



House of Commons  
Treasury Committee

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# **The management of the Crown Estate**

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**Eighth Report of Session 2009–10**

*Volume II*





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Treasury Committee

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# The management of the Crown Estate

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**Eighth Report of Session 2009–10**

***Volume II***

*Oral and written evidence*

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# Witnesses

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## Wednesday 24 February 2010

Page

**Roddy Monroe**, Chairman, Gas Storage Operators' Group, **Ted Sangster**, Chief Executive, Milford Haven Port Authority, representing the British Ports Association, **Joe Hulm**, Marine Development Manager, representing the Renewable Energy Association, and **Dr Jeff Chapman**, Chief Executive, Carbon Capture and Storage Association Ev 1

**Councillor Dr Michael Foxley**, Leader, and **George Hamilton**, Natural Resources Manager, Highland Council, **Calum Iain Maciver**, Director of Development, Comhairle nan Eilean Siar Ev 6

**Linda Rosborough**, Head of Marine Planning and Policy, Scottish Government Ev 10

**Rosemarie MacQueen**, Strategic Director Built Environment, Westminster City Council, **Stephen Bee**, Director of Planning and Development, English Heritage, and **James Howe**, Royal Institution of Chartered Surveyors Ev 12

## Wednesday 3 March 2010

**Roger Bright CB**, Chief Executive, Crown Estate Commissioners Ev 19

**Sarah McCarthy-Fry MP**, Exchequer Secretary, **Paula Diggle**, Treasury Officer of Accounts, HM Treasury, and **John Henderson**, Deputy Director, Scotland Office Ev 29

# List of written evidence

---

1	Andy Wightman	Ev 37
2	Country Land and Business Association Ltd	Ev 38
3	The Crown Estate	Ev 39, 47, 115, 117, 122
4	Gills Harbour Ltd	Ev 55
5	Highland Council	Ev 62
6	Project Management Support Services Ltd	Ev 63
7	The Renewable Energy Association	Ev 63
8	The Carbon Capture and Storage Association	Ev 66
9	Tom Appleby	Ev 68
10	Gas Storage Operators' Group	Ev 70, 115
11	National Farmers Union	Ev 72
12	BP plc	Ev 75
13	Natural England	Ev 76
14	English Heritage	Ev 79
15	Scottish and Southern Energy	Ev 80
16	Comhairle nan Eilean Siar (Western Isles Council)	Ev 81

17	British Wind Energy Association (BWEA) & Scottish Renewables	Ev 83
18	Scottish Government	Ev 86
19	British Ports Association	Ev 87
20	Caithness Chamber of Commerce	Ev 87
21	The Co-operative Farms	Ev 88
22	Lunar Energy Group Ltd	Ev 89
23	Statoil ASA	Ev 90
24	Scottish Salmon Producers Organisation	Ev 91
25	Westminster City Council	Ev 93
26	Regent Street Association	Ev 95
27	British Marine Aggregate Producers Association	Ev 99
28	HM Treasury	Ev 101, 116
29	Crown Estate Residents' Associations at Victoria Park, Millbank, Lee Green, and Cumberland Market	Ev 102
30	Regent's Park Ward	Ev 106
31	Caithness & North Sutherland Regeneration Partnership	Ev 107
32	Frank Dobson MP, Meg Hillier MP and Bridget Prentice MP	Ev 108
33	British Property Federation	Ev 110
34	Christopher Fisher and Teresa Hogan	Ev 111
35	London Borough of Camden	Ev 112
36	Members of the Vincent Square Ward	Ev 113
37	Royal Institute of Chartered Surveyors	Ev 114
38	Marine Environmental Information Network and the North Sea Action Group	Ev 119

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# Oral evidence

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## Taken before the Treasury Committee

### (Treasury Sub-Committee)

on Wednesday 24 February 2010

Members present

Mr Michael Fallon, in the Chair

Nick Ainger  
Jim Cousins  
John McFall  
John Mann

John Thurso  
Mr Mark Todd  
Sir Peter Viggers

*Witnesses:* **Mr Roddy Monroe**, Chairman, Gas Storage Operators Group; **Mr Ted Sangster**, Chief Executive, Milford Haven Port Authority, representing the British Ports Association; **Mr Joe Hulm**, Marine Development Manager, representing the Renewable Energy Association; **Dr Jeff Chapman**, Chief Executive, Carbon Capture and Storage Association, gave evidence.

**Q1 Chairman:** Can I welcome everybody to this first oral evidence session of our inquiry into The Crown Estate. The role of the Treasury Sub-Committee is to scrutinise the work and performance of the smaller departments and bodies which ultimately come under the Chancellor of the Exchequer. This year we are focusing on The Crown Estate, which covers a wide range of activities. I would like to thank all those who have submitted written evidence. Obviously we cannot hear everybody's oral evidence, but that does not mean their evidence is not going to be useful for the inquiry. Next week we see the Commissioners themselves and the Treasury Minister responsible, but today we begin with a number of representatives of the marine and offshore industries. Could you begin by perhaps identifying yourselves formally for the shorthand writer, please, starting with Mr Monroe?

**Mr Monroe:** My name is Roddy Monroe and I am the Chairman of the Gas Storage Operators Group.

**Mr Sangster:** I am Ted Sangster, Chief Executive of Milford Haven Port Authority but appearing here on behalf of the British Ports Association.

**Mr Hulm:** I am Joe Hulm, Marine Development Manager for International Power plc, representing the Renewable Energy Association.

**Dr Chapman:** I am Jeff Chapman. I am Chief Executive of the Carbon Capture and Storage Association.

**Q2 Chairman:** You are all very welcome. Let me just make it clear, in the interests of time the four of you do not have to answer each question. You can try and share the questions between you, although obviously if you do want to comment you must. In your evidence generally you identify a whole number of opportunities for economic development onshore and offshore. How much is at stake here?

**Mr Monroe:** I will start. In terms of our gas storage offshore, there is an awful lot at stake. The need for the UK to have additional storage for energy

security of supply and for the reduction of transporting was recognised many years ago. In 2007 the need for gas storage was made very clear. Unless gas storage is developed offshore in depleted gas fields, in salt caverns of such size to give us seasonal storage, we can foresee problems going forward in the future.

**Q3 Chairman:** Do you want to add to that?

**Mr Hulm:** The Renewable Energy Association has a number of work groups, including the Ocean Energy Group and it is that group I represent, and technologies in regard to wave and tidal stream power. What we have here is an emerging industry. The industry is required to deliver. The emergence of a new industry is at stake.

**Q4 Chairman:** Are The Crown Estate Commissioners in general terms doing everything they should be doing to help you and your industries realise these opportunities?

**Mr Sangster:** Ports perhaps have a sort of secondary role in some of the things my colleagues are talking about in that we are perhaps the beneficiaries but also some of the participants in realising the potential for offshore renewables and, therefore, there is that link with what has been talked about. To give you an example, for the UK to secure the maximum potential for what has been identified offshore there is some £1 billion going to be spent, needing to be spent, in new port facilities over the next 10 to 15 years. Therefore, it is important for ports and the role of ports to be recognised by all those who have a part to play, including The Crown Estate, and in forming the linkages and involving ports to assist UK plc in gaining the maximum advantage.

**Dr Chapman:** The carbon capture and storage industry is likely to be very, very big into the future, probably measured in trillions of dollars. The UK is committed to do four projects and the CO<sub>2</sub> for these

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24 February 2010 Mr Roddy Monroe, Mr Ted Sangster, Mr Joe Hulm and Dr Jeff Chapman

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four projects will have to be stored offshore. This should position us in the way of this industry, so it is very important that we get on with these projects as quickly and efficiently as possible. I have to say that whilst it sounds like a very big market, we are dealing with a low value waste product and, therefore, any additional cost in the value chain is very significant, especially because the storage cost of CO<sub>2</sub> is relatively small compared with the cost of capturing the CO<sub>2</sub>.

**Q5 Chairman:** Okay, but coming back to my question are The Crown Estate Commissioners doing everything they should be doing to help you realise these opportunities?

**Dr Chapman:** We have had some problems with The Crown Estate in terms of the discussion on costs. Because of the monopoly position of The Crown Estate they do find it difficult to deal with trade associations, excluding anti-competitive issues, and that has inhibited the discussions to some extent, although now we have found that The Crown Estate talks with us quite freely and we are having meetings every two months and we have meetings rolled out for the rest of this year.

**Q6 Chairman:** So it has improved?

**Dr Chapman:** It has improved.

**Mr Monroe:** From an offshore development perspective, I believe The Crown Estate is seen as one of the biggest impediments to actually getting the projects to fruition with the level of rental charges that they are proposing, the delay that we are having in actually trying to get the lease arrangements sorted out, and there appears to be no real focus from The Crown Estate on the wider need for gas storage and purely focusing on revenue generation. So instead of, are they doing everything they can to help, it is almost flipped the other way, it is that investment decisions now—one of the top items, I would suggest, is the threat posed by The Crown Estate.

**Chairman:** My colleagues are going to pursue that in more detail.

**Q7 John Thurso:** Joe, could I just ask you one question for factual purposes? If the Pentland Firth is going ahead the target is 1GW of energy, which is equal to four or five power stations, by 2018–19.

**Mr Hulm:** I understand The Crown Estate's own target is 700MW by 2020.

**Q8 John Thurso:** Which is a substantial amount and generally the industry thinks that as it develops it will go up to 10 to 12GW, so it is a very large power source that is potentially there?

**Mr Hulm:** Indeed.

**Q9 John Thurso:** Can I follow on, Mr Monroe? My question really follows directly on from your last answer, which is that The Crown Estate Commissioners have a revenue producing remit

subject to the requirements of good management, so they have a dual balance there. I was going to ask, have they got the balance right? I would suggest your answer is, "No". What would you like to see changed?

**Mr Monroe:** I think the problem is that for offshore gas storage they do occupy a monopoly position because offshore gas storage is the only opportunity to develop seasonal storage. There are different sorts of storage, but storage that helps with security of supply is the sort of stuff that you develop offshore, the large fields, and there are not the opportunities to do that successfully onshore. The basic supply/demand is that supply of the porous strata far exceeds the demand for it. The UK has a deficit of storage because historically we have not needed it, we have relied on UK continental shelf supplies. As they dwindle we need to import more and we need to complement that with additional storage, so we are lagging behind a bit behind our European partners, who traditionally have imported gas. To get us back up to those sorts of levels we need about 20BCM (billion cubic metres) of capacity in total. We already have four and we are developing some more onshore. The total availability of capacity offshore totals around 90BCM. There are various studies that have had a look at it, but about 90 plus BCM, which can be found in 57, 58 different potential sites. If you were looking at it as a pure economic exercise what you must say is, "How can you ensure that the rents are fair, that the rents are what a competitive market will bear?" What you would use is the analogy that all of the 57 sites were owned by individuals, that they were owned by individuals and they were trying to sell to a constrained supply side. What that would mean is that the price would gravitate to the cost of provision plus some sort of return, which equates more or less to what you find when you apply a production licence, which is sort of tens of thousands of pounds for a licence.

**Q10 John Thurso:** I know one of my colleagues is going to ask about the monopoly situation, but your answer is broadly that that is what needs to be looked at?

**Mr Monroe:** Well, it is three things. It is the initial rent, it is the ongoing provisions, the rent review is another big one, and there is also the delay, the apparent lack of urgency there is within The Crown Estate, because we need gas storage now.

**Q11 John Thurso:** Mr Sangster, can I ask you, are there areas where you would like to see The Crown Estate Commissioners play a more active development role, particularly at port side, where you very often have to acquire the seabed or a lease of it in order to be able to develop your port?

**Mr Sangster:** Yes, we believe The Crown Estate—and it comes back to the question you asked just before this about the revenue remit—if they adopted a more flexible point of view the long-term benefits to them and also to the ports and the communities could be increased. They are very much driven by this revenue remit, which in some circumstances, perhaps a new development or where there is a



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24 February 2010 Mr Roddy Monroe, Mr Ted Sangster, Mr Joe Hulm and Dr Jeff Chapman

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degree of regeneration, it is not always appropriate that they have their 15% up front in a new development, whereas perhaps a different approach would lead to a greater share of the risk with The Crown Estate in participating in terms of potential profits which might take time to arise, but loading their requirements upfront can swing a potential development into either not taking place or taking place in a different way.

**Q12 John Thurso:** Do you think the fact that they often use outside agents rather than dealing with it internally is a help in that process or an impediment?

**Mr Sangster:** I think it is a help because certainly the agents they use in Wales, who we have a lot of contact with, have an understanding of the local conditions and they are actually very helpful to us and also, I believe, to The Crown Estate as well. That is in the generality of their relationships with ports. Where I think there is something missing in The Crown Estate's use of agents is in some of what they are seeking to do, particularly the renewables sector, the offshore renewables, where that is all kept centrally and we and other ports have sought through our local contacts and normal contacts with the agents to participate in that and to get information, they know very little about it, they are not kept informed and that is being dealt with back at headquarters. So they are not making full use of what is working in other areas very well by this retention, perhaps for very good reasons, I do not know, back at headquarters.

**Q13 John Thurso:** The last question, please, is to Joe Hulm. In the joint submission of the British Wind Energy Association and Scottish Renewables, broadly they commended The Crown Estate for the way they have handled the offshore wind licensing. They had some pretty good reservations with regard to wave and tidal power. Would you like to substantiate that and is that because it is at an earlier stage of development and perhaps needs a more collaborative approach?

**Mr Hulm:** I think it is more important to clarify the difference between offshore wind and wave and tidal power, marine tidal stream power. Wave and tidal is a far less mature industry, although the UK has a technical lead and a great technical resource. I think the industry needs nurturing far more than that much more mature industry that is offshore wind. That is not to say that there is less potential to deliver in terms of security of supply, carbon targets and particularly manufacturing, and in order for UK plc to fully realise those benefits, carbon reduction, security of supply, green jobs, then an industry must be nurtured and The Crown Estate is one party involved in that.

**Q14 John Thurso:** You made a very interesting point, just to pick you up on that. You said that in regard to marine renewables Britain is in the lead and is in the lead in technology, which is of course very different from wind. Is that a substantial lead that we really ought to nurture and grow?

**Mr Hulm:** Britain is head and shoulders globally above any competitors in terms of technology, know-how, with our significant offshore oil and gas experience, and in terms of legislation, the Marine Bill, et cetera, Marine (Scotland). The focus that has been placed on this potential growth sector is commendable and The Crown Estate should be commended indeed for their lead in driving the industry forward, but it needs to ensure that it can demonstrate, beyond the prototype stage of actual individual devices, an array of, say, five, 10, 15MW, before significant lenders can get involved in the space and a UK roll-out not just of power plants but also for the manufacturing of devices can take place.

**Q15 Sir Peter Viggers:** The management of Crown Estate have, of course, a monopoly position in respect of the assets they are responsible for. Do you think they exercise this monopoly responsibly as far as your sectors are concerned?

**Dr Chapman:** I have to say that for carbon capture and storage the point is yet to be determined because, unlike gas storage, no price has been set. I would like to draw a distinction between gas storage and carbon capture and storage because gas storage is temporary storage and is an ongoing business. Carbon storage is permanent storage and once you put it there you leave it there forever. That is a distinction and, as I have said before, it is a lower value article altogether. Another thing is that the support for carbon storage will arise out of a levy on electricity consumption, so that levy on electricity consumption will pay the operators of the carbon capture and storage chain to do their thing and some of that money will get paid to The Crown Estate. How we determine that amount of money fairly I actually do not know at the moment, given the monopoly position, but you can see that there is the potential here for this to become regarded as a stealth tax.

**Q16 Sir Peter Viggers:** Specifically, do you regard their exercise of power as being fair and reasonable bearing in mind the monopoly position?

**Mr Sangster:** In terms of ports, many of which have dealings with The Crown Estate for leases for extraction of the seabed, there is the recognition and the slight discomfort that The Crown has a monopoly and there is no reference point to the market value in what is being discussed and agreed or imposed. Whilst in the main there are not many significant difficulties, there is always at the back of the mind of my colleagues in ports, in dealings with The Crown Estate, whether what is being required of them is a true reflection of the market value when the only market is from the one supplied at Crown Estate.

**Q17 Sir Peter Viggers:** Can I ask a parallel question? Is there an appeal procedure which enables you to challenge a decision by this monopoly which you think is fair and transparent?

**Mr Sangster:** Within the BPA we have got a Memorandum of Understanding with The Crown Estate of an appeal procedure which brings in the

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24 February 2010 Mr Roddy Monroe, Mr Ted Sangster, Mr Joe Hulm and Dr Jeff Chapman

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district valuer as a means of reference for that. It has not been used often, but it is there and it is a mechanism which would appear to be appropriate.

**Mr Monroe:** To continue my piece on the monopoly element, we at the Gas Operators Group are fairly convinced that there has to be a monopoly element included in the rental charges for offshore fields, given the analogy, as I have explained, of oversupply and seven figure rental charges per annum. Our frustration, and my frustration particularly—I have worked in the monopoly business for over 20 years for monopolies of companies who use monopoly services—is if ever there was a case for some form of regulatory oversight this is one where it is needed because we have nowhere to go. I understand that if a case could be presented we could go down the route to the OFT, but that is a lengthy, time-consuming process to resolve something like whether the charges are including an element of monopoly rent or not. One of my recommendations would most strongly be that there needs to be some sort of regulatory oversight so that customers who are using the services of The Crown Estate can challenge what is being proposed and have an independent regulator who is aware of all the facts and who has the economic acumen to actually assess these things and to say yea or nay. At the moment we talk to The Crown Estate and we say, “We are sorry, we cannot accept these rents. These rents will materially damage our projects”, and The Crown Estate says, “Well, go onshore”. As I explained previously, you cannot go onshore and it is that sort of thing I think we need to—

**Q18 Sir Peter Viggers:** So there is no such mechanism. Do you agree, Mr Hulm?

**Mr Hulm:** Can I come back on monopoly? Yes, there is a monopoly of the seabed with The Crown Estate, but the seabed is one of only six items that need to be covered as a project developer in the offshore field, particularly with regard to wave and tidal. The seabed, yes; also grid, you need to get the power ashore; also technology, we have a global lead; supply chain, installing the equipment and servicing it, and support mechanisms from the UK Government to ensure that it delivers in the short-term and then later on in the longer term. What I am getting at is greater coordination to ensure that all six of those sides of the project can be delivered as required.

**Q19 John Mann:** You seem to be saying slightly contrary things between you. Mr Monroe, quantify it for me. If you got everything you wanted out of The Crown Commissioners, because this sounds like pretty leading stuff in terms of UK plc gas storage, as is renewables, as is CCS, the potential position in the global market. With CCS we could be first. With renewables we could be world leading, exporting, et cetera. How much more efficient could you be, where is the defining efficiency, if you had everything you wanted from The Crown Estate?

**Mr Monroe:** How much more efficient?

**Q20 John Mann:** Yes. What would the difference be? Quantify it in some way.

**Mr Monroe:** In terms of efficiency, it is more a question of will the projects go ahead or will they not, and if the projects do go ahead then we will have the sort of energy mix and infrastructure to cope with the uncertainty of future energy supplies.

