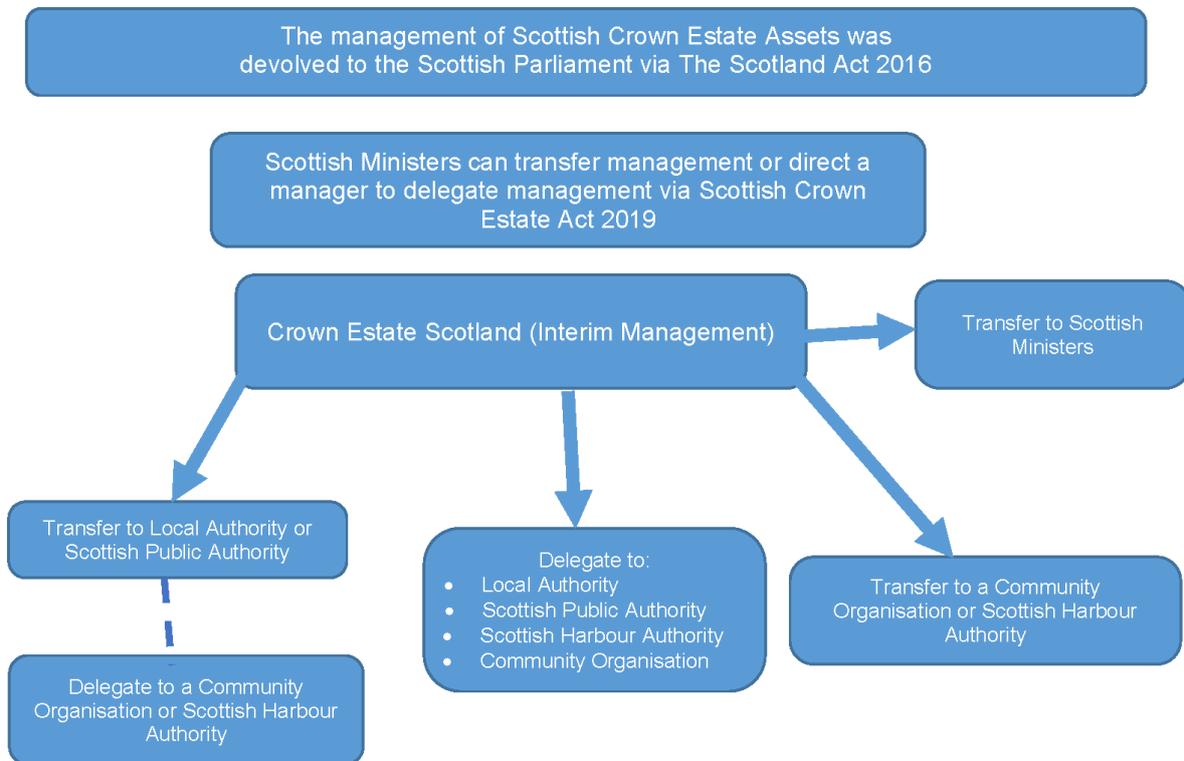


Image 6: How Management of Scottish Crown Estate Assets can be transferred and delegated

91. It is possible that some organisations may only want to manage one asset or part of an asset e.g. management of a stretch of foreshore in a part of Scotland. For example, Scottish Ministers can see in principle the potential for a Scottish Harbour Authority to manage the seabed under and around the footprint of the harbour structures, but would require justification to include seabed outside the harbour authority's boundaries.

92. It is also possible that some communities may prefer alternative approaches to enhanced control and involvement in decision-making to those contained in the Act. These could take a number of forms, such as:

- Local management pilots,
- Other forms of local management agreements, or
- Community and users' involvement in advisory groups.

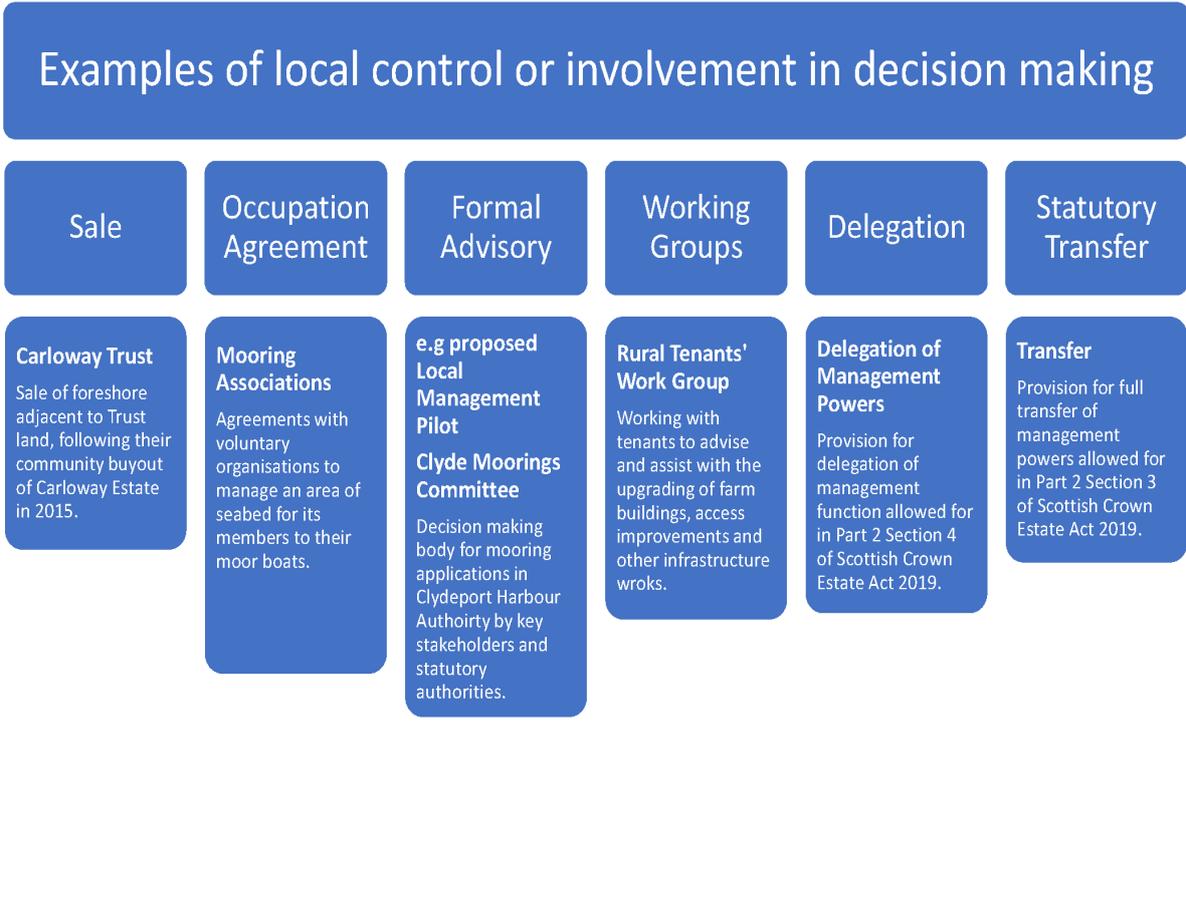


Image 7: Example of local control or involvement in decision making

93. Scottish Ministers are also following with interest the progress of Crown Estate Scotland (Interim Management)'s local asset management pilot scheme. The experience of the pilot scheme will inform future decisions on transfer and delegation under the Act.

94. There is also a case for the management of the seabed, particularly the rights to the 12-200 nautical mile zone, and leasing for strategic national infrastructure such as telecommunication cables, pipelines and offshore wind farms being undertaken at the Scottish level. It is proposed, therefore, that some assets, at least for the time being, should be managed at a national level (see image 8).