**Q21 John Mann:** So it is about energy security?

**Mr Monroe:** It is about energy security.

**Mr Hulm:** My three headline points are carbon reduction, energy security and green jobs. On the latter, we hold the lead as a country in terms of technical devices. The area where those devices are deployed at demonstration scale is likely to be the area where they are rolled out at commercial scale, 100MW and beyond. Now, with that comes manufacturing jobs. The Crown Estate has an opportunity, along with other arms of government, particularly the Department for Energy and Climate Change, to get this right.

**Q22 John Mann:** I understand that, but what I am trying to get from Dr Chapman is you are all coming here saying this is of mega importance. I have not heard from any of you before, you certainly have not written to me about The Crown Estate, so this is an inquiry into The Crown Estate. What difference, if The Crown Estate did what they could be doing, would it make to CCS?

**Dr Chapman:** I think CCS is in such an early position it is difficult to criticise at the moment. All we can say is that The Crown Estate are being as helpful as they possibly can.

**Q23 John Mann:** So you have no problems with them?

**Dr Chapman:** We have no problems with them. I just want to make this Committee aware of the fact that there is no parallel so I cannot see a way of actually knowing whether the lease will be a commercial rate or not because it does not happen anywhere else. This is a unique situation. So we wait and see how that is going to be handled.

**Mr Monroe:** I think it is important to note that carbon capture and storage is a few years behind gas storage. We had no problem with The Crown Estate before we started to talk about numbers and terms and conditions. That is where we had the problems.

**Mr Hulm:** I think the risk for the marine renewable sector is that collectively the UK loses this industry to overseas competitors.

**Q24 Nick Ainger:** What you are telling us, certainly Roddy, Joe and Jeff, is that you are dealing with three areas which are in the national interest, and we could argue it is actually in the global interest, certainly in terms of carbon storage and renewables, and yet at the same time we have got a body which funds the state, or helps to fund the state, which is actually getting in the way of that national interest. That is what you are telling us, are you not, Roddy?

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24 February 2010 Mr Roddy Monroe, Mr Ted Sangster, Mr Joe Hulm and Dr Jeff Chapman

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*Mr Monroe:* Yes.

**Q25 Nick Ainger:** Is it purely the rents that they are demanding that is posing a problem? You have submitted evidence which says it is three times what you think is a reasonable fee, but what about in terms of renewables? I know we do not know yet with carbon storage, but what about renewables?

*Mr Hulm:* I would reiterate that The Crown Estate should be commended for their drive and ambition to help deliver this industry. They sought to kick-start it by starting the leasing round. I feel, and the views of the REA are that this is very different to offshore wind. Offshore wind is a mature industry and requires a different approach. The industry needs to be nurtured, as you say, in the national interest. If it is not got right early these global companies—and they are global companies, including the one I work for—will go and do business where it is most profitable, including both device manufacturers and project developers.

**Q26 Nick Ainger:** Okay. So what you are saying is that they are refusing to consider pilot projects, smaller development projects rather than the larger ones, but are you also saying that the rents they want to charge actually prevent a development going ahead?

*Mr Hulm:* I would not be so specific regarding the rents preventing development going ahead, but I feel that the approach, as I say, is very different to that required of offshore wind with round three and the importance of getting demonstration projects going should be categorised far higher than leasing commercial scale seabed areas. We need as a country—and I think it is in The Crown Estate's interest as well as the rest of the UK—to enable this demonstration of technology (I am not talking about one device, I mean five, 10 devices) to be successfully proven as technically and commercially viable before rollout with debt financing at a commercial scale.

**Q27 Nick Ainger:** Okay. Can we move on then to the licensing? For offshore operations you need a licence as well as a lease?

*Mr Hulm:* Yes.

**Q28 Nick Ainger:** Does that lead to any further unnecessary delays which again cause problems for a development going ahead?

*Mr Hulm:* I believe that licensing is beyond 12 nautical miles so for wave and tidal power in general at the moment it is not an issue.

*Dr Chapman:* In CCS we are in the process of developing terms for licensing with DECC. I have to commend The Crown Estate for its good communication with DECC over this because there is an interface. You cannot get a licence without having a lease and you cannot get a lease without having a licence, so there has to be good communication.

**Q29 Nick Ainger:** Right, and the experience so far in terms of gas storage?

*Mr Monroe:* Unfortunately, The Crown Estate are only willing to share their lease arrangements with one company, so I am not up to speed on how they dovetail into the licence, but I am led to believe that there is a lot of duplication of requirements in The Crown Estate's lease that traditionally would have sat with DECC and can potentially lead to conflict, so things like extension to the exploration period. I think with the provisions in the Energy Act the intention was that it would be the minister of state who would decide in the country's interest whether there should be an extension or not. The Crown Estate have said they want to have a veto right over that. So there are conflicts between The Crown—

**Q30 Nick Ainger:** So the current arrangements could be improved, in your view?

*Mr Monroe:* The current arrangements could be improved by The Crown Estate retreating from some of the area that was traditionally DECC's area.

**Q31 John McFall:** From what I can gather you are here to lobby The Crown Estate and you have taken advantage of this hearing to do that, so when The Crown Estate come to us what is your message to The Crown Estate so that we can say to them what you, as a commercial trade body, organisation, have said? Give us a simple message for us to put to The Crown Estate.

*Mr Monroe:* For me, what I find surprising is that I understand under the 1961 Crown Estate Act there is the right for, I believe, the Treasury to direct The Crown Estate if it thinks they are not acting in a way for the national interest. That direction has not been given. I am not here to lobby The Crown Estate. I am here to raise the serious issue that the current approach which The Crown Estate are taking towards offshore development is purely focused on revenue generation and will be of huge detriment, potential huge detriment to other government policy. It was to make you around here aware that unless something happens the wider government agenda may not be achieved because of this.

*Mr Sangster:* The situation with ports and The Crown Estate has improved significantly over the past 10 years and that is very positive. We also, however, have experienced this potential clash between abstracting as much revenue as possible and long-term sustainability and many opportunities are perhaps not being maximised by the views taken by The Crown Estate in extracting as much as they can at the moment. They speak and they talk about their preparedness to invest and to work in partnership, which is great and there has been a change in that, very positive, over the past two or three years, but there have not been many instances of such delivery, which we would encourage them to do.

*Mr Hulm:* I would say The Crown Estate will need to consider the balance between revenue generation and what is in the national interest. I think in order to deliver for the national interest with wave and tidal power greater consultation should take place with government agencies and departments, and indeed industry.

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24 February 2010 Mr Roddy Monroe, Mr Ted Sangster, Mr Joe Hulm and Dr Jeff Chapman

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**Dr Chapman:** When they come to setting lease fees for carbon storage, be open, transparent and fair. Be prepared to justify the level of fee, because it will be very difficult to justify, and be prepared to be scrutinised on that. I would not like to see a propensity of regulators, but I do agree with Roddy that this is unusual in that it is an unregulated monopoly.

**Q32 Nick Ainger:** Can I just come back quickly? We were talking about the arrangements which currently exist and you think there could be improvements. Do you have any experience of what

other countries have in terms of their offshore arrangements? Can we learn from continental countries, or the US? Are there better arrangements elsewhere? Has anybody got a view?

**Mr Hulm:** I am aware that there is acreage of seabed in Canada which has been acquired, leased by energy development companies, so there are comparisons to be made. I would think that may be of interest.

**Dr Chapman:** There are CCS projects elsewhere, but there is no parallel with The Crown Estate at home.

**Chairman:** Okay. We are going to have to leave it there because we have other witnesses and we are slightly behind time, but I would like to thank each of you for coming today. Thank you very much.

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*Witnesses:* **Councillor Dr Michael Foxley**, Leader, and **Mr George Hamilton**, Natural Resources Manager, Highland Council; **Mr Calum Iain Maciver**, Director of Development, Comhairle nan Eilean Siar (Western Isles Council), gave evidence.

**Q33 Chairman:** Can I welcome the three of you to the Sub-Committee and thank you for making what I guess was a long journey today. I am sorry we are slightly late. Could you introduce yourselves formally, please?

**Dr Foxley:** I am Michael Foxley, Leader of the Highland Council.

**Mr Hamilton:** I am George Hamilton. I work for the Highland Council's planning and development service.

**Mr Maciver:** I am Calum Maciver. I am Director of Development with Comhairle nan Eilean Siar, the Western Isles Council.

**Q34 Chairman:** Thank you for helping us. You have been down this track before. Your councils have been involved, I think, with the working group in Scotland. What were the main conclusions there?

**Dr Foxley:** If I can start with just a slight preamble, serious problems over decades with the Crown Estate in Scotland, very important coastal waters both to the Highland Council and the Islands. The conclusion was the management of the Crown Estate should be managed in Scotland. The Crown Estate itself is owned within Scotland. The management should be transferred to Scotland and then down to the local authorities over certain aspects to get that management right.

**Q35 Chairman:** What has happened since that conclusion you published? Has anything improved?

**Dr Foxley:** Not a lot. We had early discussions about a Memorandum of Understanding. The Crown Estate have offered such initiatives in the past and it is early days and one has to be optimistic and hopeful, but there is a quote from a previous chair in 1986: "The proper use of the area around our coast can play a considerable part in the economic preservation and regeneration of some of our most fragile rural areas", and that is certainly what Highland Council and Comhairle nan Eilean Siar wish. In 2002 they were committed to partnership

working, this year they are talking about a Memorandum of Understanding, but we need to make sure that the management of the coastline is done in line with not only national and international interests but also local community interest, and that is sadly lacking.

**Q36 Chairman:** Yes. That is local authority interest, local community interest as well as the Scottish interest?

**Mr Maciver:** Yes.

**Q37 Chairman:** I see. Would you like to characterise the current working relationship with The Crown Estate Commissioners?

**Mr Maciver:** I attended a meeting with The Crown Estate fairly recently and they characterised their own relationships as being fractured. They say—and I agree with them—they impinge on the communities of the Highlands and Islands probably more than they impinge on any other community across the UK. They acknowledge there has been a breakdown in relationships. That is from The Crown Estate themselves and my local authority would certainly agree with that. We have seen with The Crown Estate in the past when there has been an emerging industry, such as the aquaculture industry, that they will say the appropriate words and give us the appropriate reassurances and then when the industry develops and matures they move away from it. I think we are in the same place at the moment with the developing marine and offshore industry. I think we are hearing the correct words from them, but I think there has to be some form of regulatory regime or some way in which they are much closer in partnership with us. There have been a couple of small, very, very small steps forward in that they now wish to engage in a Memorandum of Understanding with the local authorities, Highlands and Islands Enterprise and other local bodies, so that is a small step in the right direction but I would emphasise it is only a small step in the right direction.

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24 February 2010 Councillor Dr Michael Foxley, Mr George Hamilton and Mr Calum Iain Maciver

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**Q38 John Thurso:** Following on from that, can I ask you whether you find it appropriate that in such a big nationally important (as we have heard) development such as marine renewable energy, for example, governments in both Scotland and Westminster have pretty well left it to The Crown Estate rather than engaging (as they did with oil and gas) at a ministerial level?

**Mr Maciver:** It seems odd that something that is so much in the national and local interest and something that is so much in the Islands' national interest is left to a body of this type. From my perspective the governments of both the UK and Scotland have a greater interest to make sure that the industry is developed in such a way as to get the best out of that industry. We, as a local authority, have been speaking to a lot of developers over the last period who want to move into demonstration projects and want to move into the demonstration phase and they find significant difficulty from The Crown Estate in making that leap. We believe an area like the Outer Hebrides has got some of the richest marine resources in Europe and it will be a failure in many ways if The Crown Estate do not take best advantage of it and it will be a failure in many ways nationally and locally if we do not make that resource work for us.

**Q39 John Thurso:** Can I ask George Hamilton a question? In the evidence that was put before us there was great stress on marine renewable energy and the potential for the Council. Do you think The Crown Estate are doing everything they should to realise these opportunities, and, if not, what should they change?

**Mr Hamilton:** I think part of the reason for the Memorandum of Understanding is to try and make sure that the draft Memorandum of Understanding, which Calum Maciver and Michael have been involved in, to try and make sure that with some of these renewable energy potential projects, some of the benefits come from the renewable energy potential, community benefit in particular. From our perspective I think what is most important is that we have a continued dialogue, that we have transparency and we know what is happening and we are not on the coat tails, if you like, we are part of the process, part of the main process to get these developments underway. You also heard from other witnesses that there is an important part to be played in developing some of the supply chain issues for training, the use of local resources, the use of yards, for instance, you know, the downturn at the Doonreay situation, so The Crown Estate has got a huge role to play in making sure that these things can come together as well with all the partners, the local authorities, H&I, et cetera.

**Q40 John Thurso:** The report was quite critical of The Crown Estate Commissioners in respect of harbours in the Highlands and Islands. You heard Mr Sangster for the British Ports Association saying that things are not too bad. How do those two gel together? What were the problems?

**Dr Foxley:** Can I come in on that? Certainly from the Highland Council perspective, and I was also a member of Mallaig Harbour Authority for 21 years. We had protracted negotiations as to the curvature of a wave wall for a harbour defence as to the redundant seabed which lay below it, that took about a year to negotiate. The outer breakwater at Mallaig, which is a £10 million project, Mallaig Harbour Authority pays £8,000 a year in rental. The Crown Estate were not actively involved with that development or assisting in that development. Mallaig Harbour is an example that applies to the other harbour authorities and port trusts in Scotland. It controls the water but it does not control the seabed. Certainly our position as a council is that harbour authorities should own and manage the seabeds in the best interests of the community because it is not just the harbour, as many of you will know, it is the village and the socioeconomic activities within the village that contains the harbour. Highland Council pays £22,000 a year in rental for various slipways and harbour. It is really just a rental collection. Just to come back on something one of my colleagues said, what we are really good at doing in the highlands is partnership work. You need to work with partners, you need to understand that you have to pay rentals for things, but it is to actively work to progress the development, that is what is lacking.

**Q41 John Thurso:** So your view would be that actually in a situation like Mallaig they ought to be in a position to acquire the seabed they need to extend a pier or a wall and that ownership should vest with them rather than remaining with The Crown Estate, which I think used to happen in the nineteenth century actually?

**Dr Foxley:** Yes, because they are acting in the public interest, which is the origins of the Crown Estate within Scotland.

**Q42 John Thurso:** One last question. I know that you had quite a lot to say on the Marine (Scotland) Act, so can I put it to you? With the passing of that Act there is a new system of planning and licensing in Scotland which will come into effect through Marine (Scotland). How confident are you that there will be sufficient integration between The Crown Estate Commissioners' operations and the responsibilities of Marine Scotland? Will it align things or will it just fracture things?

**Dr Foxley:** Well, it has to align things. It potentially can fracture things. I think The Crown Estate Commissioners have to fundamentally change in their relationship with the national government in Scotland and with local communities in the way they act. It is extremely important that this is joined up. If I can just digress slightly by going back historically to the origins of fish farming. Prior to 1986 the first a local community knew about a fish farm in a sea loch system, a major impact in terms of the wild salmon fisheries' interests, the impact in terms of those local

communities, was when literally the cages arrived beside the road. It took us 20 years of sustained campaigning to have planning control over aquaculture developments. We invented in Highland fish farming framework plans which gave a strategic overview as well as a local view. That is what we have done as a matter of record over the last 20 years. We need to do the same with the offshore renewables industry. We knew that there were going to be development in the Pentland Firth. We knew that there was likely to be development in the Beatrice Field. The first we knew about the details was when we opened our newspapers on that particular Monday morning. Argyll had no fore knowledge of the developments off the Argyll Islands. That was from their director of planning. Now, that is not remotely partnership working. If we are going to maximise the benefits—you heard from some of the other witnesses—for things like offshore wind and offshore tidal we have to work together. We have to work together to solve all the interconnector problems. The community, certainly in the Highlands and Islands, need to benefit from the jobs in the construction industry, we need to benefit from training and we also need to benefit from a substantial fund both from the developers and The Crown Estate because otherwise we will be left with very few crumbs from the table. That is what we are all now determined to avoid. That is why we have been pressing for this MOU to try and pre-empt it. We appreciate being able to give evidence to this Sub-Committee because we need that pressure to make it happen this time so that we do not have a repeat of what happened with fish farming.

**Q43 Sir Peter Viggers:** The Calman Commission in 2009 looked at all these issues, of course. It looked at hypothecation, the concept of leaving local benefits where they developed, and came to the conclusion that it was better that Crown Estate should be able to use the larger benefits from outside Scotland to invest within Scotland. This is your chance to comment on the Calman Commission and the general thrust of its conclusions.

**Mr Maciver:** I suppose relating to Calman in relation to the concept as outlined there in general I go back, speaking for myself really, to where the Outer Hebrides are situated. They are situated on the very periphery of Europe and the economy and the socioeconomics of the areas is dictated by our geography and most of the time that geography is a socioeconomic disadvantage. For once, in offshore renewables and the potential west of the Hebrides our geography gives us real potential. We have got to capture some of that potential coming out of our environment. We have got to capture it and make it work for the Outer Hebrides, so that capturing has to be in community benefit, rentals, manufacturing, getting developments to work. What I see and what I think is important is that there is local benefit for the area. I recognise Calman and Scotland and the argument that is made, but I would make a slightly different argument for peripheral disadvantaged

communities like ours. When we have suddenly got a potential economic regenerator it would be a real blow for us if all the benefits of that potential economic regenerator go south and we are not able to capture any other benefits. While I appreciate Calman, there has to be a way in which The Crown Estate stops being a rent collector, if you like, and becomes a partner that helps us capture some of these benefits to maintain some of these benefits.

**Q44 Sir Peter Viggers:** Has it been possible for you to audit this, to assess whether you can actually establish that there are greater local benefits than the benefits of investment from outside Scotland? Calman actually thought that areas outside Scotland were more profitable and that Crown Estate could invest within Scotland. Have you been able to audit that accurately?

**Mr Maciver:** I have not audited for the whole of Scotland, but I can assure you that the investment by The Crown Estate in our communities is fairly minimal. They will be involved in some small-scale pier work with communities, but that is very, very marginal to the potential that exists in the marine resource around us.

**Q45 Sir Peter Viggers:** A last quick point. We have been advised that Crown Estate have made some efforts to engage more with local councillors and local interest community units. Is that correct, do you think?

**Dr Foxley:** If I may, Sir Peter. They have engaged more in the sense that we have been putting a serious amount of pressure on them in the last year or so and that is why this developing Memorandum of Understanding has emerged. In terms of the benefits, we are certainly looking between the councils at how there can be local benefits, so that if there is something happening in the Pentland Firth it benefits Orkney to the north and Caithness to the south, but there are also regional benefits within the Highlands and Islands. We are looking at various mechanisms for that. At the moment there is a marine stewardship fund with grants up to £10,000 towards small jetties, so they will contribute in a very small local level with small amounts of money, or if there is a major commercial enterprise or a major marina on a proven site, they will invest commercially in that and take a 50% stake. There is nothing in between. There is nothing in terms of pump priming to get the pilot projects going. In the vast majority of cases they are simply collecting rental without any communication and it is that fact that is so annoying.

**Q46 Nick Ainger:** From listening to what you are telling us and your evidence, are you actually looking in the same way the Shetland Islands Council looked at the offshore oil industry when it wanted to land crude oil in Sullum Voe and they ended up getting the best deal ever in terms of a local authority and a major industry? It got a penny a

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24 February 2010 Councillor Dr Michael Foxley, Mr George Hamilton and Mr Calum Iain Maciver

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barrel, or whatever the deal was. Are you looking for that sort of deal in relation to offshore renewables, and so on?

**Dr Foxley:** The very quick answer is yes, but what we are offering in exchange—and we have used that phrase the Shetland Oil Fund at a recent meeting I had with The Crown Estate with the Orkney Islands Council leader—what we are looking at is to work together in partnership and cooperate over issues such as the exact location of structures, working together over the grid connections, working together to train people to be able to build and maintain these structures. That is really about us all working together. It is not just that we want a pot of money—which we certainly do want and a very substantial pot as well—it is about working with them to achieve what the Scottish and UK Governments want.

**Q47 Nick Ainger:** But it is not just The Crown Estate you have to deal with in those terms about locations and so on, obviously it is the Scottish equivalent of the MMO, as the MMO will be coming in in terms of planning, and so on, and the location of these developments. You are seeking a Memorandum of Understanding but that is only with The Crown Estate. Can you tell us a bit more about what you are actually trying to achieve from that Memorandum of Understanding?

**Dr Foxley:** It is probably better, because George and Calum have been at the meetings, and then if I may just very briefly come back.

**Mr Hamilton:** I can make some comments and Calum can take it up. The Memorandum of Understanding is supposed to try and help establish a joint strategy for the coastal communities in the Highlands and Islands. It is supposed to allow for the utilisation of assets, joint assets, financial, property, people, to help deliver the strategy which I mentioned and it is about establishing project partnerships with public and private interests to deliver value, if you like, in communities. There are a number of projects that I have been involved in.

**Q48 Nick Ainger:** Just so the Committee is clear, this Memorandum of Understanding is not just with The Crown Estate, it is with a whole range of organisations?

**Mr Hamilton:** It will have to be, yes.

**Mr Maciver:** It will have to be, but we are talking very specifically at getting something in place with The Crown Estate and the thinking behind that is to drive them down the partnership route. The thinking is to get them engaged with us because at the moment they are doing their own thing to a greater or lesser extent. We are keen that we find a mechanism that they can buy into that engages them and they work in partnership with us. The thinking behind the Memorandum of Understanding, if you like, is a drive towards partnership.

**Mr Hamilton:** With some of the projects that are listed as ongoing and activities to develop already involve organisations like other local authorities and the Scottish Government.

**Q49 Nick Ainger:** In your evidence you refer to a technological development fund? My understanding is that was the Western Isles Council.

**Mr Maciver:** That would have been me, yes.

**Q50 Nick Ainger:** Again, how would that work? Is it just the penny on the barrel concept? Can you tell us more about that?

**Mr Maciver:** Conceptually, yes. There is no detail and there is no refining of how it would exactly work at the moment, but what we do know is that through the University of the Highlands and Islands, in my own community, for example, there is a project called Green Space where they are working with developers on projects to again try and capture some of these local benefits for the community. We would like The Crown Estate and other developers, maybe along the Shetland model, to be contributing to a fund that can help the University of the Highlands and Islands, that can help us locally to drive new technology and new ideas in the area. It is a way for The Crown Estate, if you like, to reinvest in the community. Rather than the idea of being a rent collector and the money moving out of our climate and out of our community, it is a way to encourage them to reinvest and that is one of the ideas that we would like them to be investing in, technology.

**Q51 Nick Ainger:** Our previous witnesses, as you heard, were concerned that the rents The Crown Estate were charging—there were issues over licensing, leases, and so on—could actually prevent the development going ahead. Are you concerned that in fact the position you are adopting may actually dissuade some developers from moving into the area? Would you like to comment on that?

**Dr Foxley:** Yes. We have made it very clear that we are looking, after all the research and developmental costs are taken into account, once the project is on stream and commercially viable, what we are really looking for is a grown up relationship between Crown Estate, the developers and the local communities through the local authorities to resolve problems and maximise the benefits because at the moment there is just a bipartite discussion between The Crown Estate and the developers. They will have problems that they require to be solved in terms of the workforce and the infrastructure they require. We are offering to help with that, but in return we want our community to benefit not only in terms of jobs but infrastructure improvements, training, et cetera. It is really for a much more mature relationship than we have ever enjoyed hitherto.

**Q52 Chairman:** Just to sum up, Mr Foxley, you have asked for a much wider review of the role of The Crown Estate. What would you actually want that review to come up with? What would you want to get out of a wider review?

**Dr Foxley:** Two things: primarily that the Crown Estate in Scotland is managed in Scotland, and, secondly, that there is clear benefit to local coastal communities and the wider communities, as it were, behind them that benefit from the activities in the coastal waters.

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24 February 2010 Councillor Dr Michael Foxley, Mr George Hamilton and Mr Calum Iain Maciver

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**Q53 John McFall:** What do you mean “managed in Scotland”? What do you mean by your first point?

**Dr Foxley:** Well, for example, managed in Scotland, the foreshore and fish farming is managed in Scotland through the local authorities and we should be able to manage the offshore wind structures, we should be able to manage the tidal structures as well, which at the moment are exempt.

**Q54 Chairman:** You mean the management should be transferred from The Crown Estate to the local authorities? That is what you want, is it?

**Dr Foxley:** Yes, absolutely.

**Chairman:** Okay. I am sorry, time has run out. I know you have come a long way. I hope you think it has been worthwhile. It has certainly been worthwhile for us. Thank you very much indeed.

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*Witness: Ms Linda Rosborough, Head of Marine Planning and Policy, Scottish Government, gave evidence.*

**Q55 Chairman:** Can I welcome you, Linda Rosborough. Could you introduce yourself formally, please?

**Ms Rosborough:** My name is Linda Rosborough. I work for the Scottish Government as a civil servant and I work in the equivalent of the MMO, Marine Scotland, which is a part of the Scottish Government, I am Head of Marine Planning and Policy.

**Q56 Chairman:** Thank you for helping us today. How would you characterise the relationship between the Scottish Government and the Commissioners? Is there a dialogue?

**Ms Rosborough:** Yes, there is a dialogue and the formal position of course is that the administration of the Crown Estate is a reserved matter and therefore the Scottish Government and the ministers in the Scottish Parliament have no direct role in scrutiny or oversight of its administration, but we do work with The Crown Estate on a wide number of issues and have a large number of working groups and ad hoc arrangements on which they engage with us.

**Q57 Chairman:** Again, I just want to be clear, do ministers get involved in this dialogue with the Commissioners?

**Ms Rosborough:** Yes, ministers have meetings, not on a regular basis but on an ad hoc basis as issues arise of the importance that ministers might wish to seek a meeting or, vice versa, The Crown Estates might seek a meeting with Scottish ministers.

**Q58 Chairman:** Who would that involve, the Secretary of State?

**Ms Rosborough:** It could involve the First Minister.

**Q59 Chairman:** So how often would the First Minister see the Commissioners?

**Ms Rosborough:** Certainly within the last year it has happened. I do not recall when it has happened before that. It would not be a regular matter.

**Q60 Chairman:** No, but going back to the Secretary of State, I know you do not represent the Secretary of State but would there be the same meetings with the Secretary of State on the same level?

**Ms Rosborough:** It is before my time, I am afraid, so I do not know.

**Q61 Chairman:** No, but currently are you aware of the Secretary of State for Scotland having meetings with the Commissioners?

**Ms Rosborough:** We would not be aware.

**Q62 Chairman:** You would not be told whether that was happening?

**Ms Rosborough:** No.

**Q63 Chairman:** What is the formal concordat between the Scottish Government and the Commissioners? Is there a separate memorandum?

**Ms Rosborough:** No, there is no separate memorandum.

**Q64 Chairman:** So nobody has set out how you should work together?

**Ms Rosborough:** No. We do have a Scottish Liaison Group which was set up following the review that was mentioned earlier and the Scottish Government has observer status on that.

**Q65 Chairman:** Right, but we have been hearing from the local authorities that work is going on on the memorandum. Would you not be a party to that?

**Ms Rosborough:** The particular memorandum which was mentioned by the local authorities was something they have initiated in their liaison with The Crown Estate Commissioners. I have not been a party to that.

**Q66 Chairman:** Why would the Scottish Government not be involved in that, even as an observer?

**Ms Rosborough:** The dialogue, as far as I know, has not yet reached us, but it is something that is happening. We do have a number of working groups upon which we are represented and the local authorities are represented. For instance, we have a working group on the Pentland Firth which is looking particularly at the marine planning issues arising out of renewables development in the Pentland Firth. The memorandum that was mentioned was a specific initiative of the authorities that were giving evidence earlier.

**Q67 Chairman:** Do you think it would be helpful for the Scottish Government to have a more formal Memorandum of Understanding with The Crown Estate Commissioners?



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**24 February 2010 Ms Linda Rosborough**

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**Ms Rosborough:** Firstly, the Scottish Government aspires to independence and aspires to the administration of the Crown Estate to happen within Scotland under a different constitutional arrangement would be our policy. Beyond that, we are looking for additional leverage over the administration of the Crown Estate in Scotland, so yes is the roundabout answer to your question.

**Q68 John Thurso:** In your written evidence you make clear the priority which renewable energy is for the Scottish Government, and I think that is pretty well taken as read, and you have just said that the Scottish Government would prefer to have more charge of what The Crown Estate does within Scotland. Are The Crown Estate Commissioners doing everything they should to realise the opportunity and what would you ideally like to see changed if you had the opportunity to change it?

**Ms Rosborough:** The Crown Estate Commissioners are very active on the renewables agenda and have put a lot of resource into working energetically on the agenda and we have a good working relationship at a number of levels because of that. I think they are constrained by the fact that the remit under which they operate constrains their objectives and that means that they take a rather narrower view on what can be achieved than we might wish. So, for example, particularly in the wave and tidal area, there are lots of unknowns, particularly about the environmental implications of putting the devices into the water and there will be a lot of expensive research and monitoring required to underpin the consenting of devices in the water. I think The Crown Estate may be less ready to put money into that sort of activity than they would in another area where the financial benefits are clearer in the short or medium term because of the need that they have to secure return on their investment.

**Q69 John Thurso:** It seems to me that there are two strands. There is the pure rental and maximising the economic value, which is obviously what The Crown Estate is directed to do. There is also the more overall socioeconomic value, which is all the bits that should accrue to communities, whether it is Caithness, Orkney, wherever, companies starting, universities, doing training, whatever it is. At the moment those two strands are thought to be more or less overlapping, but it is quite possible that as this develops The Crown Estates strand for pure revenue will go one way and the socioeconomic will tend to pull another way. It seems to me strange—and the previous witnesses alluded to this—that governments either here or in Edinburgh are not more involved in the direction and that The Crown Estate has been left to make all the decisions. Would not the Scottish Government like to have the ability to be more directive towards The Crown Estate to ensure the greater societal economic good rather than simply a revenue stream for The Crown Estate?

**Ms Rosborough:** Yes, indeed, very much so.

**Q70 John Thurso:** Just one last question. With the passage of the Marine Scotland Act there is a new system coming into effect. How confident are you that there will be sufficient integration between the roles and responsibilities of Marine Scotland and The Crown Estate Commissioners?

**Ms Rosborough:** The legislation both in terms of the Scottish legislation and the UK legislation brings in a new statutory system of marine planning and The Crown Estate will be bound by marine plans, as other government agencies and departments are bound by marine plans. So the new legislation will provide an integrating force and it is a momentum in the right direction, but that primarily bites on consenting and authorising decisions and not necessarily the wider role of making things happen, supporting the expansion of the industry, nor the downstream benefits that can flow from an expanding industry. It does not take us into that territory. So it will help, but it is not the full picture.

**Q71 Sir Peter Viggers:** The memorandum given to us by the Scottish Government says for some years there has been concern in Scotland, largely from marine users, about whether the management of the Crown Estate in Scotland was sufficiently attuned to Scottish interests and when the Calman Commission looked at this issue in 2009 it came to the conclusion that The Crown Estate in Scotland benefits from being part of a much wider and more profitable estate which enables The Crown Estate to invest in assets in Scotland. From your position as Head of Marine Planning Policy do you see The Crown Estate investing in marine development? Do you see them involving themselves in Scottish development, or do you think that the comment by the Scottish Government that there is not much interest is a fair one? Can you guide us in this?

**Ms Rosborough:** I think The Crown Estate has improved in terms of the visibility of the work they are doing in terms of additional investment and they have actually produced some publications as part of their annual report which highlight the work they are doing in Scotland which they did not used to do. I think there is still a gap in terms of perception in Scotland on the extent to which it is perceived as accountable, engaged and involved in Scottish affairs and I think that will continue under the present arrangement.

**Q72 Sir Peter Viggers:** You say there is a gap in perception. Do you think there is a gap in reality? Do you think that in fact The Crown Estate is taking from Scotland and not reinvesting not in perception but in reality?

**Ms Rosborough:** In reality the driver for The Crown Estate is raising the revenue that is passed back to the Treasury, so in reality the money does flow out of Scotland.

**Q73 Sir Peter Viggers:** Into the consolidated fund which benefit the whole of the United Kingdom?

**Ms Rosborough:** Yes.

**Sir Peter Viggers:** Thank you.

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24 February 2010 Ms Linda Rosborough

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**Q74 Chairman:** Can I just be clear about the amount of revenue you think you should get your hands on or you want to get your hands on. Have you quantified that?

**Ms Rosborough:** No. I have not got figures to hand today on the revenue, no.

**Q75 Chairman:** But you have an aspiration that this money ought to be retained in Scotland?

**Ms Rosborough:** The Scottish Government has an aspiration for independence and the Crown Estate is one of many elements of the Scottish Government's aspiration for independence.

**Q76 Chairman:** Right, but you have not totted up how much that might bring you?

**Ms Rosborough:** No.

**Q77 Jim Cousins:** This question in a sense follows naturally on from the Chairman's question. The Crown Estate in their evidence to us have shown us a map of the marine boundaries out to the continental shelf including a boundary between England and Scotland. It is somewhat complicated, of course, by the Isle of Man which The Crown Estate Commissioners have classified to Europe but, be that as it may, I wonder if you have seen this map and if you could have the opportunity of perhaps writing to the Committee and letting us know whether you accept the boundaries that are presented here?

**Ms Rosborough:** I would be happy to do so, yes. I have not seen the map, but I would be happy to have the opportunity.

**Q78 Chairman:** Could I turn, if I may, to the appointment of The Crown Estate Commissioners and to a Scottish Commissioner, because I think it is one of the things Calman looked at. Why is that so important?

**Ms Rosborough:** Why is it important that there is a Scottish Commissioner? I think it is important that, if we continue with the current arrangement, there is a Commissioner who has knowledge of Scottish interests and that is because the marine estate in particular is such an important part of The

Crown Estate's overall estate and it is particularly important for Scotland. The Crown Estate is quite an Anglo-centric body as it stands at the moment, and it is important, given more than half of the seas around the UK are Scottish seas, that there is a strong Scottish presence within it.

**Q79 Chairman:** But it is still quite a small proportion of the Estate's overall activity and revenue, is it not?

**Ms Rosborough:** The revenue comes largely from the more commercial aspects of its holdings, which are predominantly in England in the more urban areas. In terms of the actual area you are talking about very large amounts of territory, if you can count the seabed as territory, being part of the Scottish estate.

**Q80 Chairman:** In general terms, how has the Scottish Government followed up the recommendations of the Calman Commission?

**Ms Rosborough:** We responded formally.

**Q81 Chairman:** Have there been subsequent meetings with the Secretary of State, for example, to follow through the individual recommendations?

**Ms Rosborough:** There has been a large amount of correspondence and the Scottish Government has actually produced some draft regulations to provide for fairly immediate implementation of many of the recommendations contained within.

**Q82 Chairman:** Okay, but is there a dialogue at the moment on the Calman recommendations or not between the Scottish Government and the Secretary of State?

**Ms Rosborough:** Certainly there is a written dialogue occurring. I am not sure about meetings, but certainly there is a written dialogue. I have not seen signs of any desire for very rapid implementation of the particular ones relating to The Crown Estate.

**Chairman:** Yes, I see, you are not getting a response. All right. Unless my colleagues have any other questions, we are going to leave it there. Thank you very much indeed.

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*Witnesses:* **Ms Rosemarie MacQueen**, Strategic Director Built Environment, Westminster City Council; **Mr Steven Bee**, Director of Planning and Development, English Heritage; and **Mr James Howe**, Royal Institution of Chartered Surveyors, gave evidence.

**Q83 Chairman:** Can I welcome our final panel today. Could you introduce yourselves formally for the shorthand writer, please?

**Mr Bee:** I am Steven Bee, Director of Planning and Development, English Heritage.

**Ms MacQueen:** I am Rosemarie MacQueen. I am the Strategic Director for the Built Environment at Westminster City Council.

**Mr Howe:** I am James Howe representing the Royal Institution of Chartered Surveyors and I am currently employed by the Church Commissioners as Rural Asset Manager.

**Q84 Chairman:** Could you each characterise your working relationship with The Crown Estate Commissioners?

**Mr Bee:** Yes. Our relationship with them, English Heritage being a statutory consultee within the planning process, is mainly in three areas: the urban developments they get involved in, which are mainly in central London; the rural developments and mainly agricultural activity that they have in their estates across England; and increasingly, as you have heard earlier on, the marine activities over which we have a responsibility as a consultee both on planning consent in the coastal area and on marine licences.

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24 February 2010 Ms Rosemarie MacQueen, Mr Steven Bee and Mr James Howe

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**Ms MacQueen:** The relationship with Westminster City Council is that from the days where The Crown did not need to seek consent they are now within the normal planning regime on a level playing field with everyone else, so for any planning or listed building application, they have to make applications to ourselves. They are a member of something called the Westminster Property Association and via that, and also individually, they lobby hard for amendments or to engage with us in terms of policy making, in terms of also justifying the planning and other associated applications that they make. For example, they have made 200 planning applications in just the last five years to us. They own 1,000 listed buildings and 94 or 95% of their stock is within conservation areas. They do also have a residential estate in Westminster. Part of it is ordinary market housing, but there is some social housing, of which there has obviously been some recent correspondence in the last week or so.

**Q85 Chairman:** We will come to that, but could you just characterise your working relationship with them?

**Ms MacQueen:** The working relationship is what I would describe nowadays in planning terms as being planning management and therefore it is a partnership arrangement. They have no special favours but they are a very intelligent and astute organisation in terms of the fact that they use top-quality architects and planning consultants to put together their packages. They are very aware of what the Council's wider objectives are in terms of livability and total place making and I think we have a very productive relationship with them, but it is a tough negotiating relationship on both parts.