Functions that could potentially be further devolved to councils or communities

- Foreshore rights
- Leasing for wave and tidal energy out to 1nm, 3nm or 12nm
- Land in local authority operated ports
- Non-operational ports and jetties

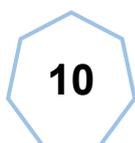
Functions that may be better managed at the national level

- Offshore renewable leasing (12-200nm zone)
- Rights over cables and pipelines (which can transcend national borders within the UK)
- Other seabed rights (12-200nm zone) - gas storage rights, mineral rights (not hydrocarbons)
- Rights to naturally occurring gold and silver
- Reserved mining rights

Functions that need more consideration

- The rural estates – Applegirth, Fochabers, Glenlivet and Whitehill estates
- Urban property – principally at George St, Edinburgh
- Offshore wind leasing in the 0-12nm zone
- Aquaculture (may need mechanisms for management of conflicts of interest)
- Salmon fishing rights, possibly retained as part of the rural estate or aligned more closely with wider reform of wild fisheries)
- Land in other ports

Image 8: Opportunities for local management of assets



Scotland's seabed is a national strategic asset and should be managed at the national level but Scottish Ministers will keep the arrangements under review to determine whether it is most appropriate for assets to be managed at the national or local level.

95. Scotland is a maritime nation, which has always looked to the sea and views the marine environment as being critical to the culture, wellbeing and wealth of the nation. Now that we have secured control of rights to the seabed for Scotland, we need to ensure that the arrangements for management safeguard these important assets for the future of Scotland and local communities.

96. The seabed is defined in the Act and includes the Scottish marine area, which is that part of the seabed out to the 12 nautical mile limit, and the Scottish zone, which lies between the 12 nautical mile limit and 200 nautical mile limit. The Scottish Zone is not owned by the Crown, but international maritime law gives a coastal state the rights in that zone and these rights have been vested in the Crown. The part of the seabed, which comprises land lying between the high and low water marks of ordinary spring tides, is known as the foreshore.

97. The Crown owns just under 50% of the 18,000 km length of Scotland's foreshore, with exceptions relating to land owned by a third party under udal tenure in the Northern Isles or acquired from the Crown over time by other landowners.

98. The capital value of and annual gross revenue from the seabed related activity as at the date of transfer is in the table below.

Asset Group	Capital value as of 31 March 2017 (£m)	Annual Gross revenue 2016-17 (£m)
Coastal	28.5	3.2
Dredging	0.9	0.1
Aquaculture	23.7	3.5
Cables/pipelines	23.7	3.1
Renewables	61.1	0.8
Total	137.9	10.7

99. During the Parliamentary consideration of the Bill, it became clear that the Scottish Parliament views the seabed as a national asset which should be managed nationally. The Act includes powers that enable Scottish Ministers to transfer the management of an asset by laying regulations in the Scottish Parliament, which will therefore be able to scrutinise any transfers of management of the seabed.

100. This reflects the Scottish Government's view that the seabed, except that part which is wholly intertidal, should be considered a strategic national asset, or asset of significant value, and should be subject to greater scrutiny. This is because marine assets are important for critical infrastructure such as energy production, telecommunications and transport.

101. The potential impact of the transfer of management of any part of the seabed – other than the foreshore – on third parties, such as mariners, is also significant. The potential or actual financial value and the wider economic and environmental importance of these assets is also significant. The marine assets or seabed rights can control activities in ports and harbours, aquaculture leases, offshore wind and tidal energy, cables and pipeline, and carbon capture and storage. As such, it includes strategic national infrastructure and the statutory transfer scheme⁴, which governed the devolution of the Scottish Crown Estate, includes procedures which are designed to protect critical national infrastructure. Scottish Ministers will keep under review the management arrangements for the seabed.

102. The Scottish Parliament also expressed concern during the progress of the Bill about sales of the seabed. The Scottish Government supports the long-standing policy of there being a presumption against the sale of the seabed. However, it is recognised that there are some circumstances where sales of the seabed should be possible. For instance, the seabed under the footings for bridges or piers or other harbour developments. The Act contains a provision requiring any manager to obtain the consent of Scottish Ministers before disposing ownership of any area of the seabed.

⁴ <https://www.legislation.gov.uk/ukdsi/2017/9780111155103/contents>

Scottish Ministers will run an initial round to invite proposals for transfer or delegation of management of an asset, or parts of an asset to local parts of Scotland, and will consult in advance on draft guidance on what proposals should include and the criteria for assessing proposals received including potential benefits and value for money.

103. Scottish Ministers are aware of the ambitions of some communities for local management of assets. Scottish Ministers will run a process to invite local authorities, Scottish Harbour Authorities and community organisations to apply to take on management of assets in their area either through a transfer or delegation agreement.

104. Managing a Scottish Crown Estate asset is a significant commitment and Scottish Ministers expect prospective managers to consider carefully which management option is best suited to achieving their aims and whether they meet the criteria within the Act. It might be that ownership or leasing the assets is more appropriate for achieving their aims than a transfer or delegation of management.

105. Scottish Ministers want the processes of transfer and delegation of the management of assets to be open and transparent and we will consult with relevant parties. Prospective managers are also expected to be open and transparent and engage proactively within the community in which the asset they wish to manage is located.

106. Scottish Ministers will develop and publish a complete, detailed and comprehensive application process, with accompanying guidance to assist prospective managers.

107. Scottish Ministers intend that locally managed assets should continue to contribute to the overall sustainability of the Scottish Crown Estate. All prospective managers should develop a robust plan, setting out their objectives for the asset, financial considerations, and expected social impacts, and the evidence to support their proposals.

Example: Community Opportunities

Scottish Government policy supports communities taking more control of their local assets, including land purchases and leasing arrangements.

Local communities which have taken control of local assets are showing real initiative and progress in improving their place, their communities. Those communities harness the land resources at their disposal and manage those assets to support economic, social, environmental and cultural development, seeking to enrich the life of their community and the people who live there, making the community more sustainable and resilient.

Scottish Crown Estate assets associated with the foreshore that adjoin land in community ownership, are potentially valuable assets for a community to manage in association with their land assets, or independently.

There are already many examples of local communities managing piers and jetties, moorings and anchorages and there are aspirations to exploit potential renewables opportunities. Being in control of decisions over these assets, and potentially other assets in the control of the Scottish Crown Estate, can create income streams that can help strengthen local economic performance and contribute to more empowered, sustainable and resilient communities.

Manager duties



All managers should exercise functions when managing a Scottish Crown Estate asset in a way that is transparent, accountable, inclusive and consistent with any other principle of good governance.

108. The Act requires managers to exercise their functions in a way that is transparent, accountable, inclusive and consistent with the principles of good governance. Crown Estate Scotland (Interim Management) is currently responsible for the management of all Scottish Crown Estate assets. The importance of transparency in local decision-making in the sale and management of assets is exemplified by the legal duty on governance and accountability contained in section 4 of the Crown Estate Scotland (Interim Management) Order 2017, which establishes the legal framework for the organisation.

4. Crown Estate Scotland (Interim Management) must, so far as reasonably practicable, operate in a way which—
 - (a) is transparent and accountable; and
 - (b) is consistent with any other principle of good governance which appears to it to constitute best practice

109. Crown Estate Scotland (Interim Management) also operates under a [Framework Agreement](#) drawn up by the Scottish Government. This sets out:

- Functions, duties and powers;
- Aims, objectives and targets;
- Responsibilities and accountability, including Crown Estate Scotland (Interim Management)'s relationship with the Scottish Government;
- Plans, budgets and controls;
- External accountability arrangements;
- Staff management arrangements; and
- Financial framework.

110. Information on decisions and performance of assets and minutes of meetings are publicly accessible on the Crown Estate Scotland (Interim Management) website. An independent board, accountable to Scottish Ministers, monitors and scrutinises the key outputs of the Crown Estate in Scotland, and provides further reassurance of transparency. Crown Estate Scotland (Interim Management) engages local

communities and their representatives in key decisions such as its work on pilots of local asset management⁵.

111. The Act includes new powers for Scottish Ministers to transfer or delegate management of a Scottish Crown Estate asset. Any organisation that receives a transfer or delegation in the future will be expected to operate to similar standards to Crown Estate Scotland (Interim Management).



Scottish Ministers will develop guidance or directions on the manner in which a manager is expected to comply with the requirements of the Scottish Crown Estate Act relating to furthering sustainable development and seeking to manage assets in a way that is likely to contribute to wider benefits to Scotland, including relevant considerations when exercising the powers in section 11 of the Act.

112. Section 7 of the Act requires managers, when managing a Scottish Crown Estate asset, to do so in the way best calculated to further the achievement of sustainable development in Scotland and to seek to manage the assets in a way that is likely to contribute to the promotion or the improvement in Scotland of economic development, regeneration, social wellbeing and environmental wellbeing.

113. Section 11 of the Act includes a further duty relating to situations where a manager is disposing of the ownership of all or part of an asset, granting a lease or giving any other right in or over an asset. The manager must not do so for less than market value, unless the manager is satisfied that the relevant transaction is likely to contribute to the promotion or the improvement in Scotland of economic development, regeneration, social wellbeing, environmental wellbeing or sustainable development.

114. During the Parliamentary passage of the Act, MSPs recommended that guidance should be available for managers, setting out how managers should demonstrate that these factors have been taken into account. The Scottish Ministers accepted the recommendation and will develop relevant guidance.

115. General guidance is already available on the promotion or improvement of economic development, regeneration, social wellbeing, environmental wellbeing and sustainable development. This can be used to inform decisions on the management of the Scottish Crown Estate in the absence of any more specific guidance. Scottish Ministers do, however, see value in developing guidance on specific examples of these concepts to cover the unique nature of the Scottish Crown Estate in order to assist managers in making better decisions in the future.

116. The development of guidance is intended to empower and enable a manager of a Scottish Crown Estate asset to realise the benefits of the asset to the fullest extent, while protecting the Crown's interest. The guidance will take account of the diverse opportunities and challenges relating to management of the Scottish Crown Estate.

⁵ <https://www.crownestatescotland.com/what-we-do/local-pilot-scheme>

117. In particular, it may not be appropriate for a manager of a Scottish Crown Estate asset to be expected to deliver the full range of possible benefits that are covered in the general guidance. This could be because the asset being managed is very specific, such as salmon fishing rights on a particular river, an area of foreshore or specific mineral rights, or because another organisation is more appropriate for delivering particular benefits. In future, detailed guidance on the requirements of the Act may be developed for managers of specific classes of assets, potentially including guidance to managers on how to balance the weight to be given to various factors.

118. This guidance will build on the current work of Crown Estate Scotland (Interim Management) to improve understanding of the economic, social and environmental value of assets and to develop new methodologies on how to assess the possible benefits of different approaches to managing the assets in future.

119. Scottish Ministers plan to develop the guidance with the involvement of key sectors represented on the Crown Estate Stakeholder Advisory Group and will ensure that the guidance is specific and relevant to the circumstances of a manager of a Scottish Crown Estate asset.



Scottish Ministers will develop directions or guidance on other requirements for managers including accounting requirements and any charging requirements under section 13 of the Act.

120. The Act made provision for the Scottish Ministers to direct managers or give guidance as to their functions.

121. There are particular areas where direction or guidance may be required. The Act sets out for managers the requirements in respect of keeping accounts and accounting records, audit, and reporting on the management of assets. While the provisions of the Act may be sufficient we will keep under review the possible value of developing additional supporting guidance, particularly where management of an asset or part of asset may be transferred or delegated to another organisation.

122. There are also some specific provisions within the Act, for which specific directions and guidance are likely to be required. The Scottish Ministers have taken powers to direct managers on the amounts managers may charge in rent for the lease of Scottish Crown Estate assets or in connection with any other agreement for the use of the assets, such as a licence, or how these amounts should be calculated.

123. For example, currently aquaculture rents are set by a standard formula. Finfish rents are set on net gutted weight and species, while shellfish rents are set on species, length or rope and other types of equipment. There are set charges for moorings, and fees for licenses to give developers the property rights they need to lay, maintain and operate cables and pipelines on the seabed up to 12 nautical miles from the shore and undertake other activities. This includes oil and gas pipelines, electricity and telecommunication cables. These have been set following consultation with industry and third party experts. The fees are charged consistently except where

specific circumstances merit otherwise and any guidance on these matters will also consider the possible need for specific exceptions.

124. In addition, Crown Estate Scotland (Interim Management) must comply with the Scottish Public Finance Manual (SPFM), which is issued by the Scottish Ministers to provide guidance to the Scottish Government and other relevant bodies on the proper handling and reporting of public assets and funds. The SPFM sets out the relevant, statutory, Parliamentary and administrative requirements, emphasises the need for economy, efficiency and effectiveness, and promotes good practice and high standards of propriety.

125. Guidance may be needed to make clear that provisions contained in the SPFM (and any other relevant guidance issued by the Scottish Ministers) should be regarded as "applicable guidance" for a manager of a Scottish Crown Estate asset as the accounts of Scottish Crown Estate managers are subject to audit by the Auditor General for Scotland under section 35 of the Act.

126. In future, where the manager of a Scottish Crown Estate asset is not a Scottish Public Body, the manager would be required to comply with requirements similar to those in the SPFM. The requirements are likely to be specified in a transfer order and accompanying guidance for such managers may also be necessary.

Q4 Do you believe that the objectives, priorities and policies contained in theme 2 will allow us to achieve our vision for the future management of the Scottish Crown Estate? Please explain your answer.

- a) Yes
- b) No

THEME 3: REVENUE, MANAGEMENT OF LIABILITIES AND OTHER ISSUES

The following objectives, priorities and policies are focused on revenue, management of liabilities and other issues.



The net revenue will be used for the benefit of Scotland and communities with appropriate arrangements to co-ordinate funding for programmes and projects that cannot be undertaken by a single community or council.

127. The net revenue from the estate – the income from leasing and all the other activities, less the costs of managing the assets – is paid into the Scottish Consolidated Fund (SCF).

128. Scottish Ministers have committed to distribute the net revenue generated by the Scottish Crown Estate marine assets out to 12 nautical miles to coastal local authorities for community benefit. The balance in net revenue from other Scottish Crown Estate assets will be used for wider national benefit through the SCF.

129. Crown Estate Scotland (Interim Management)'s net revenue to the SCF in 2017-2018 totalled £9 million. The share of total net revenue from marine assets in the 0-12 nautical miles zone was around £7 million in 2017-2018. This is currently the most significant element of the revenue and is expected to grow further in future years as leases from renewable schemes increase.

130. The first payments to coastal local authorities from the net revenue generated by Scottish Crown Estate marine assets out to 12 nautical miles in 2017-2018 represent a significant increase in the total available funding for coastal communities.

131. The opportunities associated with the distribution of net revenue need to be balanced with the need to fund investment in the estate. This will ensure that our coastal communities continue to derive financial benefits from the assets in future.

132. We see value in exploring with local authorities the potential for regional or national co-ordination to co-ordinate funding for programmes and projects that cannot be undertaken by a single community or council. This could enable revenue from the assets to be deployed to funding strategic investment, for example, to support established and new marine and coastal industries to sustain and deliver community benefit in the coming years and ensure that we can maintain and enhance wider benefits from the assets.