**Q86 Chairman:** What about the industry?

**Mr Howe:** I have had in the past regular meetings with my opposite numbers on The Crown Estate rural portfolio. I regard the relationship as one where we are comparable. Although we have a smaller acreage than The Crown, we use common agents for many of our activities and the relationship is one of a useful exchange of industry and professional matters and they are certainly a useful source for me and my colleagues in assessing how other organisations such as The Crown are operating their portfolios.

**Q87 Chairman:** Thank you. My colleagues will follow all that up in detail, but can I just put to Westminster, the current concern amongst tenants of the estates to which you referred is that in essence The Crown Estate is trying to raise some £250 million of revenue, which may deprive your city of some affordable and key worker housing?

**Ms MacQueen:** Yes, that is a concern and I have to say I was rather flippant in the material that I put in, not knowing that the very next day there was going to be an announcement made in the press. It is not just, though, to do with residential. I would say also that very, very recently, in the last few days, we have also heard about the possibility of selling part of the Crown Estate in Westminster, although they are at

pains to say they will keep management responsibility for that, which does have some concerns for us because we have had experience in the past of offshore owners of property in Westminster and you do not get quite the same dialogue as you do when they are on the same soil. But going on to the key worker and also the affordable housing units, which they have predominantly in the Millbank area, yes, there is concern there and indeed only at the end of last week I had a meeting with The Crown's chief executive and the leader of my Council when we put our case. The case on their part will obviously be given to you, but they are saying that for existing tenancies, those who are on assured tenancies, the rental will remain the same because they will negotiate that with the person or the companies who may buy. However, our concern is that we have nomination rights for a number of units—we have still to establish it, but we believe it is several hundred—for people who are working in the Primary Care Trust, teachers in Westminster and also in services such as the Police and Fire Services. What we are concerned about is that there may be assurance of tenancies now, but when those tenants either go or when the assured tenants eventually, I am afraid to say, die that will then be a break and there will then be no opportunity in the future to retrieve that.

**Q88 Chairman:** My colleagues, I think, will want to pursue that, but in general terms for Westminster they may be selling off a lot of residential properties, raising over £200 million, but you are also involved because they are trying to redevelop in Regent Street, are they not?

**Ms MacQueen:** They are.

**Q89 Chairman:** Are you not concerned that essentially they are selling off some of their residential properties in order to finance the redevelopment at the other end of your borough, your city?

**Ms MacQueen:** Yes, well, I do understand the linkages that have been made, although in a sense a substantial part of Regent Street, luckily for us, is coming to a conclusion in terms of redevelopment, although they are now stretching into St James. So, yes, the limitations they have in terms of raising money are of interest. However, I am slightly puzzled by this point because to date the 200 applications that we have dealt with, or at least the 10 major applications, have been funded by whatever means and they are very complicated and very major schemes, so they have some methods already of raising money.

**Q90 Chairman:** So they do not need to sell off these houses to finance the Regent Street development, is that right?

**Ms MacQueen:** I do not know the details of what their financial cases are, but to date they have not.

**Chairman:** Okay.

**Q91 Sir Peter Viggers:** I was wondering the extent to which they have consulted with you, Westminster being a key player in this issue, about the possible sale of 1,300 homes in the London area?

**Ms MacQueen:** Well, as far as our area is concerned—that is all I can speak for—I received a letter the day before it went into the press that this was about to occur. I then alerted the Director of Housing and the cabinet members who needed to know and the ward councillors. None of those knew in advance that this was about to occur.

**Q92 Sir Peter Viggers:** Did that surprise you? I am trying to get a comparison with other large landlords?

**Ms MacQueen:** I did not find it unusual that other large landlords might choose to do that, I have to say, but the spirit of partnership working that we certainly have had and has been very productive in the commercial estate, I was a little surprised and maybe they were a little surprised that we were very quick off the mark to ask them to come in and discuss the matters with us. Obviously there has been quite a bit in the press and I have had very recently a letter from Paul Clark, who is the person in charge of this proposal at their end, stressing the fact that they have full engagement with their tenants, illustrating by way of letters, public meetings, et cetera, what they are going through and when they came in they were also at pains to stress that for current people in assisted rental properties they were giving very clear indications that their position was secure but, as I say, our concern is in the long term because affordable housing is greatly needed and there is a direct linkage in a sense between that and the running of their commercial operations because if you do not have people to clean the streets and keep the lights on and do all the other work then that estate in a sense does not function as the rest of the West End may function.

**Q93 Sir Peter Viggers:** So dealing with The Crown Estate, how would you compare their performance and the relationship you have with them generally compares with other large reputable landlords?

**Ms MacQueen:** Westminster is sort of an odd planning authority anyway because we do have large tracts of land which are settled estates, so there is actually quite a lot of similarity between the way they operate and the Grosvenor Estate, Howard de Walden, Portman, et cetera, all of whom, like The Crown Estate, have very long-term interests which can be very beneficial for both the residents and also visitors and workers in Westminster because you get a very long timespan that you are looking towards. I would say that the relationship of The Crown Estate with us is very much on the same level as it is with those other long-term players. They have a very sophisticated understanding. They use, as I said, very good agents and there is a long-term engagement, not just in terms of in a sense getting what they want, which is the eventual planning permission, but fulfilling the terms of section 106, which in Westminster are quite interesting, what they are required to do in terms of things like public realm

improvements, job clubs, local employment either during building phases or later on. These are all in a sense common currency that we negotiate with each of those, so there is not much difference between all of them, including policies on things like sustainability and green matters.

**Q94 Mr Todd:** One gets an impression in some of the evidence that The Crown Estate is used to operating under its own terms, although very refined and comfortable terms in many ways, but they are protected in law differently from any other landlord with whom you might be a tenant. For example, I do not think there is an enfranchisement right, is there, for a Crown Estate tenant?

**Ms MacQueen:** I am afraid that is a technical area and I am unable to respond.

**Mr Bee:** I cannot answer that either, but in terms of their approach, if I can reinforce what Rosemarie was just saying, we come across them mainly as developers of major projects that are going to affect significant parts of the historic environment and they are generally on a par with the best of the private sector developers with whom we work. When they are working at their best they come and talk to us early, explain what they are planning to do and allow us to help them shape things in a way which is going to secure both a commercially attractive scheme and protect the—

**Q95 Mr Todd:** I was thinking more in terms of the ordinary tenant as opposed to perhaps English Heritage's role, where I imagine they are well-versed in what is required and probably rather enjoy that relationship, but the more day-to-day activity of dealing with legal issues of a tenant's rights and an expectation of consultation might not necessarily be something they are desperately familiar with, is that right?

**Ms MacQueen:** Well, they do support something called the Regent Street Association, which is a body which is in a sense separate, although I understand has funding and is certainly located there within their estate, and the Association is there to, in a sense, have a corporate voice back to them about matters like that.

**Q96 Mr Todd:** That is in the retail sector, yes, and we have had evidence of a very positive relationship there which the Association appears to welcome.

**Ms MacQueen:** There is also a business improvement district called the New West End Company. They are a member of that and obviously via that, in order for a bid to get off the ground, you have got to get people to agree that it is a good thing, which includes some of the tenancies of the properties we are talking about in the longer term.

**Q97 Mr Todd:** I think we are going to have to put some of these more detailed questions on the rights of tenants to a different group of witnesses. If we can turn to Regent Street and its development, how successful do you think they have been in their attempts to modernise the retail environment along

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24 February 2010 Ms Rosemarie MacQueen, Mr Steven Bee and Mr James Howe

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Regent Street? They own, I think, the entirety of Regent Street, do they not, or virtually all meaningful parts of it?

**Ms MacQueen:** They have been extraordinarily successful. They were very clever in the way they went through the process. They looked first at what people understood about Regent Street—it was rather dusty, lots of airlines, carpet shops, et cetera. They then moved to positioning what they wanted to do, which was to make it an internationally branded street. Obviously because they had the control they were able to decide which shops they would want to put in when leases fell in and they then in a sense blocked the street and came through, jointly between ourselves and English Heritage, in terms of what some people would have said was extraordinarily radical. The street was full of listed buildings and yet when you look at something like the Apple store I do not think anyone would think that is a fuddy-duddy use within a fuddy-duddy building. The best elements of all the listed buildings have been kept. In many instances they were pretty much Queen Anne fronts and Mary Anne backs, so they were able to do almost like a façade scheme, which is more usually what you get in a conservation area, but in other areas we have asked them, we have required that staircases and various internal rooms and features like in the Café Royale are kept in the normal way. So they have been extraordinarily successful. It has become a destination that international visitors will want to go to see when they come to London.

**Q98 Mr Todd:** I understand, but from the English Heritage viewpoint—because, as you rightly say, there is quite a number of buildings that are of importance?

**Mr Bee:** That is right. We have done a huge amount of work with The Crown Estate and working increasingly closely and early in the process, as I was saying. We have been able to help them identify what is most historically significant about places which then allows them to make substantial modifications to those parts that are less significant, and I think the proof of the benefit of that is in how Regent Street looks now. It still looks like a historic street. It still has those characteristics that make it distinctive, if not unique, and at the same time is becoming commercially successful. That commercial success, of course, attracts the investment in that sustains the historic character, so as far as we are concerned it works very well. Generally speaking, they come and talk to us early and that led to things like the Regent Palace Hotel being substantially modified, in fact largely demolished although it is a listed building, in order to secure a commercially viable development for that and the wider area. We were able to accommodate that because we had identified what it was that was particularly significant and they kept and restored that.

**Q99 Mr Todd:** So it is a success story?

**Mr Bee:** Generally speaking, it is a success story.

**Q100 Mr Todd:** You say “generally speaking”, what qualifications would you add?

**Mr Bee:** Well, I think there are one or two occasions where we would have liked them to have come to us rather earlier with a less fully formed proposal that we could have helped them shape in perhaps a rather more sensitive way, but I think on balance it is generally a positive story.

**Q101 Jim Cousins:** Mr Bee, both verbally and in writing you have made a similar point about The Crown Estate, so if you do not mind I will use the point in your written evidence where you say: “The approach of The Crown Estate to development opportunities is . . . comparable with that of the premier private development companies in England.” Do you think you are setting a high enough standard there?

**Mr Bee:** Well, we would like all developers to work as well as The Crown Estate and some other developers can work, and we would like them to work that well all the time.

**Q102 Jim Cousins:** But you are seeing The Crown Estate here very much as a development company rather than as a body with perhaps a special remit?

**Mr Bee:** That is how we come across them primarily.

**Q103 Jim Cousins:** That is how you come across them. What would you expect of them?

**Mr Bee:** Well, it is not for me to say what I would expect of them—

**Q104 Jim Cousins:** No, it is for you to say what you would expect of them.

**Mr Bee:** Well, as far as English Heritage is concerned, we would expect them to take the appropriate responsibility for sustaining the historic significance of that part of the estate which is recognised as being historically important. A lot of it is recognised and is designated, like Regent Street. There are large parts of it increasingly under the sea, which are not well understood, not sufficiently recognised as being historic and that is why we are working closely with them to help them shape an approach to the exploitation of the seabed in particular in a way which recognises and then protects the historic significance of what may lie beneath the water.

**Q105 Jim Cousins:** Let us be clear about this, certainly with regard to the marine environment you would not regard simply acting as a premier development company to be a high enough standard of performance?

**Mr Bee:** Not yet, no, because, as we heard earlier, they had a monopoly in a very new area of activity, but I was talking mainly of their activities in urban development, where I would say that when they are at their best they are comparable with the best that others can do in the private sector.

**Q106 Jim Cousins:** Yes. I am a little troubled by that because after all their name suggests that they do have wider responsibilities. They told us that they wished to get rid of what they call their “non-core activities”—we will come on a little later to explore

what that might be, but they wanted to get rid of their non-core activities to become a major developer of retail and industrial estates across England, or for that matter Scotland, of course. Do you think that is a good enough set of objectives for somebody with the responsibilities they have through statute?

**Mr Bee:** Well, I cannot comment on what their wider responsibilities should be, but as a developer that does not seem to me to be a particularly unusual or unacceptable aspiration.

**Q107 Jim Cousins:** So all your comments are related to seeing The Crown Estate as a developer and you are not willing to make any comments upon what standards we ought to expect of them with a wider statutory or community remit?

**Mr Bee:** As a developer, I would not draw a distinction between the standards that The Crown Estate should adopt being different from any other developer. It may be that the purely private developer might rely more on the local planning authority to determine where their wider social responsibilities lie, but on the whole we have found that in relation to the specific schemes we have engaged with them on, when they have come and talked to us early then we have found the negotiations in relation to protecting and sustaining the historic significance of places has been overall very good.

**Q108 Jim Cousins:** Comparable with a good private developer?

**Mr Bee:** Yes.

**Q109 Jim Cousins:** Thank you. Mr Howe, the name Paul Clark has been mentioned already and I thought you were here from the Royal Institute of Chartered Surveyors, but you made it clear to us that in fact you are with the Church Commissioners. Did you work at the Church Commissioners with Paul Clark?

**Mr Howe:** Yes.

**Q110 Jim Cousins:** Thank you. That is obviously helpful to put your evidence in some context, perhaps. The Crown Estates in their evidence to us have said that they operate with commercialism, integrity and stewardship. Commercialism perhaps we have already explored. What would you understand either from a RICS point of view or a Church Commissioner point of view by the concept of “stewardship”?

**Mr Howe:** Looking after the asset that has come down to the current generation, deriving the maximum current income consistent with handing on, if possible, an enhanced asset for future generations.

**Q111 Jim Cousins:** Thank you. I wonder if I could ask the representative from Westminster, in your written evidence you did express some concern about commercialism guiding The Crown Estates and you mentioned particularly Regent’s Park and

Millbank. Do you have any specific concerns of that kind or was that just, as it were, a general precautionary point?

**Ms MacQueen:** It was probably a general precautionary point at that time, but I have to say I drafted that just prior to knowing about the possible sale of the residential assets in the south. All the assets in the north, in the Regent’s Park area, are all market housing.

**Q112 Jim Cousins:** Within those areas of housing there are, of course, undeveloped areas of land. The attention of the Committee has been drawn to one such area of land within their estate portfolio. Are you concerned about what their attitude might be to the development of those otherwise undeveloped areas of land?

**Ms MacQueen:** I am not sure whether that is within our area because part of the Regent’s Park estate is, of course, within Camden, but wherever it is, if it was within our area I am not sure that I would say I would be concerned because we have got very strong planning policies and any application for building within that area is either going to be acceptable or not, depending on what it is that they are proposing. So within that, if we were looking at market housing, after a certain threshold we would be looking for affordable housing, then whether it is an opportunity to have commercial. Then again, after you get a certain threshold of commercial you are expected to put in the mixed use, so when you were talking about stewardship we have a slightly different view, which is that for the settled estates there is an expectation in a sense that they are not an in and out developer. Because they are longer term they do all have corporate governance, policies they work to, and The Crown is not different from that. The point I was making about Regent Street—and it would be the same case here—is that all of those developments in a sense come with what you might call community costs attached to them which are either delivered ongoing or delivered at the time of development. So I would not be pushed into saying that I have got grave concerns. Obviously they have got to make a commercial decision about whether something is acceptable but I am not going to in a sense flex the policies if it is uncommercial for them to do something.

**Q113 Jim Cousins:** Right. Again, you are looking at them very much as a commercial developer. I want to move you straight on to the point about housing, which you yourself raised earlier. I understood your comments then to mean that you had got an assurance from The Crown Estate Commissioners that existing social housing, assured shorthold tenancies, key worker tenancies, would be maintained. Is that assurance in writing or did it emerge at a meeting?

**Ms MacQueen:** It emerged at a meeting, but subsequent to that there is a copy letter which I have which is obviously part of this narrative which is ongoing with tenants who have been concerned, but the point I was making is that it actually does not

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24 February 2010 Ms Rosemarie MacQueen, Mr Steven Bee and Mr James Howe

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give us what we would seek. It actually is about the current people who are in properties and not for the longer term, and that is where our concern would be.

**Q114 Jim Cousins:** It might be useful for us to see the letter you have just now referred to, but let us be clear about that. That assurance relates to the present tenants. It does not offer any assurance that the accommodation which the tenants are using will continue to be social, affordable or key worker housing?

**Ms MacQueen:** Yes.

**Q115 Jim Cousins:** And it is that assurance that you are seeking from Westminster Council and that assurance presently you do not have?

**Ms MacQueen:** Yes, that is correct.

**Jim Cousins:** Thank you.

**Chairman:** I want to turn finally in the last few minutes to the role of Crown Estate Commissioners as a rural landlord.

**Q116 John Thurso:** We had one written submission which described The Crown Estate Commissioners as an exemplary rural landlord. I think probably James Howe is best to answer this. Would you agree with that and can you give me any specific examples of best practice?

**Mr Howe:** I think, from my experience of meeting with opposite numbers at The Crown, I would not differ from that description of them. In terms of best practice, there are many areas, as I am sure you are familiar with in the management of a rural portfolio and best practice might, for example, be in the employment, the contract arrangement and the control of managing agents, the Crown Estate being an estate which is managed by managing agents under contract who report to a central small group in head office, so the arrangements that those agents will be operating under in terms of rent review, dealing with renewals of leases, tenancies, taking of surrenders, and so on, all of that would be identified as best practice.

**Q117 John Thurso:** The Crown Estate works through a variety of firms of land agents and do not actually do any in-house management?

**Mr Howe:** Correct.

**Q118 John Thurso:** Whereas many larger private sector landowners would tend to have their own either factoring or land agent resident, as it were. Do you think what they do is a good idea or a bad idea, or not a factor?

**Mr Howe:** I think both regimes have their benefits. I think that it is perfectly acceptable. It is one that the Church Commissioners follow, to use outside agents and in fact we use some of the same firms to carry out the administration. The reason is that the estates of The Crown are spread fairly thinly throughout the whole of England and also into Scotland and in order to directly employ it is not always, I think, cost-effective. So to have the benefit of local knowledge and to have people based locally under a

contract of employment which is regularly tested against other comparable firms is a very satisfactory way of proceeding.

**Q119 John Thurso:** The NFU is slightly more critical and they made the point that when they got shot of Cluttons it was in mid rent review for a lot of people, so the rent review was started by the agent who knew them it would be finished by a new agent who did not know them and that was not terribly helpful, so perhaps they need to look at that bit?

**Mr Howe:** That is certainly something I have first-hand experience of. It was impossible. Because of the length of the procedure for rent reviews on Agricultural Holdings Act farms it is almost certain that you will have that particular arrangement, notices served running before the conclusion of the negotiation.

**Q120 John Thurso:** This is all to do with the rural estates, so I do not know if, Sir Peter, you particularly want to encourage that, but if you would like to chip in at any time, just chip in. It is a question I have asked about the renewables side as well, which is The Crown Estate Commissioners have a revenue earning remit that is subject to the requirements of good management, and we have seen this evidence about the management side and socio-economic side and how there can be tensions. Do you think they have got the balance right with regard to the rural estate in respect of the wider public interest in rural areas?