How revenue generated from Scottish Crown Estate assets is distributed

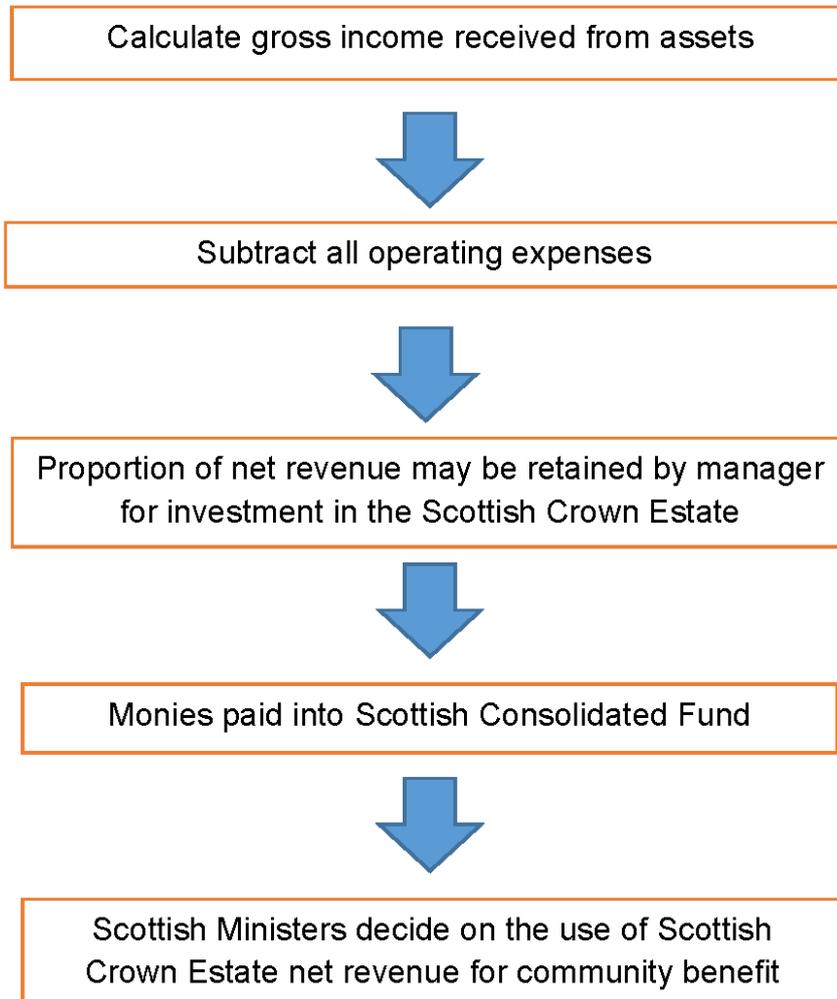


Image 9: How revenue generated from Scottish Crown Estate assets is distributed



The net revenue from marine assets out to 12 nautical miles should demonstrably benefit coastal communities and all arrangements for the use of net revenue should be transparent and accountable with opportunities for communities to express views on how the revenue is used.

133. Scottish Ministers have committed to ensuring coastal communities will benefit from 100% of the net revenue from the Crown Estate marine assets out to 12 nautical miles.

134. Scottish Ministers expect local authorities to ensure that all of the funding received from the net revenue generated from the marine assets out to 12 nautical miles is used to fund additional expenditure that specifically benefits coastal communities.

135. Local authorities will be empowered to make decisions on funding of those projects that will deliver coastal community benefit while ensuring transparency and accountability to communities and others. This will include transparency on how decisions will be made and proportionate reporting arrangements on how the funding has been used.

136. It is anticipated that local communities will have an opportunity to be involved in the decision-making process on how the revenue from the marine assets is used. Greater consideration of local needs and the flow of additional revenue into coastal communities will help to empower and enhance coastal communities.



The Scottish Government will work with COSLA to complete a review of the future arrangements for net revenue from marine assets out to 12 nautical miles. The review will take account of the management requirements of the estate, how future revenue can be increased through strategic funding, the potential for other communities of interest to be managers and the case for these organisations to directly benefit from the net revenue.

137. A driver for reform of the management of Scottish Crown Estate assets has been to seek to ensure that local communities benefit – through realising wider benefits, opportunities for local management of parts of the estate and the Scottish Ministers’ commitment to bring financial benefits to coastal communities.

138. The Scottish Government and COSLA have agreed an interim approach to distribution of the net revenue from Scottish Crown Estate assets, based on each local authority’s share of the of the adjacent sea area in the 0-12 nautical mile zone.

139. The formula-based approach will be reviewed and the Scottish Government and COSLA will collaborate on the detail of this process, including how the delivery mechanism for the funds can ensure that benefits to communities can be maximised. Annual allocations to individual local authorities in future will depend on the net revenue generated by Scottish Crown Estate marine assets out to 12 nautical miles in the relevant year of Scottish Crown Estate operations that provides the basis for the total allocation.

140. The review will take into account change brought about by the Scottish Crown Estate Act, recognising the potential for there to be a variety of managers, in determining how the net revenue from the assets out to 12 nautical miles should reach communities in the future. This also needs to be balanced against the need to fund investment in the assets to ensure future revenue streams for coastal communities and maximise the benefits in future.



Local organisations interested in management of a Scottish Crown Estate asset, should consider how they could take on the function and liabilities for the longer term and manage the asset in a way that delivers added value, transparency and efficiency and which is compatible with their core remit.

141. Transfers and delegations and other models to enhance local control represent a significant opportunity to maintain improvement in how Scottish Crown Estate assets are managed and should be accompanied by no deterioration in transparency or efficiency in order to ensure benefits are achieved. In response to the 2017 public consultation on the long term management the Scottish Crown Estate⁶, 80% of respondents who provided a view considered that the person taking on the responsibility for management of an asset should normally take on the responsibility for managing the associated liabilities. Scottish Ministers' policy in general is rights and liabilities relating to a Scottish Crown Estate asset will be transferred to the new manager and if an asset is sold, the liability in general will be transferred to the new owner.

142. 74% of respondents who provided a view on the consultation also considered that the costs associated with management of liabilities should be included in the overheads. This approach ensures that costs and liabilities associated with the management of an asset are met from Scottish Crown Estate funds themselves and that managers do not use any funds that they may hold in respect of another capacity for this purpose.

143. The Scottish Crown Estate encompasses a wide range of assets, some of which will have liabilities associated with them, such as decommissioning offshore renewable infrastructure.

144. An issue of significant concern to MSPs during the Parliamentary consideration of the Act was that of liabilities. Liabilities relating to an asset will normally be transferred to the manager of the asset, on the understanding that the manager will meet the liabilities associated with the asset from its capital or revenue depending on whether the liability should be charged to the capital or revenue budget. When applying for a transfer or delegation prospective managers will be required to consider fully how they will manage and meet liabilities, including any liabilities which may be attached to newly acquired assets. Liabilities may relate to all or any of the following:

- A Scottish Crown Estate asset;
- A former Scottish Crown Estate asset; or
- A historic Scottish asset within the meaning of paragraph 1 of schedule 2 of the Crown Estate transfer scheme.

⁶ <https://consult.gov.scot/crown-estate-strategy-unit/long-term-management-of-the-crown-estate/>

19

Scottish Ministers have a preference for shared services approaches to administration of the assets in order to maximise efficiency and hence net revenue available to Scotland and local communities.

145. Local management of assets using the powers in the Act can allow for local control over decision-making in the context of a wider governance framework. There are various possible models for how devolved decision-making can be supported. This ranges from shared services arrangements to maximise efficiency and economies of scale to each manager having separate administrative and support systems.

146. As it cannot be guaranteed that individual assets will generate sufficient revenue to cover costs, or that the liquid capital associated with individual assets will be sufficient for future investment requirements, the Scottish Government consider that a preference for shared services is needed, where management of assets is transferred or delegated to another manager.