**Mr Howe:** As far as I am aware, I think that they have.

**Mr Bee:** If I can add, from our point of view I have explained that they are most dynamic in the urban environment from our experience, but of course I have consulted my directors across England before preparing this evidence and the response I have got from the rural parts of the country is that the relationship with The Crown Estate is good and stable and not significantly changing. I have got one or two examples of cases where there has been particularly active engagement both with them, their agents and their tenants over scheduled monuments underneath agricultural land, which of course is the biggest issue we have in rural areas. My sense is that whatever changes there might be in the rural economy through renewable energy, and so on, The Crown Estate are generally pretty stable in the way they are managing things.

**Q121 John Thurso:** The last question—and again if either of you think you would like to say anything—which is regarding the relationship between The Crown Estate Commissioners and other public bodies operating in rural England. Are they sufficiently close? Do they mesh well with the other bodies?

**Mr Bee:** Well, they work well with us.

**Q122 John Thurso:** You are the biggest one to worry about, are you not?

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24 February 2010 Ms Rosemarie MacQueen, Mr Steven Bee and Mr James Howe

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**Mr Bee:** Well, in terms of rural issues maybe not. There are a number of public and third sector agencies responsible for the rural economy, but in the work that we do with those agencies I am not aware of any major obstacles to participate in partnership and discussions.

**Mr Howe:** I would endorse that. I am not aware of anything being an issue.

**Q123 Chairman:** Mr Howe, the National Farmers Union also highlight the position of tenants at the rural estates, particularly agricultural tenants who want to retire and the difficulties they face in doing that. Are you aware of particular issues facing those tenants?

**Mr Howe:** Yes, indeed.

**Q124 Chairman:** Do you think The Crown Estate could be more proactive in assisting those tenants who do wish to retire?

**Mr Howe:** It is certainly an industry-wide concern that there are farm tenants who are in effect trapped within their farm tenancies because they cannot afford to buy retirement dwellings and to have money to live from.

**Q125 Chairman:** Do the Commissioners not therefore have a wider responsibility to try and do more to help them?

**Mr Howe:** Well, indeed, and I think if I look at the practice we would be following we have a policy of enquiring gently how a tenant of retirement age

might be viewing his or her future and if it becomes apparent that they have not got the funds it is something that we do follow. We have just completed an arrangement where a tenant and his wife are coming out of a farm. We have purchased a house of their choice using Commissioner's funds. The tenancy is for their joint lives. They are on a rent between a fair rent and a market rent. That releases the capital. There is a considerable uplift, as you will know, from a tenanted farm to a vacant possession farm, giving freedom then to do something with that farm.

**Q126 Chairman:** It also encourages new entrants, does it not?

**Mr Howe:** It has the potential, if that farm is to be retained and to be re-let, then it would indeed allow either an enlargement of an adjoining holding which might be beneficial or, indeed, allow progression from a smaller holding to a larger holding if that should be the case.

**Q127 Chairman:** If the Church Commissioners do that, why cannot the Estate Commissioners do that?

**Mr Howe:** With respect, Sir, I am not sure if in fact that is their policy. It may be that I am saying that is a way of getting around this particular blockage for the benefit of the farmer, the industry and the owners.

**Chairman:** All right. Thank you very much. We are going to leave it there. Can I thank the three of you for your evidence. Thank you very much indeed.

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## Wednesday 3 March 2010

Members present

Mr Michael Fallon, in the Chair

Nick Ainger  
Mr Colin Breed  
Jim Cousins  
Mr Andrew Love

John McFall  
John Thurso  
Mr Mark Todd  
Sir Peter Viggers

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*Witness:* **Mr Roger Bright, CB**, Chief Executive, Crown Estate Commissioners, gave evidence.

**Q128 Chairman:** Mr Bright, can I welcome you to this evidence session? Could you formally identify yourself for the shorthand writer, please?

**Mr Bright:** My name is Roger Bright. I am chief executive of the Crown Estate.

**Q129 Chairman:** Thank you. We believe this is the first inquiry into the Crown Estate by a committee of either House since the Commissioners were established in their present form 50 years ago. Could you just very briefly explain what you do and why you do it?

**Mr Bright:** The Crown Estate is a large and diverse property business comprising urban, rural and marine properties right the way across the UK. We operate under a commercial remit which is set out in the 1961 Crown Estate Act which requires us to maintain and enhance the value of the estate and the return we obtain from it, subject to the requirements of good management. The properties for which we are responsible are described as the hereditary properties of the monarch. They are not the Queen's personal property, but we are therefore not a government agency; nor are we a non-departmental, public body. That said, we always work with the grain of government policy, both in terms of the UK Government and also in the devolved nations. As a public body, we have a very keen sense of our wider responsibilities to be a good and responsible landlord. We seek to be good towards our tenants, our customers and our other stakeholders. Finally, we are very conscious that we have a large number of, if you like, heritage land and buildings under our ownership. We have over 1,000 listed buildings. We have some 1,500 Sites of Special Scientific Interest across the marine and rural estate, so we have a very keen sense of stewardship as well.

**Q130 Chairman:** You state in your memorandum that you are not the sovereign's private estate; nor are you owned by government. In practical terms, what does that mean for you as a manager?

**Mr Bright:** What that means is that we are entrusted with the management of the properties that are under our management. The Act gives us all the powers of ownership, although we are not owners in our own right. That means that for example we are able to acquire properties and we are able to sell properties. We are not a static estate. We are a dynamic estate and we buy and sell properties in order to maintain the performance of the portfolio over time.

**Q131 Chairman:** Last year the value of that portfolio fell by about £1 billion. What is a reasonable number of years to assess your performance in managing the portfolio?

**Mr Bright:** Probably a 10 year time horizon gives you a good feel for that. This is a long term business. This is not a short term business. If you look at our performance over the last 10 years, I think we have produced creditable results. We have out-performed the industry benchmark for total return and we have increased our revenue to the Treasury by some 70% over that time.

**Q132 Chairman:** If the capital value of your estate has increased significantly over a period, as you suggest, could the Commissioners realise part of that increase as increased revenue income for the Treasury?

**Mr Bright:** Not directly because the estate is constituted effectively as a trust. This is reflected in the Crown Estate Act. That draws a clear distinction between capital and revenue. What is capital is, if you like, part of the Crown Estate and the revenue goes to the Treasury. The revenue of course is generated by the capital and one of the reasons why we need to be able to buy and sell, to invest in other properties, is in order to try and make sure that we sustain the revenue performance of the estate.

**Q133 Chairman:** It is possible therefore that you could decide or be asked to convert more of the capital into revenue for the Treasury?

**Mr Bright:** We cannot directly convert capital into revenue, but we can invest capital in assets that generate more revenue than they do at present. We think it is very important to have sustainable returns. You can indeed increase the returns rapidly by investing in poorer quality property because poorer quality property carries higher risk and will give you a better return in the short run, but it will give you a poor return in the long run.

**Q134 Chairman:** Who sets your financial target? Is the Treasury consulted or involved in the setting of your financial target?

**Mr Bright:** They are certainly consulted and involved. Basically, how it works is we have an annual budgeting process, as you would expect, and that is conducted in the light of our investment strategy and market forecasts, cash flows and so on. We go through an annual budgeting process, out of which comes the projected revenue surplus that we

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 3 March 2010 Mr Roger Bright, CB
 

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expect to be able to generate in the coming year. We then discuss that with the Treasury and the Treasury will challenge us. They will test the assumptions upon which we have produced our figures and there will be a debate. Out of that will come an agreed formulation for the budget figure for the year ahead. This is underpinned by a formula that we agreed with the Treasury several years ago which is that our revenue surplus should increase at the very least in line with the GDP deflator each year which, as I am sure you know, is effectively a proxy for inflation. We aim to do better than that and, generally speaking, we have done better than that.

**Q135 Chairman:** Can you be directed to do better than that by the Treasury?

**Mr Bright:** The Treasury has a power of direction but to date they have not used it.

**Q136 Chairman:** That is because you have negotiated a target with them each time that they are happy with.

**Mr Bright:** It would appear so, yes.

**Q137 Sir Peter Viggers:** Compared with other property vehicles, you have three substantial inhibitions. You are not allowed to borrow to finance investment. You are not allowed to retain revenue reserves for investment. You are not allowed to invest in land through limited companies, which is a significant disadvantage because you cannot use modern investment vehicles, and yet you have out-performed your peers. How is this?

**Mr Bright:** I would think it is a combination of the fact that a number of the properties that we own are of a very high quality. They are prime properties. They are in many instances situated in central London, in London's West End, which is, as I am sure you are aware, a very strong performing centre. One of the other reasons is that our portfolio is very diverse. We have a big commercial property portfolio but we have a rural portfolio and we have a marine portfolio. Those portfolios perform in different ways. The rural portfolio will for example give us capital growth. The marine portfolio will tend to give us high revenue returns. The combination of the quality of the assets and the diversity of the estate has certainly helped us considerably. If we were able to relax some of the constraints that apply in the Act, we would probably be able to enhance our performance further still.

**Q138 Sir Peter Viggers:** Is that the view of all of you in the Crown Estate, that there would be advantages in easing some of these restrictions? Is that the general view of your colleagues?

**Mr Bright:** I think it is. We have managed to live within the 1961 Act as it is. As you kindly observed, we have managed to perform reasonably well within that constraint, but as you also mentioned, the property industry has moved on a long way since 1961. It is a more sophisticated industry now than used to be the case. It uses a number of different kinds of vehicles. Having the ability to participate in some of those would, I am sure, be helpful but we are

not in the business of for example entertaining high gearing; we are not in the business of getting involved in risky vehicles. If there were to be some relaxation of those constraints, we would want to use them very judiciously and carefully.

**Q139 Sir Peter Viggers:** I was going to put the opposite point of view, which is that when the statutory framework was created these three restrictions must have been imposed for a purpose. Do they give you some benefit?

**Mr Bright:** I suppose there are those who say that the ability to borrow would be a mixed blessing. When the market is going strongly, there are those who say, "What a shame you cannot borrow." When the market has had the sorts of difficulties it has had in the last year or two, there may be a view saying, "Actually, perhaps we are rather fortunate that we have not been able to be highly geared." If we were able to borrow, we would be looking for a modest and sensible level of gearing which would enable us, if you like, to do sensible asset management.

**Q140 Sir Peter Viggers:** I was going to move on to the property joint venture partnerships in which you have become involved. Note 18 on page 76 is the least happy part of the annual report I think. Would you like to comment on the Gibraltar Limited Partnership where your annual report states, "Circumstances give rise to material uncertainty that could cast significant doubt upon the partnership's ability to continue as a going concern." Have you ventured outside your safety zone in this area?

**Mr Bright:** The Gibraltar partnership was very much a toe in the water for us then. In the terms of the overall scale of the value of our portfolio, it is an extremely small part of it. When we ventured into this, we had discussions with the Treasury beforehand and they required us to limit the extent of the gearing in which this vehicle could get involved to 40% and also that such vehicles should not constitute more than 10% of the overall value of our portfolio. Unfortunately what has happened in the case of Gibraltar is it has been a victim of market developments in the last year or two. I suppose you might say we have learned a certain amount from that experience, but we have also one or two other involvements in limited partnerships. For example, the lend-lease partnership that owns the Bluewater Shopping Centre. That has not caused us the particular difficulty that arose here.

**Q141 Sir Peter Viggers:** Do you think that lessons have been learned? I am looking at the last footnote on page 76 which seems rather limp. It talks about the general partnership—that is Gibraltar—having concluded that it could cast significant doubt and then it goes on to say that the general partnership, Gibraltar, may be able to realise its assets. There is a lot of smoke being made here. Do you feel that lessons have been learned?

**Mr Bright:** Yes, I think we have learned the lessons of that and fortunately the exposure here is pretty small. It was a useful experience.

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3 March 2010 Mr Roger Bright, CB

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**Q142 Chairman:** Just to be clear, was the Gibraltar partnership allowed to borrow?

**Mr Bright:** Yes, it was allowed to borrow.

**Q143 Chairman:** That was the purpose of it, to get round the borrowing rule?

**Mr Bright:** No, it was not the purpose of it. The purpose of our going into the partnership was to be able to share some of our assets that we put into the Gibraltar partnership to retail parks that were in our ownership. We joined forces with the Hercules Fund which has experience of managing retail parks; it is their core expertise. The other major component that went into this partnership was the Fort Kinnaird Retail Park. The principal purpose was to gain exposure to bigger assets than perhaps we would normally have been able to acquire on our own but also to gain experience and draw on the experience of other people who were more expert in this particular field. The partnership was geared as well but our purpose of going into the partnership was not to get around our borrowing rules. We were quite clear that that would not be an appropriate use of such vehicles.

**Q144 Chairman:** How much have you lost through this partnership?

**Mr Bright:** What we have seen is a depression in value. We have had to make—

**Q145 Chairman:** How much?

**Mr Bright:** What we have had to do is put a payment in in order to make sure that the partnership remains honouring its—

**Q146 Chairman:** I am asking for a figure.

**Mr Bright:** I am just getting there.

**Q147 Chairman:** We have a lot of other questions to ask today. How much have you lost, broadly?

**Mr Bright:** The figure we have had to put in is £18 million.<sup>1</sup>

**Q148 Chairman:** You benchmark yourself in the annual report against private companies. Do you think the standards of good management for a leading private sector company and a public body such as yourself are the same or are there extra factors for a public body to consider?

**Mr Bright:** As I said in my opening remarks, as a public body, we are acutely conscious of our wider responsibilities, both to our tenants and our customers but also to the areas in which we operate, where we are a major landlord. The best property companies, like in many ways the best businesses, would also have a keen sense of what constitutes good management. Good management is important for good business. If you like, there is a particular expectation on us that we always do the right thing,

**Q149 John Thurso:** Can I just ask you a question about your relationship with Government? The 1961 Act confers on the Chancellor and the Secretary of

State for Scotland a power of direction over the discharge of your functions. As you said earlier, this has never, ever been used which, in the context of your traditional estates, is perhaps understandable. If you look at the new areas you are into—I am thinking particularly of the marine environment—these are major areas of government policy. Would you not welcome some formal direction over how you take that forward?

**Mr Bright:** I suppose the first thing is it is not for me to say whether ministers would wish to issue a direction to us, but we have established very good, close working relationships with the Government and the government departments that are involved in these policy areas, particularly in relation to offshore renewable energy. The relationship at the moment works well. We have very frequent meetings with ministers, both for example in the Department of Energy and Climate Change and in the Scottish Government, and that is underpinned by very frequent contact with officials in those departments, so we work closely with them. We understand, we think, what their policy objectives are and, as I said in my opening remarks, we always seek to work with the grain of government policy, so I think we are clear about what government wants to achieve.

**Q150 John Thurso:** The direction has never been used so it rather seems as if it is regarded as a nuclear option. If it gets used, it almost says you have failed. If you look at a major area of government policy like this, at the moment you listen to what they have to say, you then go away and decide what you want to do and you do it. Is there not a role for government to say, “It so happens that large chunks of the seabed happen to be owned by this quaint leftover from northern Britain” or whatever, “and therefore, we as a government need to say this is what we want you to do.” So instead of you listening to their aspirations and then deciding what you want to do, they tell you, “We want you to achieve this.” There is a subtle difference. Are you not surprised that they have not taken that kind of an interest?

**Mr Bright:** I do not think so. Perhaps if I could approach this the other way round, if I could go back to our duty under the Act, which is to maintain and enhance the value of the estate and the return we earn from it, it is obviously in our interest to seek to realise a return from our assets where it is there to be realised. That is one factor in all this. In the case of the marine environment in particular, we are of course acutely conscious that we are the monopoly owner of the seabed and therefore, if you like, the need to work with the grain of government policy is even more important here. There is a need for us to make sure that we are not doing anything other than supporting the achievement of government policy in this instance, but also we are realising a return from our assets which is our statutory duty.

**Q151 John Thurso:** The Calman Commission recommendation 5.8 was that the Secretary of State for Scotland should more actively exercise his powers of direction. What is your view of that recommendation?

<sup>1</sup> Ev 116 and Ev 122

3 March 2010 Mr Roger Bright, CB

**Mr Bright:** I know that in the Government's response they said they thought that was not an appropriate recommendation. If the power of direction were to be exercised, the Act says that the Minister has to consult the Crown Estate board before he exercises his power of direction. The other point I think I would have to make is that the power of direction cannot be used to override or to direct us to depart from the requirements of the Crown Estate Act. Any power of direction, if it were to be used, would have to be consistent with the duties imposed upon us by the Crown Estate Act.

**Q152 John Thurso:** Is there a role for a sort of sub-power of direction with a small "d" as opposed to the capital "P" power of direction, capital "D"? Would that not be useful?

**Mr Bright:** I am not entirely sure what form that might take. Maybe you are thinking in terms of some sort of memorandum of understanding. We would obviously be receptive to that if it was felt that that would be helpful. It seems to be working well at the moment.

**Q153 Chairman:** We are now going to turn to the different operations you have, the urban estate, the marine estate and the rural estate. We are going to start with your urban estate. Obviously you are now selling off a large number of properties in London. Could you just explain why you are doing this? Is this to help finance commercial development elsewhere or to recoup losses? Why are you suddenly seeking to raise £250 million?

**Mr Bright:** The first thing to say is that we are not suddenly seeking to do this. Over a number of years we have bought and sold properties and this is about making sure we have the balance of the portfolio.

**Q154 Chairman:** On this scale?

**Mr Bright:** Yes indeed. In the last financial year, our net sales and disposals were in the region, I think I am right in saying, of something like £500 million.<sup>2</sup> If I can just say a brief word about our investment strategy, which is where this derives from, we have said that in our investment strategy we are aspiring to have a balanced portfolio that will produce sustainable returns in the medium to long term. Specifically in relation to where the estate is at the moment, we have said that we want to concentrate on core holdings which, in the case of central London, are primarily Regent Street and St James's and also properties in Regent's Park and Kensington. Separately from that however, we have said that we are very heavily exposed to central London offices; we have been. That is office buildings outside those core areas. That traditionally has been a volatile market. In the last few years of the property boom, those properties did very well but historically they are particularly volatile. So we have been pursuing a strategy of reducing our exposure to central London offices and seeking to re-invest both into our core holdings and also into diversified properties outside London where we think there is a

more sustainable return. It is all about getting the balance of the portfolio right to try to make sure we sustain a strong revenue performance.

**Q155 Chairman:** There is no direct link between this proposed sell off and the commercial developments that you are undertaking in Regent Street and elsewhere?

**Mr Bright:** When you talk about "this proposed sell off", are you referring to the affordable housing?

**Q156 Chairman:** Yes, the residential sell off.

**Mr Bright:** It is part of a wider strategy.

**Q157 Chairman:** I know, but is it linked to the redevelopment of Regent Street or not?

**Mr Bright:** It is linked to the investment into Regent Street and it is also linked into investing in diversifying properties outside London.

**Q158 Mr Love:** Let us just be absolutely clear about that. We are told in various reports that are before us that there is a need for significant capital investment in your Lower Regent Street development. Is there a direct link between the money you will raise from this sell off and that particular development?

**Mr Bright:** There is not a direct link, no, but obviously the capital we realise from any sale—and I would stress that we have not taken a decision to go ahead with the particular disposal you are talking about yet—and the disposals that we make—and this one, which as I said we have not reached a view on yet, is but one of them—the capital then becomes available for re-investment elsewhere in the portfolio. There are a number of priorities for that re-investment elsewhere.

**Q159 Mr Love:** We received a memorandum from the local residents' association and the first point that they made was that the residents are overwhelmingly opposed to this proposal. Do you accept that?

**Mr Bright:** Certainly what we are hearing is that there is obviously a good deal of concern amongst the residents. Perhaps, if I may, I could just say a few words about this because this has happened since our submission was put in to the Committee. I hope it follows from what I was saying about both our statutory duty and our investment strategy priorities, that it is necessary that we review all parts of the portfolio from time to time to see how they are performing and whether it makes sense for us to retain them in the long term. At the same time, this is the particular question of the possible disposal of housing. It is not one of our core assets and it is not a core area of expertise for us. Therefore, we thought it right to explore the possibility of selling it to a more focused housing provider who would have that expertise. We are very keen however—it goes back to my remarks earlier—and we like to see ourselves as a responsible landlord. We do take very seriously the concerns of our tenants. That is why we are conducting a consultation period at the moment where we are very anxious to hear what our tenants feel about this and also to give an opportunity to

<sup>2</sup> Ev 122

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3 March 2010 Mr Roger Bright, CB

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explain more of the thinking behind this proposal. That consultation process is in train at the moment but I do stress we have not yet taken a decision.

**Q160 Mr Love:** There are suggestions that considerable information that would be of value to those that are being consulted is being withheld, a number of assured short hold tenancies etc., etc. Why is that happening?

**Mr Bright:** I think a certain amount of information has been available.

**Q161 Mr Love:** I am not interested in the information made available. It is the information that has not been made available that is important.

**Mr Bright:** Yes, and I think the reason for that is the need to ensure that we protect personal confidentiality because there are obviously people's individual circumstances at stake here. We have tried to respect that in terms of the information that we have made available.

**Q162 Mr Love:** Is it your intention to take any test of opinion amongst the various groups, leaseholders, tenants etc, before making the decision? In other words, would you either hold a ballot, as is done in the large scale voluntary transfer arrangements for local authorities, or would you undertake to have someone independently carry out a ballot just to gauge opinion on this matter?

**Mr Bright:** These are not, if you like, homogeneous estates. There are a number of different kinds of tenancies involved here—there are Rent Act tenancies, there are assured tenancies, there are assured short hold tenancies, there are a number of long leaseholders. We want to find out what those various tenants feel about this proposal, what their concerns are. We think that a ballot will not give us that. We think that the consultation exercise that we are conducting at the moment, which involves surgeries, hotlines and engagement with the tenants, will give us a better feel for what the tenants' concerns are. Could I also add that my chairman, Sir Stuart Hampson, and I have also said that we want to meet the chairs of the residents' associations on these four estates before the board takes any decision on that. That meeting has been arranged for early April.

**Q163 Mr Love:** Let me ask you about the protections that are being suggested in letters that have been given to residents on the estates. For example, currently assured tenants' rents can only be set at somewhere between 40% and 60% of commercial rents. How will that be enforceable if you sell the properties? In other words, what reassurances can you give them on that matter?

**Mr Bright:** The rent regimes on all the different types of tenancies are secure when and if a new owner takes over. The way in which it works is that we have a tenants' handbook which sets out the rental regimes for those types of tenancies and the tenants' handbook and the assurances it contains have to move across to any would-be purchaser. The Rent Act tenants will continue to have their rents set by

the rent officer as they do at the moment. Essentially, the bottom line is that for existing tenants the security of tenure and the rent regime that they currently enjoy would transfer to any new purchaser.

**Q164 Mr Love:** We understand that and we understand that right up until the day of transfer they will be protected in the way that the handbook suggests. What I am asking you is: what is to stop whoever purchases these properties from, over a period of time, either doing away with the handbook entirely or doing away with those portions that it finds unreasonable in terms of its commercial interest?

**Mr Bright:** My understanding is that existing tenants' rights in these respects are protected even if a landlord who bought these properties from us were to decide to sell them on.

**Q165 Chairman:** You say that is your understanding. Is that not something you should be crystal clear about?

**Mr Bright:** Yes.

**Q166 Chairman:** You are crystal clear?

**Mr Bright:** Yes.

**Q167 Mr Love:** Can we have that in writing?

**Mr Bright:** Yes, of course.<sup>3</sup>

**Q168 Mr Love:** I think that would be of interest to everyone involved in this particular issue. I would remind you that you indicated that, as well as good management, you should take into account the wider responsibility you have as an organisation to tenants and communities. You said there was a particular expectation on the Crown Estate. I think you have used the words "focused housing organisation". Perhaps you could explain what you understand by the words "focused housing organisation"?

**Mr Bright:** In our minds we are looking at a housing provider whose mainstream business is managing and owning this kind of housing. That is our understanding. If we decide to go ahead—I keep stressing we have not taken the decision yet—we will pay very close attention to the nature of the purchaser. We are looking for a purchaser who has a track record in running this as a core part of their business and who is sympathetic to this kind of housing. We hope to see that there will be housing association involvement in this.

**Q169 Mr Love:** You mention housing association involvement. What are the estimates of the difference between selling the estate to a housing association who would accept the conditions laid down in the tenants' handbook and a sale to a professional, commercial housing organisation which may wish to change those conditions and sell off properties as they become vacant? Is there a huge

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<sup>3</sup> Ev 116

3 March 2010 Mr Roger Bright, CB

difference between the value that you would realise from a sale to those two different types of housing organisation?

**Mr Bright:** I think it is impossible to say at the moment. We are exploring whether there are housing providers who would have an appetite to take on this kind of housing. Also, we want to explore their credentials. At this stage—and we are still engaged in that process—it is too early to say what the outcome might be. Can I just be quite clear? If we do decide to go ahead, the commercial factor would not be the sole factor. We are very concerned, if I can put it like this, that if we do go ahead with this, this housing goes to a good home, to a provider who has a track record in providing this kind of housing and is sympathetic to the kind of housing that this is.

**Q170 Mr Love:** Who has a track record? Certain names have been bandied around in the press as commercial housing organisations that may be interested in this, some of whom have a track record that would be of great concern to those who live on these estates. Can they be reassured that some of those will not be actively considered as possible purchasers of these properties?

**Mr Bright:** I can give you an absolute assurance that we will only contemplate a sale to a provider who we believe will manage the properties in a way that is sympathetic to the way in which they have been managed before. That is what we are seeking to achieve. It is too early to say this or that provider is acceptable or not acceptable, but I can give you an assurance that that is what we seek to achieve.

**Q171 Mr Love:** Can we be given an assurance that you as an organisation, living up to the particular expectations that you indicated earlier on, would not sacrifice the interests of those who are currently residing on your estate or indeed some of the people in the future who may, through key worker initiatives, and others reside on the estate simply to maximise the amount of value that you receive from these properties?

**Mr Bright:** Let me say right away, this is not purely about value maximisation. This is about finding a good home for these properties. Certainly as regards the existing tenants, I can give them a categorical assurance. When it comes to deciding who might take over these properties, if we go ahead, we are going to be looking very closely at the management prospectus that they hold out to us. We will certainly want to take that very much into account before we reach any decision.

**Q172 Jim Cousins:** On the basis of what analysis did you decide that retail parks were a core activity and providing housing was not?

**Mr Bright:** We already own a number of retail parks. In terms of looking at our investment strategy, we are looking for assets that will provide a good, sustainable, long term return. Part of that involves taking into account what you might call supply and demand. Retail parks, particularly in the south east, are in short supply; there are not many of them.

Therefore, if the opportunity arises to invest in a good one, that seems to us to be a sensible investment decision to take.

**Q173 Jim Cousins:** Do you not find it a bit odd that at this time in society a government organisation says that providing retail parks in the south east of England is a core activity and providing affordable housing is not?

**Mr Bright:** With respect, we are not a government organisation. We are a public body and we are governed by our duty under the Crown Estate Act, which is to maintain and enhance the value of the estate and the return that we obtain from it. That is what we are required to do. We are very conscious of our responsibilities to our tenants absolutely.

**Q174 Jim Cousins:** Have ministers approved your strategy of developing retail parks in the south east of England as a core activity and not regarding providing affordable housing as a core activity? Have you asked them?

**Mr Bright:** We have discussed our investment strategy with the Treasury, that is part of the normal business that we undertake with them. They are aware of the investment strategy. To the best of my knowledge, they have no quarrel with the investment strategy. I think they can see that it is directed towards meeting our statutory objective which is to earn a good and respectable return, which goes to the Treasury for the benefit of the taxpayer.

**Q175 Jim Cousins:** No, it goes to the Treasury for the benefit of the British people. This is an important point of some constitutional significance. It goes to the consolidated fund, which is there for the benefit of the British people. Your use of the term “taxpayer” is wrong in statute; it is wrong in constitutional form. Do you accept that? Do you accept that the benefits of your organisation go to the consolidated fund and that has a different constitutional position? It cannot be just regarded as “the taxpayer”. Do you accept that?

**Mr Bright:** It certainly goes to the consolidated fund. That is absolutely correct.

**Q176 Jim Cousins:** That is not just the taxpayer. Have you been hoarding vacancies in your housing stock? Have you been reletting vacancies?

**Mr Bright:** Up until very recently when we decided to explore this option, we were letting vacancies but at the moment we are not.

**Q177 Jim Cousins:** You are not reletting vacancies?

**Mr Bright:** Not at the moment.

**Q178 Jim Cousins:** That of course has a big financial gain to the people you hand it on to. How many vacant properties have you at the present time?

**Mr Bright:** At the moment out of 1,220 units we have I think a total of 32 vacancies.<sup>4</sup>

<sup>4</sup> Ev 115

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3 March 2010 Mr Roger Bright, CB

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**Q179 Jim Cousins:** You have 32 vacancies, you think? It would be useful to have that checked because that number will increase over time.

**Mr Bright:** It will increase.

**Q180 Jim Cousins:** You provide affordable housing and you provide key worker housing for a number of specific organisations, for a number of specific purposes. You have been doing it for a considerable number of years, not as long as the Queen has been in Windsor Castle but for quite some time. Have you cleared with those organisations that you are getting out of that business?

**Mr Bright:** We have not cleared it with them, no, but we have obviously informed them that that is what is happening.

**Q181 Jim Cousins:** You have not discussed it with them or got their approval?

**Mr Bright:** We have not got their approval but we have informed them.

**Q182 Jim Cousins:** Your housing management function, which so far as we can tell from all the evidence appears to have been very creditable to you, you have wound up and brought back to headquarters and changed the nature of its operation.

**Mr Bright:** That is not entirely correct. What we have done is consolidate the management of our estates. There are four estates and the management was divided up between the four estates. We consolidated that into one central point on one of the estates about two years ago and we have also strengthened the links between the management on the estate itself and also headquarters because that had become a bit attenuated at the time.

**Q183 Jim Cousins:** Last year you did an open market valuation of your property portfolio, on an open market basis. Did you do that for your residential properties? What was the outcome? What was its value?

**Mr Bright:** We did a valuation. We value the estate every year. The value of this particular group of properties with a couple of other blocks that are not included in the sale, as at September last year, was £247 million.

**Q184 Jim Cousins:** What is its value on an open market basis?

**Mr Bright:** We valued it on the basis of current use and current occupation. We have not done an open market valuation.<sup>5</sup>

**Q185 Jim Cousins:** There is no open market valuation. In answer to our Chairman, you said that the protection of the existing tenants' rights would be built into the paperwork in any disposal.

**Mr Bright:** Yes.

**Q186 Jim Cousins:** In your discussions with the various bodies you have been talking to, that has always been quite clear: that the existing tenants' rights would be protected?

**Mr Bright:** Yes, that is correct.

**Q187 Jim Cousins:** It is not correct that you have withdrawn the tenants' handbook?

**Mr Bright:** We have withdrawn the tenants' handbook.

**Q188 Jim Cousins:** The tenants' handbook is the expression of those rights from the standpoint of the existing tenants. That is how they know.

**Mr Bright:** We have withdrawn it in the sense that we are not issuing it to any new tenants.

**Q189 Mr Todd:** Can I go into some of the figures? Turning to page six of your report which summarises the urban estate, the property valuation set at the end of 2009 was £4,231,000,000.

**Mr Bright:** Yes.

**Q190 Mr Todd:** Elsewhere we find that 15% of that valuation was the housing stock. Am I right in thinking that?

**Mr Bright:** I think that may be the total of our residential stock.

**Q191 Mr Todd:** That is what I am looking for first. The total would be, on my reckoning, £635 million as a valuation of your residential stock?

**Mr Bright:** Yes, I think that must be correct. I am sorry. I did not have the figures immediately to hand.

**Q192 Mr Todd:** You are proposing to sell £250 million-worth of your urban stock, the housing stock valued at £635 million?

**Mr Bright:** We are considering it. We have not taken the decision yet.

**Q193 Mr Todd:** Give me an idea of how that decision was made as to how to proceed. Obviously not all stock has exactly the same value or indeed the same rental characteristics. I am not clear what proportion of your stock is actually being proposed or suggested for sale. You are obviously retaining a substantial element. I am not clear whether that is for a further disposal at a later stage or if it is seen as having a different purpose. I am not clear as to the strategy really.

**Mr Bright:** The bulk of the remaining residential property that we hold is predominantly property let on long leaseholds in the area in and around Regent's Park and in Kensington Palace Gardens. There are some other smaller areas of residential housing but the bulk of the remainder is around Regent's Park and Kensington Palace Gardens.

**Q194 Mr Todd:** What one could possibly conclude is that you are selling the less attractive part of your residential portfolio. If I just go to the revenue—

**Mr Bright:** I would not describe it as the less attractive part of the portfolio.

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<sup>5</sup> Ev 122

3 March 2010 Mr Roger Bright, CB

**Q195 Mr Todd:** I am just going to explore what I think you think is less attractive about it. The revenue by activity on the same page—and this does exclude service charge income—says that £12 million was achieved from residential property on a valuation of, as I said, four billion overall, which would suggest a rate of return on really a trivial level almost. Could you break that down because I am not clear how that £12 million equates to the total valuation of the asset that is here or indeed to the asset that you are suggesting may be sold?

**Mr Bright:** In relation to the property that may be sold, the gross revenue is of the order of about £7 million and the net is of the order of about £3 million.

**Q196 Mr Todd:** You have a £3 million net revenue on a valuation of 250 million?

**Mr Bright:** Yes.

**Q197 Mr Todd:** If one compares that to other parts of your portfolio, that is where I meant less attractive in terms of returns. This is a less attractive asset within the stock.

**Mr Bright:** It has a relatively low return, yes.

**Q198 Mr Todd:** And also presumably its return does not change over any long period of time. Turnover on the estates is lower?

**Mr Bright:** Yes. Turnover on the estates is low, that is correct, yes.

**Q199 Mr Todd:** I am also interested by the legal framework of the protection of your tenants. You are not covered by some aspects of the law relating to tenancy. I believe that the arrangements for buying the freehold, extending the leasehold, enfranchising, is not the same as shared by any other tenant. Is that right?

**Mr Bright:** Perhaps I could just explain that. As a Crown body, we can be exempt from the law on leasehold enfranchisement. What in fact happened is that some years ago we agreed with the Government that we would abide by the law on leasehold enfranchisement except in certain selected areas which might be described as—

**Q200 Mr Todd:** You mentioned some of them in an earlier answer, I think.

**Mr Bright:** Yes, that is correct. Predominantly, that is—

**Q201 Mr Todd:** The tenants that you are discussing in this suggested disposal have always been aware that leasehold enfranchisement is an option available to them. Is that right?

**Mr Bright:** Yes.

**Q202 Mr Todd:** Have many exercised that?

**Mr Bright:** I do not believe that many have chosen to do so.

**Q203 Mr Todd:** Could you give a figure separately in a note as to what level of enfranchisement has taken place?

**Mr Bright:** Yes, of course.<sup>6</sup>

**Chairman:** These are important issues and we shall return to them when the Minister appears in front of us shortly. We are now going to move on to the rural estate.

**Q204 Mr Breed:** You indicate that you are a good landlord to your tenants. I suspect that is for the urban estate. If we take the rural estate, the National Farmers' Union in its evidence to us said you could do an awful lot more to assist individual tenant farmers who are wishing to retire from agriculture but suffer no doubt from a scarcity of rural housing to move into. What are you doing to assist these tenants, if you are being a good landlord?

**Mr Bright:** We certainly would like to think of ourselves as a good landlord. We have a policy which is to enable retirement with dignity so that farmers, when they wish to retire, are able to do so. The first thing that we do—and it is what happens in the majority of cases—is that we have a long term relationship with our agricultural tenants and we take a close interest in their business. What we try to do is ensure that they are building up within their businesses sufficient profits, a revenue reserve if you like, so that when the time comes to retire they have the wherewithal to enable them to find alternative accommodation.

**Q205 Mr Breed:** You keep stuffing up their rents. How does that allow them to build up this nice reserve?

**Mr Bright:** With respect, we do not keep stuffing up the rents. We operate within the rent review regime that applies to—

**Q206 Mr Breed:** You keep taking more and more rent. In an agricultural sense, how are they to build up this reserve to buy a rural house, in my part of the country in Cornwall, which is going to cost them, what, £150,000?

**Mr Bright:** I think it is fair to say that until a couple of years ago rents were by and large almost static for about five years and that reflected the state of the agricultural—

**Q207 Mr Breed:** They were not making any money.

**Mr Bright:** Indeed.

**Q208 Mr Breed:** Precisely. When they start making some money, you stick the rents up so where is this reserve coming from?

**Mr Bright:** I hasten to say it would make no sense at all for us to increase rents by an amount which simply wiped out the increase in business which farmers are getting.

**Q209 Mr Breed:** You think you are doing enough?

**Mr Bright:** What I was going to go on to say is that if that is not possible what we will do is put in equity to help a farmer buy a house when he comes to retire, or it may be possible to—

<sup>6</sup> Ev 116



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3 March 2010 Mr Roger Bright, CB

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**Q210 Mr Breed:** Buy him a house and then rent it to him?

**Mr Bright:** What we tend to do is put in an equity stake and the farmer might well put in an equity stake as well. The other thing that we can do sometimes is on a farm where there is maybe a cottage that becomes available and that can be made available to the retiring farmer.

**Q211 Mr Breed:** And it is sold off sometimes by yourselves.

**Mr Bright:** Not all of them have, with respect.

**Q212 Mr Breed:** Not all of them, no; I accept that. Not all of them and not all of them have been done by the Duchy either, but both of you have been undertaking the selling off of such cottages. Moving on to evidence we had from Natural England, which notes that you are exempt from the duty placed on other public bodies to have regard to the purposes of National Parks and the Areas of Natural Beauty designation. They also refer to a lack of legal clarity over whether you have to meet the Government's condition targets for all SSSIs. Could you explain these situations to us and perhaps clarify whether there are similar provisions that do not apply to the Crown Estate Commissioners. What is this almost unique situation under which you have been able to operate?