147. There is potential for contractual arrangements for shared services to support delivery in a way which reduces administration costs compared with each manager incurring them separately. One possible example of this approach would be to continue to access Crown Estate Scotland (Interim Management)'s administrative and staff support. This would enable local areas to take democratic decisions on the use of an asset while minimising the additional costs of administration.

148. Shared services could provide a central support function for core strategic services and potentially some operational activities that may be provided on a joint basis or for those which may be out-sourced, such as legal advice.

149. This approach can:

- Minimise duplication in working; and enhance efficient working practices;
- Ensure consistency of approach to management; and to standards of practice including computer systems;
- Ensure management practices align with wider national strategy and commitments; and
- Limit financial risks.

20

An organisation that wishes to take on direct management will normally be expected to manage the associated liabilities, including those arising from their decisions on the management, and cover the associated costs from the income generated from the asset.

150. Liabilities include all current, future and past liabilities. When seeking a transfer or delegation, the future manager should be prepared, when managing a Scottish Crown Estate asset, to cover the costs of the liabilities associated with the asset to be managed.

151. Not all Scottish Crown Estate assets will have significant liabilities. All managers must ensure the asset contributes to generating additional revenue into

the SCF, after meeting running costs and other commitments, from their Scottish Crown Estate accounts.

152. Managers will also be responsible for making decisions on the future of the assets and will, therefore, be responsible for all their actions and decisions including the current and future liabilities associated with these. Managers must have regard to the likely effect that actions and decisions on the future of the asset may have on the overall value of the Scottish Crown Estate.

21 **Crown Estate Scotland (Interim Management) staff rights will be respected and protected in the reform of the management of the Scottish Crown Estate and they will have opportunities to contribute their views.**

153. The skills, knowledge and commitment of Crown Estate Scotland (Interim Management) staff are highly valued by the Scottish Ministers. These skills and knowledge will be required in future whether an asset is managed at the national level or new models for local control are implemented.

154. The preference for shared service models for any transfers or delegation of management is likely to minimise change for staff currently employed by Crown Estate Scotland (Interim Management). This option would retain economies of scale relating to managing assets at a national level and ensure the most cost efficient allocation of staff and resource costs.

155. The rights of Crown Estate Scotland (Interim Management) staff will continue to be protected throughout the process for completing reforms to the management of the Scottish Crown Estate.

22 **Crown Estate Scotland (Interim Management) will assist Scottish Ministers in implementing the Strategic Management Plan and will develop new roles in contributing to the co-ordination of the management of the wider Scottish Crown Estate, facilitating delivery of the Plan and realisation of potential benefits, including piloting new partnership working models and potentially including joint ventures.**

156. This role will be additional to Crown Estate Scotland (Interim Management)'s requirement to have regard to the Plan. It takes account of the value and benefits of accessing the wider expertise of staff within the organisation to assist with work on co-ordination and contributing to and supporting new models on how the assets can be managed.

157. The possible models may relate to how Crown Estate Scotland (Interim Management) manages the assets for which it has responsibility or how expertise, support or assistance could be provided to assist others to take on management of specific assets. Further information on these new roles is outlined in Crown Estate Scotland (Interim Management)'s draft Corporate Plan.

Q5 Do you believe that the objectives, priorities and policies contained in theme 3 will allow us to achieve our vision for the future management of the Scottish Crown Estate? Please explain your answer.

- a) Yes
- b) No

Q6 Do you feel the objectives, priorities and policies will deliver success to the Scottish Crown Estate? Please explain your answer.

- a) Yes
- b) No

Q7 Do you feel there are any other opportunities for revenue generation that have not been identified in the draft Plan? Please explain your answer.

- a) Yes
- b) No

Q8 Do you feel the objectives, priorities and policies will impact you positively, negatively or have no impact on you as an individual or as part of an organisation? Please explain your answer.

- Positively
- Negatively
- Not at all

Q9 Do you feel that the objectives, priorities and policies align and take account of wider Scottish Government objectives? Please explain your answer.

- a) Yes
- b) Partially
- C) No

Reporting, monitoring and review

158. This is the first Strategic Management Plan for the Scottish Crown Estate and will be laid before the Scottish Parliament once finalised. Scottish Ministers are required to review the Plan within five years. A review may either result in a revised Plan being prepared (subject to consultation, laying and publication requirements) as set out in the Act or laying of a statement in the Scottish Parliament indicating we consider that the Plan should not be revised.

159. The Scottish Government will monitor implementation of the Plan, delivery of the objectives, priorities and policies and alignment with wider objectives, priorities and policies. The Scottish Government will work with Crown Estate Scotland (Interim Management) and prospective managers of Scottish Crown Estate assets to ensure that appropriate monitoring is undertaken alongside wider monitoring under the NPF.

160. The Act provides for a national framework to govern management of the assets at the national and local level. This framework includes national reporting and accounting arrangements.

161. The monitoring and review of the Plan will be informed by the delivery of targets in Crown Estate Scotland (Interim Management)'s Corporate Plan and any Management Plans prepared by other managers.

162. Crown Estate Scotland (Interim Management)'s Corporate Plan and any other Management Plans should set out how the manager plans to manage the asset under their management over the next 3 years. The plan should:

- Set out the manager's objectives for the period;
- The activities the manager proposes to undertake during that period;
- Any risks associated with those activities;
- Outcomes against which the achievement of the objectives may be assessed;
- How the manager proposes to maintain and seek to enhance the value of the assets under their management; and
- Set out whether the manager proposes to dispose of any Scottish Crown Estate asset during that period and, if so, how the manager proposes to use any proceeds of the disposal.

163. Annual Reports provide an assessment of how a manager has performed against the objectives. As such, Annual Reports and Management Plans will be one of the sources of information about the performance of the managers of the assets.

164. Monitoring is an integral part of Strategic Environmental Assessment (SEA) and a proposed monitoring framework has been developed to track the significant environmental effects of implementing the Plans to address data gaps identified in the SEA.

Q10 Do you have any comments or additional suggestions on the arrangements for monitoring and review of the Plan? Please explain your answer.

a) Yes

b) No

Impact assessments

165. The Scottish Government is committed to assessing the impact of its proposals and policies. The process of carrying out impact assessments allows us to comply with legislative requirements and to inform the policy development process. Consideration has therefore been given to the following:

A: Business and Regulatory Impact Assessment

166. A draft Business and Regulatory Impact Assessment (BRIA) has been carried out to analyse whether any of the proposed objectives, priorities and policies are likely to increase or reduce the costs and burdens placed on businesses, the public sector and voluntary and community organisations. This draft document has been published alongside this consultation paper.

Q11 Would you add or change anything in the Business and Regulatory Impact Assessment? If yes, please give details.

- a) Yes
- b) No

Q12 Would you agree that the Business and Regulatory Impact Assessment is wide ranging enough?

- a) Yes
- b) No

B: Strategic Environmental Assessment

167. Strategic Environmental Assessment (SEA) helps us to protect the environment by allowing planners and decision makers to consider the likely significant environmental effects of plans, programmes and strategies.

168. The Environmental Assessment (Scotland) Act 2005, requires Scottish Public Bodies or those exercising functions of a public character (Responsible Authorities) to undertake an SEA when preparing plans, if it is likely to have significant environmental effects (either positive or negative).

169. A draft SEA has been produced in accordance with the Environmental Assessment (Scotland) Act 2005. The findings of this assessment are outlined in an

SEA Environmental Report, which is available as a separate document for public comment. This draft document has been published alongside this consultation paper.

Q13 Do you have any views on the evidence set out in the Strategic Environmental Report? If yes, please give details.

- a) Yes
 b) No

Q14 Do you agree with the conclusions and recommendations set out in the Strategic Environmental Report?

- a) Yes
 b) No

170. The Scottish Government have also taken into consideration the following impact assessments:

C: Equality Impact Assessment

171. An Equality Impact Assessment (EQIA) helps us to look at how our policy impacts on people and is an opportunity to promote equality.