**Mr Bright:** I am not exactly clear what Natural England is driving at there. The Natural England submission, as I recall it, was overall extremely complimentary about the way in which we look after the land that is within our care. More to the point, we had a target which was that we should achieve the fact that 95% of all our Sites of Special Scientific Interest should be in good or better condition by, I think, 2009, and we have actually beaten that target.

**Q213 Mr Breed:** 95% of all SSSIs by the end of 2010.

**Mr Bright:** I beg your pardon. But we have already achieved that, so I would like to think that we are actually exercising good stewardship of the land that is in our care.

**Chairman:** We will turn briefly now to the Marine Estate in Scotland before the Minister appears.

**Q214 Nick Ainger:** Last week we had evidence from the Renewable Energy Association, the Gas Storage Operators' Group and the Carbon Capture and Storage Association. Certainly the Gas Storage Operators' Group was quite critical of the current approach of the Crown Estate. They said that the current approach which the Crown Estate is taking towards offshore development is purely focused on revenue generation and will be of potential huge detriment to other Government policy. Obviously it is in the national interest that we develop offshore gas storage; also in the national interest that we have carbon capture and storage facilities developed offshore. We obviously need more renewables and so on and these are all part of the national interest. Why do you think an organisation like the Gas Storage Operators Association was so critical of the current approach?

**Mr Bright:** I have to say, Mr Ainger, that I was pretty surprised and disappointed by that. The first thing to say is that on all aspects of offshore energy and related activities we are doing all we can to facilitate the development of these things in the national interest—offshore wind, wave and tidal and so on. The position on gas storage is that we have made available our proposed terms for the renting of gas storage facilities undersea since, I think, 2007. We have been in negotiation with four main operators in this area. We have reached agreement with three of the four operators and there is one that we have not reached agreement with. The one that we have not reached agreement with takes a fundamentally different view from us about the basis on which we should charge. They say that we should charge on a cost plus basis; we say that we should not. We have offered to go to independent arbitration but this fourth company has so far refused to go to independent arbitration.<sup>7</sup>

**Q215 Nick Ainger:** The Renewable Energy Association was saying that in terms of the offshore wind farms the relationship was working extremely well and we are now into round three of the offshore development, which seemed to be a success. But they are saying that in terms of small demonstration units with pilots perhaps greater consultation is needed, greater understanding that these developments in their early stages need to have a quite different approach from the large offshore wind farms, which is a mature industry now—the technology is known, and so on. Again, they are saying that there should be greater consultation but there seems to be an element of criticism there again. How do you respond to that?

**Mr Bright:** When it comes to wave and tidal one of the things that the Crown Estate has done is actually groundbreaking—we are the first country in the world that has actually launched a wave and tidal bidding round. I think that is something of which we can be proud; but equally, of course, there are going to be lessons to be learnt along the way. We have actually had a huge amount of interest in the wave and tidal round that we are conducting in Pentland Firth and the Orkney Waters. We had over 40 bidders and we are going to be announcing on 16 March to whom we are going to award contracts. One of the things that was a mistake, there was a perceived need to get on with this as quickly as possible because there was a lot of pressure to get the wave and tidal industry off the ground, and we were obviously very keen to play our part in that; but with the benefit of hindsight perhaps we could have undertaken more consultation in the early stages. That was not a deliberate omission, if I can put it like that; it was because we wanted to get this moving as quickly as we could. The Pentland Firth wave and tidal round does provide for demonstration models of about 10 megawatts, and also anywhere else in the UK developers who want to install demonstration projects under 10 megawatts can apply for us to do so.

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<sup>7</sup> See Ev 115, Ev117 and Ev 122 for clarification on this point.

3 March 2010 Mr Roger Bright, CB

**Q216 Nick Ainger:** As you are the monopoly owner of the seabed, how do you calculate the rents that you are charging these developers? One of the other criticisms—well, it was not a criticism—was from the Carbon Capture and Storage Association, who have yet to enter into direct discussion, that they want the process to be open, transparent and fair. Obviously at the back of their mind there are concerns there. As a monopoly how do you actually set a fair price for the rental of these developments?

**Mr Bright:** That is a very good question. Basically, the first thing to say is that our Act expressly says that we may not take advantage of our monopoly position; so we are quite clear, it is spelt out that we cannot exploit our monopoly position. How do we do this? Basically, we have to find a starting point and the starting point is, if you like, an analogous activity that might be undertaken on dry land. Many of these activities—not all of them, obviously wave and tidal are not one—cables, pipelines, wind farms and so on, there is a dry land starting point. We then go to independent valuation experts who will arrive at a value using the guidelines of the RICS Red Book which actually explains how you discount any element of monopoly value. On certain new industries we will take advice from other independent consultants, so in relation to carbon capture and storage, for example, we took advice also from Ernst and Young and also from an energy consultancy called Oxera to satisfy ourselves that we were actually looking for a fair rent from these sites. So that is what we are trying to do.<sup>8</sup>

**Q217 Nick Ainger:** Are you aware of any developers who have had to withdraw from a renewable development because of the rents that you have been demanding from them?

**Mr Bright:** I have not been aware of any that have withdrawn because of the rents. They may withdraw for a whole range of reasons, and it is in the nature of these things that people do withdraw but I am not aware that it is because of the rents.

**Q218 John Thurso:** You and I have had a great deal of toing and froing over marine energies. Can I put on record that I do actually appreciate the fact that the Crown Estate stepped up to the plate and became a part of the project team that kicked the whole thing off in the Pentland Firth? But I think it is fair to say that there have been some bumps in between before the announcement came out. What are the main lessons you take from that and would apply at the next licensing round?

**Mr Bright:** I think the principal lesson that we would take from this is, as I mentioned a moment ago to Mr Ainger, that we should perhaps have conducted more extensive consultation with the industry before we launched the round. As I say, the reason that we did not was not ill intent but because we know that there was a lot of expectation that we wanted to get this moving. The other lesson that we learnt—and indeed you and I have exchanged views on this—is that we were initially over optimistic about how

quickly we could get the leases signed. We initially hoped that we would be able to get the leases signed on the Pentland Firth in the middle of last year and for a variety of reasons, not least because we were, frankly, very pleasantly surprised by the huge level of interest, we were not able to move as quickly as we had hoped. So be careful of over promising and make sure that we consult properly.

**Q219 John Thurso:** On a completely different issue but related, you of course own the seabed where a lot of ports place their infrastructure.

**Mr Bright:** Yes.

**Q220 John Thurso:** We had evidence from one of the Highland councillors, I think relating to Mallaig or somewhere, that the view is it is felt that the Crown Estate has, as it were, a ransom strip. In a situation like that when nobody has a clue how to value the seabed—it is almost impossible—how do you go about ensuring the public good of ensuring that a trust port is actually able to develop, balanced against your natural desire to accrue greater income?

**Mr Bright:** There are two things really. The first one is—and you will know, Lord Thurso, there is quite often a lot of demand in the ports, particularly in Scotland, to buy a seabed from us rather than to rent it—as I think you know, we have a policy which is generally disposed against selling bits of seabed. It is not an absolutely inflexible policy but our predisposition is against, and the reason for that is bitter experience because in the past historically we had sold parcels of land in ports and harbours and we found that that stores up a problem for the future because somebody may come along 20, 30, 40 years later and want to construct a new development of some sort in the harbour and it can be extraordinarily messy if there is a patchwork quilt of ownership in the harbour. That is why we have generally followed policy of not now selling. That said, we grant long leases and generally speaking we will grant long leases of seabed in harbour situations up to 125 years, which we have never found has been an inhibition to development or the financing of development.

**Q221 John Thurso:** When Dr Michael Foxley, the Leader of Highland Council, was here he made a very strong submission in favour of a socioeconomic fund to be created, and likened it to the Shetland Oil Fund for Orkney and, I guess, Caithness and the Mainland, and I know that you are currently discussing a Memorandum of Understanding with Highlands and Islands Council. But in press reports afterwards it talks of tens of millions being in this fund. Can I ask you, one: do you agree with the principle of a socioeconomic fund; and, two: are those sorts of numbers achievable?

**Mr Bright:** I have no reason to disagree with a socioeconomic fund. I think it would be very difficult under the terms of our Act for us to put money straight into such a fund. I think it would almost certainly fall foul of the provisions in our Act. That said, I think that the main benefits that are likely to come out of offshore renewable energy, particularly

<sup>8</sup> Ev 216

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3 March 2010 Mr Roger Bright, CB

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in the Highlands and Islands, are likely to be economic activity in the communities, and we can certainly play a part there by working with the local authorities in terms of developing their strategies for taking advantage of the opportunities that arise. There are assets that we can, if you like, put into the mix that may be able to help the development of such strategies and plans, and certainly that is the focus of the Memorandum of Understanding that we actually initiated.

**Q222 John Thurso:** Can I just be clear on this? If you put up an onshore wind farm at the moment part of your planning processes is community benefit, and typically for a 50 megawatt installation it will be a capital sum of £500,000 and an annual income of between £40,000 and £50,000 which will go to a community fund. Are you saying that the Crown Estate is prohibited from similar arrangements with communities that are hosting their activities?

**Mr Bright:** I think it is fair to say that the Crown Estate Act would not allow us simply to make payments into a fund, but there are other ways in which we believe—

**Q223 John Thurso:** Even if they were coming out of a portion of the rent that you are getting from people? Obviously, after it has been developed, not in the early stages.

**Mr Bright:** Yes. But I would say that we do find other ways of working with communities and putting something back. You are probably aware that we have a marine stewardship fund where we channel funds into small local community schemes, pontoons and harbours—

**Q224 John Thurso:** The worrying word there is “small”. The Shetland Oil Fund has made the Shetlands a highly sustainable community and this is a vast resource; it could be in 20 years’ time, 12, 13, 14 gigawatts, a quarter of Britain’s installed capacity, and the poor blighters who live on the cliffs at either side just watch all the money going out. That is a bit of hard luck.

**Mr Bright:** I understand that and no doubt the local authorities will have discussions with the developers as well; so I am sure that they will want to talk to us.

**Q225 John Thurso:** You are talking about it coming from the developers direct rather than you having an involvement?

**Mr Bright:** I think it would be difficult for us under our Act to put funds in directly.

**Q226 Chairman:** We have the Minister waiting outside for our next session. You promised us a number of points in writing; we will need those within the next seven days of business and we may of course have other follow-up questions as well.

**Mr Bright:** Of course.

**Chairman:** In the meantime, thank you very much for your evidence today.

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*Witnesses:* **Sarah McCarthy-Fry MP**, Exchequer Secretary, **Ms Paula Diggle**, Treasury Officer of Accounts, HM Treasury, and **Mr John Henderson**, Deputy Director, Scotland Office, gave evidence.

**Q227 Chairman:** Minister, can I apologise to you on behalf of the Sub-Committee for keeping you waiting but there were some issues we needed to explore in some detail with the Chief Executive. Can you begin by identifying yourself and your colleagues formally, please?

**Sarah McCarthy-Fry:** I am Sarah McCarthy-Fry and I am the Exchequer Secretary to the Treasury.

**Ms Diggle:** I am Paula Diggle; I am the Treasury Officer of Accounts.

**Mr Henderson:** I am John Henderson, Deputy Director of the Scotland Office.

**Q228 Chairman:** Thank you very much for helping us this afternoon. Could we start perhaps with the Crown Estate Commissioners’ objectives? How do these objectives include wider public policy objectives, or is your role simply to set and agree a financial target with them?

**Sarah McCarthy-Fry:** The remit of the Crown Estate is set in the Act, as I am sure you know, which is to maintain and enhance its value in the return obtained for it with due regard to the requirements of good management. Obviously the Crown Estate have set themselves parameters, or they have set themselves a view in that they recognise that to be good management, not just in pure commercial

terms but in the same way as an Accounting Officer does. I believe that they want to be recognised as a decent landlord, a good employer, a reliant market counterpart and a good steward of the assets that they manage. So in the sense of within their remit that is the way they see good management and their role. Maybe Paula could elaborate on the annual meeting, twice a year.

**Q229 Chairman:** I just want to be clear from the Government’s perspective how you satisfy yourself that there is the right balance between revenue generation and the wider public interest. What is the Treasury’s position on the wider public interest?

**Sarah McCarthy-Fry:** The Treasury’s position is in effect with the good management side of it; that they seek to be a good employer, they seek to be a good landlord, which is in their programme and in their statement and in their annual report, and that is how we monitor that.

**Q230 Chairman:** So you are not specifically interested in how they might meet wider public policy objectives of the Government?

**Sarah McCarthy-Fry:** I do not believe it is in their remit.

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3 March 2010 Sarah McCarthy-Fry MP, Ms Paula Diggle and Mr John Henderson

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**Q231 Chairman:** No, your remit is what I am trying to get at; we have heard about their remit. What I am trying to get at is, do you have any interest in ensuring that the Commissioners, and the balance that you strike with them in setting the targets and so on, also have regard to your wider public policy objectives?

**Sarah McCarthy-Fry:** As far as we can, within the statutory remit that the Crown Estate has. I cannot direct them to put the public policy interests before the revenue generation.

**Q232 Chairman:** You have powers of direction though?

**Sarah McCarthy-Fry:** I do have powers of direction; we do have powers of direction, but they have to be reasonable.

**Q233 Chairman:** How often do you meet the Commissioners?

**Sarah McCarthy-Fry:** Personally I have not met the Commissioners yet; I have not yet been in post for a year. That is not to say that they do not have interaction with ministers in Government.

**Q234 Chairman:** No, but you are the minister responsible. I know you are recently in post but normally you would meet the Commissioners how often?

**Sarah McCarthy-Fry:** I am not sure how often other ministers have met. I do intend to meet them. I would have thought an annual basis would have been right. Obviously officials meet with them on a regular basis.

**Q235 Chairman:** How often do you have meetings with them?

**Ms Diggle:** I see them very frequently—as the need arises really, as issues crop up, anything novel or contentious or just significant to the business of the Crown Estate. So I would see them several times a month.

**Q236 Chairman:** How often then would you refer things up to your Minister?

**Ms Diggle:** Not very often because there is not usually a problem.

**Chairman:** “There is not usually a problem”; I see.

**Q237 Mr Love:** You will probably be aware, Minister, that in a previous session we discussed in some detail the current proposal of the Crown Estate to sell off a substantial portion of its residential estate, round about, as we understand it, 1,500 properties. Following on from the questions that the Chairman has asked, is there any role for the Treasury or for ministers in giving a green light to such a proposal and what role will you play if they do decide at the end of the consultation period to sell off these properties?

**Sarah McCarthy-Fry:** I would expect the Treasury to be consulted, of course, on this. Obviously I am familiar with this issue; it has been raised with me by a number of MPs who have concerns about their constituents. I would want to discuss this with the

Commissioners after they have done the consultation to ensure that they have taken this on board. Whether I would then be able to issue a direction if I thought that they were not going in the right direction and I thought that they were doing something that was contrary, as I said it comes back to whether it would be considered reasonable and whether they were acting outside their remit. They have a statutory duty to maintain and enhance the value of their estate and the income it generates and they keep their asset portfolio continually under review. I am as concerned as anybody about the status of tenants if the proposal were to go ahead, and I would want to ensure that the safeguards I believe that the Crown Estates are prepared to be put in place would be put in place if they were to go down that route. As I understand it, it is still a consultation at this stage.

**Q238 Mr Love:** It is Government stated policy to address the particularly acute shortage that we have in London of affordable accommodation. This proposal, if it goes ahead, is likely to see, at best, a reduction over time in the amount of affordable accommodation available in London. How important would be that Government priority and the balance of judgments that you make in relation to this particular proposal?

**Sarah McCarthy-Fry:** First of all, I do not think it necessarily means even if it were sold that there would be a shortage of affordable accommodation; that would depend on to whom it was sold. So there is a long way to go yet before that would come into play, and then we would have to balance that public policy objective against the remit that the Crown Estate has. If it got to the position that you talk about, it looked as if there was going to be a significant loss of affordable housing, if they were prepared only to sell to a private landlord—which I understand is not the case—then I could really understand the concerns that some of the tenants have, and it is a concern I would take up with the Commissioners. Whether it would be considered reasonable to direct them not to do it, I would have to consult on that.

**Q239 Mr Love:** Ms Diggle, you indicated earlier that you have regular meetings with the Crown Estate. To what extent would you go into detail on a proposal of this nature? To what extent would you report back to other Treasury officials or to ministers in relation to that?

**Ms Diggle:** I would certainly want to go into the idea of selling in quite some detail. I would want to satisfy myself on behalf of the Treasury that if the sale should go forward—let me stress that—it is in the wider public interest in the way we have been talking about earlier. We would want to be confident that the sale is not in any way going to deprive tenants of their proper rights. Mr Bright has explained to you that he is intent on preserving tenants’ rights in quite a generous way, actually over and beyond what the law requires. If I thought that none of that was going

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3 March 2010 Sarah McCarthy-Fry MP, Ms Paula Diggle and Mr John Henderson

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to happen I would certainly want to tell the Minister and want to consider intervening. It does not seem that that is going to happen.

**Q240 Mr Love:** It was indicated to us earlier on that it has been a policy for some months now for the Crown Estate to hold vacancies of properties on the estate. The presumption would be that they are doing that to make it more attractive. The presumption would be that if it is more attractive, it would be more attractive to a housing organisation that felt that vacancies would be a commercial opportunity to maximise the sale value of those properties, which will over time reduce the affordable accommodation available across London. The question I asked you is: would you investigate something of that nature and would that be reported back as a concern and something which should be a part of the judgment at the end of the day as to whether it is appropriate that the sale goes ahead and the sale goes ahead to whoever the appropriate housing organisation should be?

**Ms Diggle:** If there was a serious problem, yes of course I would. But what Mr Bright told you, if we heard correctly, was that there are 32 vacancies out of about 1,200 tenancies. That does not sound like a very high vacancy rate to me. I would want to investigate that as part of looking at the whole process of sale as and when that proposal, if there is one, comes forward.

**Q241 Mr Love:** All I would put to you is that the concern, I do not think, is with the Crown Estate who have been, as I understand it, a good landlord; the concern is about who would purchase, who would start with 30 or 40, who will find the eventual figures; the concern would be that that would rise fairly precipitately over as short a period of time as possible as they chose to sell off property, rather than continue with a key worker. But I do not want to go further into that.

**Ms Diggle:** I am not sure that we can speculate on that.

**Q242 Mr Love:** A final question from me: would it be appropriate for this Committee to ask you to look at this situation?

**Sarah McCarthy-Fry:** I can assure you that I had intended to do that anyway when it was brought to my attention.

**Q243 Mr Love:** Absolutely. And just assure yourself that we are not asking the Crown Estate to do more than they already have within their objectives, but I do think in terms of public policy issues it may be an issue that you would want to look at carefully.