172. The Scottish Government is committed to promoting equality and removing or minimising disadvantage, which may be experienced, by different groups of people. We have a legal duty to consider the impact of policies on people who may be differently affected in relation to the 'protected characteristics' under the Equality Act 2010 of:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

173. The Scottish Government has considered whether it is necessary to carry out a full EQIA at this stage in the policy development. The Plan is a high level document

and it is not anticipated to directly impact on equality. The intention is that the objectives, priorities and policies in the Plan will be either neutral or positive in their impact on wider communities. Further information, including the reasons why a full EQIA is not needed at this stage, is outlined in a separate document. If there are any impacts on equality arising from the proposals in this consultation, we will revisit that decision and carry out an EQIA if required.

174. This draft document has been published alongside this consultation paper.

Q15 Do you have any comments to make on our Equality Impact Assessment? This is available as an associated downloadable document. If yes, please give details.

- a) Yes
- b) No

Q16 Please tell us about any possible impacts the proposals contained in this consultation document may have on groups of people with protected characteristics. The responses we receive to this question will help to inform the content of the final Strategic Management Plan, and final Equality Impact Assessment.

D: Island Communities Impact Assessment

175. One of the key measures in the Islands Act 2018 is to require everyone who makes or designs new policies, strategies or services to consider how these will impact on islands. Island Communities Impact Assessments will be one way in which relevant authorities can consider the impact of these policies, strategies or services on islands.

176. We have assessed the possible impacts and consider an Island Communities Impact Assessment is not required in relation to the draft Plan. The Plan is not likely to impact island communities in a significantly different way to mainland Scotland communities and makes no distinction to the various communities across Scotland.

177. This draft document has been published alongside this consultation paper.

E: Child Rights and Wellbeing Impact Assessment

178. The Child Rights and Wellbeing Impact Assessment (CRWIA) is used to identify research, analyse and record the impact of a proposed law or policy on children's human rights and wellbeing.

179. It should be used on all new legislation and policy, which impacts children.

180. This draft document has been published alongside this consultation paper.

F: Fairer Scotland Duty

181. The aim of the Fairer Scotland Duty is to help the public sector make better policy decisions and deliver fairer outcomes. The duty focuses on socio-economic inequality issues such as low income, low wealth, and area deprivation.

182. Part 1 of the Equality Act 2010, which came into force in Scotland from April 2018, requires [Scottish Ministers \(and named public bodies\)](#) to actively consider what more can be done to reduce the 'inequalities of outcome' caused by 'socio-economic disadvantage' when making 'strategic decisions'.

183. The Scottish Government have decided at this stage that a Fairer Scotland Duty assessment should be carried out at the point at which 'strategic decisions' relating to the transfer of delegation of management of individual assets are taken through mechanisms in the Act. This will ensure that strategic decisions consider opportunities to improve outcomes for people experiencing social economic disadvantage.

184. This draft document has been published alongside this consultation paper.

G: Data Protection Impact Assessment

185. Under the General Data Protection Regulation (GDPR) Scottish Ministers have to complete a data protection impact assessment for all projects involving personal data and privacy.

186. It is not anticipated that any new or significant changes to the handling of types of personal data will occur as a result of the development of the first Strategic Management Plan and this draft document has been published alongside this consultation paper.

187. This draft document has been published alongside this consultation paper.

188. Final versions of these impact assessments will be made publicly available after the consultation responses have been received and analysed.

Q17 Do you agree with the conclusions for the following Impact Assessments?

Island Communities Impact Assessment

- a) Yes
- b) No

Child Rights and Wellbeing Impact Assessment

- a) Yes
- b) No

Fairer Scotland Duty Impact Assessment

- a) Yes
- b) No

Data Protection Impact Assessment

- a) Yes
- b) No

Q18 Do you feel there are any other Scottish Government policies, which should be taken into account? Please explain.

- a) Yes
- b) No

Q19 Do you have any other comments or suggestions on the Strategic Management Plan that you feel haven't been covered by this consultation?

Glossary of Terms

The Plan	The Strategic Management Plan
The Act	The Scottish Crown Estate Act 2019
The Bill	The Scottish Crown Estate Bill 2018
The Islands Act	Islands (Scotland) Act 2018
BRIA	Business and Regulatory Impact Assessment
Capital account	Expenditure and financing on non-current assets used in providing services beyond the current accounting period.
COSLA	Council Of Scottish Local Authorities
CRWIA	Child Rights and Wellbeing Impact Assessment
DPIA	Data Protection Impact Assessment
Estate in land	Where used in reference to the duty in section 90B(8) of the Scotland Act 1998 that the assets must be maintained as an estate in land, this means that the manager has a duty to maintain the value of the Scottish assets, with re-investment back into the estate, with due regard to the requirements of good management.
EQIA	Equality Impact Assessment
Exclusive Economic Zone	A sea zone, prescribed by the United Nations Convention on the Law of the Sea, over which a state has special rights regarding the exploration and use of marine resources, including energy production from water and wind.
FSDIA	Fairer Scotland Duty Impact Assessment
GDPR	General Data Protection Regulation
ICIA	Island Communities Impact Assessment
Income Account	Statement showing day to day revenue and expenses over an annual period.
KM	Kilometres
Legislative competence	Those areas in which the Scottish Parliament can make legislation.
MSP	Member of Scottish Parliament
NPF	National Performance Framework
SCF	Scottish Consolidated Fund The fund created by the Scotland Act 1998 into which payments are made by the Secretary of State or sums received by the Scottish Administration, and out of which the spending of

	the Scottish Administration and other statutorily defined bodies comes.
SEA	Strategic Environmental Assessment
Shared Services	A service delivery model where transactional, operational, professional or supporting functions are delivered collaboratively on behalf of more than one body. Shared services can include joint-ventures between the public sector and private sector.
SPFM	Scottish Public Finance Manual Issued by the Scottish Ministers to provide guidance on the proper handling and reporting of public assets and funds.
Udal tenure	A form of land tenure found in the Northern Isles. It sources from a time when the Northern Isles formed part of Norway.
UN	United Nations

Annex A:

Objectives, priorities and policies

-  **Scottish Crown Estate assets should be managed for the benefit of Scotland and communities, with market value being charged for sales or leases, unless the manager of the asset can demonstrate that wider benefits of equivalent scale will be delivered.**
-  **In order to realise the benefits potential, and in recognition that some land and property has been acquired over time for specific investment purposes, there is likely to be sales of assets or parts of assets over the five year period of the Plan, particularly on land or at the coast in response to requests for public benefit purposes or opportunities to increase value to Scotland, recognising that the seabed is a national strategic asset that Scottish Ministers do not wish to become fragmented.**
-  **Strategies and Plans for Scottish Crown Estate assets should consider the potential for delivering benefits to island communities and assessment of possible impacts will be completed as required under the Islands Act 2018.**
-  **Managers should consider the potential to contribute to wider policies on land reform and community empowerment by offering opportunities to own or manage these assets directly, and as part of strategies to consider the wider value of the existing land assets remaining part of the Scottish Crown Estate.**
-  **By 2025, the balance between activity related to management of coastal and marine assets is likely to have grown compared with the rural land assets, to reflect the new opportunities that can be realised, but the Scottish Crown Estate is likely to still include a significant amount of land and property assets.**
-  **Scottish Ministers would like managers to consider the potential for investments that contribute to the achievement of Scotland's Climate Change Plan, and would also like managers to consider the potential for increased investment activity for the purpose of regeneration for community or national benefit, including land on the coast around ports, harbours and other infrastructure, to realise opportunities for Scotland and local economies, and for these investments to normally be prioritised over other new commercial property investments.**

7

Investments in the Scottish Crown Estate should not be limited to the land or property that currently forms part of the Estate, if returns or wider benefits to the Estate and Scotland can be realised. For example, to make it possible to deliver benefits to communities living on the coast adjacent to parts of the seabed contained in the Estate.

8

The diversity of the Scottish Crown Estate means that a one size fits all approach to management is not practical and there are potential benefits of local control, management or enhanced input to decision-making within the national governance framework provided by the Scottish Crown Estate Act and this framework provides the potential for different approaches in different parts of Scotland.

9

It is anticipated that by the end of the five year period there will be a variety of managers of Scottish Crown Estate assets with individual assets managed at the appropriate level and opportunities through either transfers, delegations or pilots for councils, communities and other eligible organisations to contribute to or control decisions on how assets are managed and used.

10

Scotland's seabed is a national strategic asset and should be managed at the national level but Scottish Ministers will keep the arrangements under review to determine whether it is most appropriate for assets to be managed at the national or local level.

11

Scottish Ministers will run an initial round to invite proposals for transfer or delegation of management of an asset, or parts of an asset to local parts of Scotland, and will consult in advance on draft guidance on what proposals should include and the criteria for assessing proposals received including potential benefits and value for money.

12

All managers should exercise functions when managing a Scottish Crown Estate asset in a way that is transparent, accountable, inclusive and consistent with any other principle of good governance.

13

Scottish Ministers will develop guidance or directions on the manner in which a manager is expected to comply with the requirements of the Scottish Crown Estate Act relating to furthering sustainable development and seeking to manage assets in a way that is likely to contribute to wider benefits to Scotland, including relevant considerations when exercising the powers in section 11 of the Act.

14

Scottish Ministers will develop directions or guidance on other requirements for managers including accounting requirements and any charging requirements under section 13 of the Act.

15

The net revenue will be used for the benefit of Scotland and communities with appropriate arrangements to co-ordinate funding for programmes and projects that cannot be undertaken by a single community or council.

16

The net revenue from marine assets out to 12 nautical miles should demonstrably benefit coastal communities and all arrangements for the use of net revenue should be transparent and accountable with opportunities for communities to express views on how the revenue is used.

17

The Scottish Government will work with COSLA to complete a review of the future arrangements for net revenue from marine assets out to 12 nautical miles. The review will take account of the management requirements of the estate, how future revenue can be increased through strategic funding, the potential for other communities of interest to be managers and the case for these organisations to directly benefit from the net revenue.

18

Local organisations interested in management of a Scottish Crown Estate asset, should consider how they could take on the function and liabilities for the longer term and manage the asset in a way that delivers added value, transparency and efficiency and which is compatible with their core remit.

19

Scottish Ministers have a preference for shared services approaches to administration of the assets in order to maximise efficiency and hence net revenue available to Scotland and local communities.

20

An organisation that wishes to take on direct management will normally be expected to manage the associated liabilities, including those arising from their decisions on the management, and cover the associated costs from the income generated from the asset.

21

Crown Estate Scotland (Interim Management) staff rights will be respected and protected in the reform of the management of the Scottish Crown Estate and they will have opportunities to contribute their views.

22

Crown Estate Scotland (Interim Management) will assist Scottish Ministers in implementing the Strategic Management Plan and will develop new roles in contributing to the co-ordination of the management of the wider Scottish Crown Estate, facilitating delivery of the Plan and realisation of potential benefits, including piloting new partnership working models and potentially including joint ventures.

Annex B:

How Scottish Crown Estate Objectives, Priorities and Policies align with Scottish Ministers' other Objectives, Priorities and Policies.

Other Scottish Government Objectives, Priorities and Policies	Scottish Crown Estate Objectives, Priorities and Policies that align with or contribute to the wider objectives, priorities and policies
National Performance Framework	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22
Programme for Government,	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22
Climate Change Plan	1, 5, 6, 7, 13, 15, 16, 17
National Marine Plan 2015	1, 2, 5, 6, 7, 10, 13, 15, 16, 17, 22
The Scottish Energy Strategy	1, 2, 5, 6, 7, 10, 13, 15, 16
National Transport Strategy	1, 2, 3, 5, 6, 7, 13
The National Tourism Strategy	1, 2, 3, 5, 6, 7, 13, 15, 16, 17
Getting the best from our land: A Land Use Strategy for Scotland 2016-2021	1, 2, 3, 4, 5, 6, 7, 13
Scotland's Forestry Strategy 2019-2029	1, 2, 4, 6, 7, 13
Nature Conservation (Scotland) Act 2004	1, 2, 4, 5, 6, 13, 15, 16, 17
2020 Challenge for Scotland's Biodiversity	1, 2, 4, 5, 6, 13, 15, 16, 17
Scotland's Biodiversity: A Route Map to 2020	1, 2, 4, 5, 6, 13, 15, 16, 17
Climate Change (Scotland) Act 2009	1, 5, 6, 7, 13, 15, 16, 17

<u>Economic Action Plan 2018 - 2020</u>	1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20
<u>Land Use Strategy</u>	1, 2, 3, 4, 5, 7, 8, 9, 18
<u>Land Rights and Responsibility Statement</u>	1, 2, 3, 4, 5, 7, 8, 9, 18
<u>Land Rights and Community Engagement Statement</u>	1, 2, 3, 4, 7, 8, 9, 18

Annex C:

Scottish Crown Estate Assets

Asset	Definition
George Street	The land owned by Her Majesty known as 39 to 41 George Street, Edinburgh
Seabed	The land owned by Her Majesty forming the seabed of Scottish Territorial Waters
Storage Rights (Seabed)	The rights of: (1) unloading gas to installations and pipelines; (2) storing gas for any purpose and recovering stored gas; and (3) exploration with a view to use for (1) and (2)
Energy rights (Seabed)	The rights of exploitation, exploration and connected purposes for the production of energy from wind or water
Mineral Rights (Seabed)	The right to exploit the Seabed and its subsoil other than for hydrocarbons
Cables (including interconnectors)	The right to install all or part of a distribution or transmission system on or under the Seabed
Pipelines	The right to install pipelines
Whitehill Estate	The Whitehill estate in the County of Midlothian owned by Her Majesty;
Glenlivet Estate	The Glenlivet estate in the County of Moray owned by Her Majesty
Applegirth Estate	The Applegirth estate in the County of Dumfries and Galloway owned by Her Majesty
Fochabers Estate	The Fochabers estate in the County of Moray owned by Her Majesty
Aquaculture Rights (Seabed)	The right to farm aquatic organisms;
Mooring Rights (Seabed)	The right to lay and use permanent moorings
Foreshore	The land that is owned by Her Majesty: (1) In Orkney and Shetland, lying between mean high water springs and lowest ebb tide; and (2) In the rest of Scotland, lying between mean high and low water
Internal Waters	The land owned by Her Majesty forming the internal waters of Scotland
Salmon Fishing	The right to fish for salmon in rivers and coastal waters where the right belongs to Her Majesty
Gold and Silver (onshore minerals)	The right to all naturally occurring gold and silver except where the right is vested in some person other than Her Majesty. The Crown's statutory ownership of the right to gold and silver mining in Scotland stems from legislation in the 15th and 16th centuries

Reserved Minerals	All the reserved mineral rights owned by Her Majesty in Scotland other than on the Seabed
Rights beyond 12 nautical miles	Rights to natural resources on the continental shelf (excluding fossil fuels) under the Continental Shelf Act 1964; Rights to generate electricity from wind, waves and the tides on the continental shelf under the Energy Act 2004; and rights to the transportation and storage of natural gas and carbon dioxide on the continental shelf under the Energy Act 2008.

Source: Provided by Crown Estate (Interim Management)

Annex D:

The Scottish Crown Estate Act 2019 – Sections 7, 10, 11, 22 and 23

7 Duty to maintain and enhance value

- (1) The manager of one or more Scottish Crown Estate assets must maintain and seek to enhance—
- (a) the value of the assets, and
 - (b) the income arising from them.
- (2) In complying with the duty under subsection (1), the manager must—
- (a) act in the way best calculated to further the achievement of sustainable development in Scotland, and
 - (b) seek to manage the assets in a way that is likely to contribute to the promotion or the improvement in Scotland of—
 - (i) economic development,
 - (ii) regeneration,
 - (iii) social wellbeing,
 - (iv) environmental wellbeing.

10 Disposals requiring Ministerial consent

- (1) Where subsection (2) or (3) applies, the manager of a Scottish Crown Estate asset (other than the Scottish Ministers) may transfer ownership of the asset only with the consent of the Scottish Ministers.
- (2) This subsection applies where, as a result of the transfer, the manager would no longer manage any Scottish Crown Estate assets.
- (3) This subsection applies where the asset is or includes a portion of the seabed (that is, the bed and subsoil of the sea within the Scottish marine area).
- (4) In subsection (3)—
- “Scottish marine area” is to be construed in accordance with section 1 of the Marine (Scotland) Act 2010,
 - “sea” is to be construed in accordance with section 2 of that Act.

11 Duty to obtain market value

- (1) The manager of a Scottish Crown Estate asset must not make any of the following transactions (“a relevant transaction”) for consideration of less than market value—

- (a) a transfer of ownership of the asset,
 - (b) a grant of a lease of the asset,
 - (c) a grant of any other right in or over the asset.
- (2) Despite subsection (1), the manager may make a relevant transaction for consideration of less than market value (including for no consideration) if the manager is satisfied that the relevant transaction is likely to contribute to the promotion or the improvement in Scotland of—
- (a) economic development,
 - (b) regeneration,
 - (c) social wellbeing,
 - (d) environmental wellbeing, or
 - (e) sustainable development.
- (3) In deciding whether to make a relevant transaction for consideration of less than market value, the manager must have regard to the likely effect of the transaction on the value of the Scottish Crown Estate as a whole.
- (4) Subsection (1) does not apply where the manager makes a relevant transaction—
- (a) for the purpose of complying with an obligation enforceable against the Crown or against the manager,
 - (b) in pursuance of paragraph 3(2) or 4(2) of Part 1 of schedule 4 of the Crown Estate Transfer Scheme.

22 Strategic management Plan

- (1) The Scottish Ministers must prepare a Plan for the management of the Scottish Crown Estate.
- (2) The Plan must set out the Scottish Ministers’—
- (a) objectives, priorities and policies in relation to the management of the Estate (including the acquisition of new assets), and
 - (b) assessment of how those objectives, priorities and policies align with the Scottish Ministers’ other objectives, priorities and policies.
- (3) The Plan may contain such other information about the Estate and its management as the Scottish Ministers consider appropriate.
- (4) When preparing the Plan, the Scottish Ministers must consult—
- (a) each manager,
 - (b) such other persons as they consider appropriate.
- (5) A manager must have regard to the Plan when—
- (a) preparing a management Plan,
 - (b) exercising any of the manager’s other functions.
- (6) The Scottish Ministers must—

- (a) lay a copy of the Plan before the Scottish Parliament, and
- (b) publish the Plan in such manner as they consider appropriate as soon as reasonably practicable after a copy of it is laid before the Parliament.

(7) In subsection (5)(a), “management Plan” means—

- (a) where the manager is Crown Estate Scotland (Interim Management), a Plan prepared under article 19(1) of the Crown Estate Scotland (Interim Management) Order,
- (b) otherwise, a Plan prepared under section 24(1).

23 Review of strategic Plan

(1) The Scottish Ministers must, not later than the end of each 5 year period, review the Plan prepared under section 22(1).

(2) Following such a review, the Scottish Ministers must either—

- (a) revise the Plan, or
- (b) lay a statement before the Scottish Parliament indicating that they consider that the Plan should not be revised.

(3) Section 22(2) to (6) applies to a revised Plan as it applies to the Plan prepared under subsection (1) of that section.

(4) In subsection (1), “5 year period” means—

- (a) the period of 5 years beginning with the day on which the Plan prepared under section 22(1) is laid before the Parliament, and
- (b) each subsequent period of 5 years beginning with the day on which—
 - (i) a copy of a revised Plan is laid before the Scottish Parliament, or (as the case may be)
 - (ii) a statement is so laid under subsection (2)(b).

Annex E:

Draft Strategic Management Plan Consultation questions

Q1 Are the opportunities to contribute to sustainable development appropriate for the Scottish Crown Estate? If not, please provide examples of additional or alternative opportunities.

- a) Yes
- b) No

Q2 Do you feel that the Vision in the Strategic Management Plan meets your expectations for the Scottish Crown Estate for the next 5 years? Please explain your answer.

- a) Fully
- b) Partially
- c) Not at all

Q3 Do you believe that the objectives, priorities and policies contained in theme 1 will allow us to achieve our vision for the future management of the Scottish Crown Estate? Please explain your answer.

- a) Yes
- b) No

Q4 Do you believe that the objectives, priorities and policies contained in theme 2 will allow us to achieve our vision for the future management of the Scottish Crown Estate? Please explain your answer.

- a) Yes
- b) No

Q5 Do you believe that the objectives, priorities and policies contained in theme 3 will allow us to achieve our vision for the future management of the Scottish Crown Estate? Please explain your answer.

- a) Yes
- b) No

Q6 Do you feel the objectives, priorities and policies will deliver success to the Scottish Crown Estate? Please explain your answer.

- a) Yes
- b) No

Q7 Do you feel there are any other opportunities for revenue generation that have not been identified in the draft Plan? Please explain your answer.

- a) Yes
- b) No

Q8 Do you feel the objectives, priorities and policies will impact you positively, negatively or have no impact on you as an individual or as part of an organisation? Please explain your answer.

- Positively
- Negatively
- Not at all

Q9 Do you feel that the objectives, priorities and policies align and take account of wider Scottish Government objectives? Please explain your answer.

- a) Yes
- b) Partially
- C) No

Q10 Do you have any comments or additional suggestions on the arrangements for monitoring and review of the Plan? Please explain your answer.

- a) Yes
- b) No

Q11 Would you add or change anything in the Business and Regulatory Impact Assessment? If yes, please give details.

- a) Yes
- b) No

Q12 Would you agree that the Business and Regulatory Impact Assessment is wide ranging enough?

- a) Yes
- b) No

Q13 Do you have any views on the evidence set out in the Strategic Environmental Report? If yes, please give details.

- a) Yes
- b) No

Q14 Do you agree with the conclusions and recommendations set out in the Strategic Environmental Report?

- a) Yes
- b) No

Q15 Do you have any comments to make on our Equality Impact Assessment? This is available as an associated downloadable document. If yes, please give details.

- a) Yes
- b) No

Q16 Please tell us about any possible impacts the proposals contained in this consultation document may have on groups of people with protected characteristics. The responses we receive to this question will help to inform the content of the final Strategic Management Plan, and final Equality Impact Assessment.

Q17 Do you agree with the conclusions for the following Impact Assessments?

Island Communities Impact Assessment

- a) Yes
- b) No

Child Rights and Wellbeing Impact Assessment

- a) Yes
- b) No

Fairer Scotland Duty Impact Assessment

- a) Yes
- b) No

Data Protection Impact Assessment

- a) Yes
- b) No

Q18 Do you feel there are any other Scottish Government policies, which should be taken into account? Please explain.

- a) Yes
- b) No

Q19 Do you have any other comments or suggestions on the Strategic Management Plan that you feel haven't been covered by this consultation?

Annex F:



Scottish Government
Riaghaltas na h-Alba
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Consultation on the draft Strategic Management Plan for the Scottish Crown Estate

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

Individual Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No



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