**Sarah McCarthy-Fry:** I have sought a meeting with the Commissioners on this very issue.

**Q244 Mr Todd:** Is this not a typically English archaic compromise?

**Sarah McCarthy-Fry:** In what way?

**Q245 Mr Todd:** Because the Crown Estate is governed by an Act which we know to be quite restrictive in its purpose and yet the Crown Estate Commissioners over the last 40 years or so have potted along doing mildly benevolent things and carrying out purposes which probably do not generate a substantial return for them. As soon as someone says, "Actually the Act does say that we are supposed to be maximising our return" then of course there comes about a difficulty. So it is what I normally describe as a typically English compromise of a disassociation between actually what is written down as a purpose and what people understand to be the behaviour of individuals.

**Sarah McCarthy-Fry:** Can I say that it certainly has not been the Treasury that has told them that they have to maximise their revenue over and above any other—

**Q246 Mr Todd:** No, the law says that.

**Sarah McCarthy-Fry:** The point you made was someone told them that the law said it; it certainly was not us.

**Q247 Mr Todd:** The law has always been there, it is just the rather polite way in which we carry on our affairs. I am sure that is not unknown to you, that people understand that what they are supposed to be doing is not quite the same as what is written down in the statute.

**Sarah McCarthy-Fry:** I understand the point you are making. Yes, you may be right; it may be that is the reason that the Treasury up until now has not felt the need to intervene.

**Q248 Mr Todd:** Okay, but then that suggests that there is something we need to do. Either the Crown Estate needs to be given a clearer direction within the Act—and I think you have made the perfectly fair point that that has to be reasonable in law—or there has to be some transaction which takes this assumed social purpose from outside of the Crown Estate and place it somewhere where it should be exercised properly, and that would be the correct Government action. I can understand the criticism that has been directed at the Crown Estate in this exercise but they can reasonably say that the law has said that that is what they are supposed to do. Government has the task to try and resolve this confusion in purpose which I think is, as I said, built into the way we choose to produce law in our country, which is that while everyone behaves as we expect gentlemen to behave it turns out okay, does it not? But at some point someone starts to be a little tougher about it.

**Sarah McCarthy-Fry:** But we do have the power of direction that we have never up to now, as I say, needed to use.

**Q249 Mr Todd:** That may be one of the approaches to use, but the other is to look again at the Act itself and indeed the purpose of the Crown Estate.

**Sarah McCarthy-Fry:** It is a very old Act.

**Mr Todd:** It is.

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3 March 2010 Sarah McCarthy-Fry MP, Ms Paula Diggle and Mr John Henderson

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**Q250 Jim Cousins:** Have any Government departments expressed concerns to you about the Crown Estate and the way they are managed or their own dealings with them.

**Sarah McCarthy-Fry:** Not to me.

**Ms Diggle:** Nor to me.

**Q251 Jim Cousins:** Have any other public bodies, local authorities, whatever, done that?

**Sarah McCarthy-Fry:** Not to me.

**Ms Diggle:** Nor to me.

**Q252 Jim Cousins:** Do you think that the Crown Estate Commissioners should consult you on, as it were, on issues of policy and strategic direction?

**Sarah McCarthy-Fry:** I will pass that to Paula, because they do.

**Ms Diggle:** They do consult me and if I have any concerns they go straight to ministers. We talk about general investment policy, prospects for the year ahead, general, medium-term prospects and so on, as you would expect us to do.

**Q253 Jim Cousins:** We have just heard that they have taken the decision to get out of housing and to get into retail parks. Did you approve of that?

**Ms Diggle:** Can I please pause on that? These were two separate decisions and they were not decisions quite as clear-cut as you describe them, I am afraid. They took a decision to investigate the possibility of selling off part of their residential estate in the way that Mr Bright described to you earlier. They also took the decision stepwise, in very small steps, to make minor investments in retail investment parks as part of the general diversification of their portfolio. As Mr Bright described to you, we discussed and we agreed restrictions on the extent to which they would do that because it seemed a very cautious and sensible thing to do, in line with the general cautious nature of the estates' constitution.

**Q254 Jim Cousins:** Ms Diggle, you have given us a version of what the Crown Estate perhaps would have been wiser to have said, but I am afraid it is at some variance with what they actually did say, because they actually did say that they were getting out of housing and they were getting into retail parks. Can I be clear about this: is this part of the strategic direction with which you are comfortable, Minister?

**Sarah McCarthy-Fry:** As I understand it, it is a suggestion that was put to their board. As I understand it, the consequence was not one leading to the other; it was the fact that they did not feel that they were able to operate as good landlords, and it was not part of their core business. That is what I understand, but you had the conversation, did you not, Paula?

**Q255 Jim Cousins:** Do you have any evidence on the housing front that they had not been acting as good landlords?

**Ms Diggle:** Can I explain to you the case that the Crown Estate made to me? What they said was that these days modern residential landlords are typically

very much larger than they are and they feel that they are not able to act as the best quality residential landlord and therefore it made sense to explore the possibility of divesting that part of the portfolio. They have not yet made the decision on that one.

**Q256 Jim Cousins:** Minister, this housing that they have has been with them for a great number of years, and it was a product of legislation that was designed to provide homes fit for heroes after the Great War. Do you not think that this experience of housing brought about in that way is a strategic resource for the Government that you might wish to develop rather than to abandon?

**Sarah McCarthy-Fry:** Can I say that the Government do not own this property; the property is owned by the Crown Estate on behalf of the Queen. The Government is only entitled to the revenue from this.

**Q257 Jim Cousins:** The Queen constitutionally is not able to express views about it, so you are the proxy for the Queen.

**Sarah McCarthy-Fry:** That is a very interesting position to be in, to be the proxy for the Queen. I have to act within the legal framework that I have, and the legal framework I have is to ensure that the Crown Estate is operating within the remit it has been given, and within that framework the Treasury meets with them to agree their plan, to ensure that we get the revenue return and to ensure the principles of good management, which we explored before. I think you are going a step further with what you are suggesting the Treasury's role may be in this.

**Q258 Jim Cousins:** You are not suggesting from your point of view, in terms of your powers of direction, the overriding consideration is to maximise the return?

**Sarah McCarthy-Fry:** No, I am not. I am suggesting that the power of direction for the Treasury is if the Crown Estate are not acting within their remit. I am not convinced, as of yet, that that includes the wider public policy—Government maybe, public policy—issues to which you are referring. I am not convinced and I would need to look at it closer. I am concerned about the tenants in these properties and I am concerned about tenants' rights in these properties, and I am concerned that the Crown Estate, as part of its role in good management, seeks to be a good landlord and they would seek to make sure that the tenants enjoyed those same benefits if they considering selling on those properties. But they are managing the properties.

**Q259 Jim Cousins:** We cannot second-guess what your decision would be about this matter and whether you think housing forms part of the strategic interests that you would wish to maintain, but if the housing were to be disposed of can you give us an assurance, Minister, that the normal rights that would be available to tenants and leaseholders in a stock transfer situation will be observed?

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3 March 2010 Sarah McCarthy-Fry MP, Ms Paula Diggle and Mr John Henderson

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**Sarah McCarthy-Fry:** Can we get one thing clear? It is not my decision that they sell it off, that is a decision for the Commissioners of the Crown Estate. I would want them to assure me that that is what they were going to do in the negotiations that we have with them. The power of direction is something that has to be used legally and has to be used where we feel that the Crown Estate have not acted within their remit; and, as I say, it has to be used reasonably. So it is not my decision whether the Crown Estate, after consultation, go on to sell. I would then have to be satisfied, if they were to do that, before I was able to take the only power I do have, which is a power of direction, that they were not acting in a way which I felt was reasonable.

**Q260 Jim Cousins:** Can you give us a guarantee, if the housing is disposed of, that the normal rights of tenants and leaseholders, as a matter of Government policy—as a matter of, if I can put it like this, *our* Government's policy—will be observed?

**Sarah McCarthy-Fry:** And the Crown Estate have given that assurance.

**Q261 Jim Cousins:** No. They very specifically said that they were not going to offer a ballot. A ballot is part of the stock transfer process. Can you give an assurance that a ballot will be offered? It is our Government's policy.

**Sarah McCarthy-Fry:** It is our Government's policy for registered social housing landlords, I believe; I will be corrected if I am wrong. This is a non-departmental public body and legally they are not obliged to offer a ballot. They have to consult and we have to be satisfied with that consultation.

**Q262 Jim Cousins:** But you would not wish to fall back, I am sure, on a legal contrivance of that kind?

**Sarah McCarthy-Fry:** But I cannot direct the Crown Estate to undertake—

**Q263 Jim Cousins:** I am seeking an assurance from you that you will ensure that if disposal does go ahead—and it may not—the normal rights of tenants and leaseholders in such a situation will be observed; that they will have a ballot.

**Sarah McCarthy-Fry:** The Crown Estate follows best practice. I have to come back to—

**Q264 Jim Cousins:** The Crown Estate have said to us that there will be no ballot; it is not part of their policy to have a ballot. You would not try to tell us, would you, that best practice does not include a ballot?

**Sarah McCarthy-Fry:** All I can say to the Committee is that my power of direction is limited to reasonableness—would it be considered that failure to hold a ballot if any other consultation had taken place would be unreasonable? I want to do everything that is within my power to do.

**Q265 Jim Cousins:** Were you aware that the Crown Estate Commissioners' policy is not to have a ballot?

**Sarah McCarthy-Fry:** I was aware that they had a preferred method of consultation which did not include a ballot.

**Q266 Jim Cousins:** Will you ensure that they have a change of policy in this respect?

**Sarah McCarthy-Fry:** I am sorry?

**Q267 Jim Cousins:** Will you guarantee to us that they change their policy in this respect and that—

**Sarah McCarthy-Fry:** I cannot guarantee; I have no power to do that.

**Q268 Jim Cousins:** So you cannot assure us that the normal rights that tenants and leaseholders would have as a matter of general Government policy the Crown Estate would not be allowed to duck out of?

**Sarah McCarthy-Fry:** If they were legally obliged to offer a ballot then I could direct them to hold the ballot. If they are not legally obliged to hold the ballot I cannot direct them to hold the ballot. That is not the relationship that we have with the Crown Estate; it is not the legal relationship we have with the Crown Estate. I can entreat them to.

**Q269 Jim Cousins:** So the only time you see yourself as being able to give a direction is in the circumstance where they are legally obliged to do it anyway. What sort of power of direction is that?

**Sarah McCarthy-Fry:** It is a power of direction that can only be used if they are acting outside their remit.

**Q270 Jim Cousins:** Is your view of their remit that they should offer their tenants the normal rights that any other tenants or leaseholders would have in such a situation: that is, a ballot?

**Sarah McCarthy-Fry:** I told the Committee that I have asked for a meeting with the Commissioners and I am more than prepared to ask the Commissioners and to ask quite forcibly that they have a ballot. I do not believe I have the legal power under the power of direction to stop the sale if they did not have a ballot. I do not want to give false hope to tenants and I do not want to give false hope to the Committee, if I do not have the legal power to do it. I am more than happy to go and check if I have, but I do not believe I have.

**Q271 Chairman:** I wonder if we could pursue this because under the Act, which I have here, under subsection 4 of section 1 it says that you have power to give directions with regard to subsection 3, which talks about the general duty of the Commissioners to maintain and enhance the value of their estate and the return, but with due regard to the requirements of good management. So it is not quite right then to say that your power of direction is limited to keeping them within their remit.

**Sarah McCarthy-Fry:** And the remit is within lines of good management.

**Q272 Chairman:** You could give them a direction on the grounds that what they were doing might not be good management.

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3 March 2010 Sarah McCarthy-Fry MP, Ms Paula Diggle and Mr John Henderson

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**Sarah McCarthy-Fry:** I would have to look at my legal powers to do that. As I have said, I am more than happy to use any power I have to ask them to have a ballot of their tenants.

**Q273 Chairman:** You are going to look at that specific point again.

**Sarah McCarthy-Fry:** That is why I am going to have a meeting with the Commissioners.

**Q274 Mr Love:** Just on this point, my understanding is that Government best practice is that the consultation should last for three months. It has lasted from the end of January to the middle of March, which is significantly shorter. Perhaps the Minister could take that point up with the Crown Commissioners.

**Sarah McCarthy-Fry:** I have a number of points to take up with the Crown Commissioners.

**Q275 Chairman:** Just coming back to the general issue of your financial relationship with the Crown Estate, perhaps Ms Diggle could help us here. We have been told earlier today that they have got round the restriction on borrowing by setting up this joint venture, this Gibraltar thing, which seems to have been a bit of a fiasco. Was that approved by ministers, by your Minister's predecessor?

**Ms Diggle:** Not by ministers.

**Q276 Chairman:** It was approved by you?

**Ms Diggle:** I looked into it very carefully with them. I discussed it with my seniors in the office. We first of all check that the *vires* existed. The *vires* say that it is proper for the Crown Estate to make investments in land and property, and this is actually an investment in a property asset. It happens to involve incidental borrowing. I was troubled by the apparent but not real conflict with the requirements of the Act. We therefore discussed and voluntarily agreed a limitation—quite a severe limitation—on the extent to which implied borrowing could take place.

**Q277 Chairman:** Would you allow a similar venture in future?

**Ms Diggle:** I would look at it very carefully on its merits at the time.

**Q278 Chairman:** Just before we move on to some of the other issues, could you tell us how this financial return is set?

**Ms Diggle:** Certainly. We look together, the Crown Estate and the Treasury, at its prospects for the year ahead. We look to see whether it is realistic for it to actually deliver a return of the previous year plus the GDP deflator, as Mr Bright described to you. If it is, then that is a good place to start and we ask could they do even better. Sometimes they can and we push them to do that. Sometimes they cannot and we try to set a realistic but stretching cash return in terms of revenue to be delivered.

**Q279 Chairman:** What was your ministers' involvement in that in previous years?

**Sarah McCarthy-Fry:** There has not been an involvement of ministers because there has been no problem to resolve.

**Q280 Chairman:** And you have not come under pressure from a minister to say, "Get some more money out of the Crown Estate", for example?

**Ms Diggle:** No, because they have been returning very good returns. If you look at their submission to you, you will see that their actual rate of growth of revenue has been pretty impressive. Mr Bright was a bit too modest to actually describe it in those terms.

**Q281 Nick Ainger:** Minister, do you agree with the views expressed by some of the witnesses who have had dealings with the Crown Estate that they are an unregulated monopoly?

**Sarah McCarthy-Fry:** They have a monopoly but within the Act they have to exercise that monopoly responsibly and there are restraints on it. I think there is a case for looking at it. They do try to benchmark themselves as best they can but I do think that there is a case where we could look a bit further on this. There is the option for any operator that thinks they have been a victim of a monopoly situation to approach the Office of Fair Trading on this. Of course, Scottish and Southern Energy in their written memorandum said that they believed the tender process has been fair, even-handed and run in a way which leads them to believe that a fully competitive approach has been taken at all times.

**Q282 Nick Ainger:** We have indeed had that evidence.

**Sarah McCarthy-Fry:** I have not seen any evidence from people that believe—

**Q283 Nick Ainger:** That evidence was given to us last week from a representative of the Gas Storage Operators Association. You say that if people have concerns then they can go to the Office of Fair Trading. My experience of the Office of Fair Trading is that if you want to wait long enough you may, if you are lucky, get a decision, whether it is the right decision or not. Surely when we are dealing with the offshore environment, which is absolutely key to the national interest in terms of renewables, in terms of gas storage, in terms of carbon capture and storage, tidal and wave renewable development, these are hugely important matters and the concern that has been expressed to us is that if there are delays, either because there is conflict over a fair price for rental of the seabed or there may be licensing issues, that these are international developers that can go elsewhere. The idea of just referring a developer to the OFT, surely that is not good enough? Surely you would be prepared to step in in those circumstances where you could see that the national interest was being affected by the position adopted by the Crown Commissioners? Would you, in those circumstances, be prepared to step in and give direction then?

**Sarah McCarthy-Fry:** I think this is a matter that we do have to look at. DECC is of course the lead department on this and they have been negotiating with the Crown Estate and they have been having



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3 March 2010 Sarah McCarthy-Fry MP, Ms Paula Diggle and Mr John Henderson

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meetings over this. They have not come to me and said that they think there is a problem. However, with the importance of renewables as we go forward, the importance of energy security, I think that we ought to be raising this and looking at this again and seeing what the future should be. I do not think it needs to have been done yet but in the future as we move forward I think this is of concern.

**Q284 Nick Ainger:** The UK is unusual in that it has, as an island, a huge area which is potential development for renewables and other important areas both from power generation and gas storage and carbon capture. My understanding is that other European maritime states and North American maritime states have a single body, the Government, which negotiates with developers for offshore development. We have two; we have the Crown Estate and we have DECC in terms of licensing and so on. Is that under review because, again, the fear from some developers is that bureaucracy may well be getting in the way, and having this two-tier arrangement may be getting in the way of urgent, offshore development.

**Sarah McCarthy-Fry:** If it could be shown that it was getting in the way then, yes, it would need to be looked at.

**Q285 Nick Ainger:** Obviously the responsibilities of the Crown Estate flow from the 1961 Act, which was before we had any real offshore development, and the potential in terms both of income but also the importance to the national interest of our offshore areas is now very, very significant. Should we be reviewing the 1961 Act in terms of the offshore environment?

**Sarah McCarthy-Fry:** In my view, given the scale of what we are looking at and the scale of the challenge in front of us in terms of energy security, energy supply and the development of renewables, I think that is an option.

**Q286 John Thurso:** Mr Henderson, it is my understanding that your Secretary of State has a rather different view of his ability to direct from that of the Treasury. Would you care to comment on that?

**Mr Henderson:** You would not expect me, sitting next to a Government Minister, to say that the Government actually do not have a collective view on this. I am not aware that my Secretary of State does have a radically different view.

**Q287 John Thurso:** Were you at the meeting that he very kindly chaired between myself and the Elements of the Renewable Energy?

**Mr Henderson:** I was.

**Q288 John Thurso:** You remember that we discussed a variety of things. It was my understanding—not at the meeting, but afterwards—that the Secretary of State, were a satisfactory conclusion not to be arrived at, felt that it was completely within his power to issue a direction.

**Mr Henderson:** I am sorry, I do not recall that.

**Q289 John Thurso:** There is nothing about reasonableness anywhere in the Act; there is not a word from start to finish. You have said you can only do it if it is reasonable. There is actually nothing in the Act which says you have to act reasonably. There are many other things you have to do but not act reasonably.

**Sarah McCarthy-Fry:** I think it is a point of general law that you have to act reasonably.

**Q290 John Thurso:** Actually if you look at subsection 4, it gives the Chancellor of the Exchequer and the Secretary of State for Scotland powers to give direction and it then says: “But the Chancellor of the Exchequer and the Secretary of State in giving directions to the Commissioners under this subsection shall have regard to subsection 3 above.” That is just “have regard to” and all subsection 3 says is that they must maintain and enhance the value of the estate and the returns obtained from it, but with due regard to the requirements of good management. I put it to you that there is nothing in that to prevent either the Chancellor of the Exchequer or the Secretary of State for Scotland, either in these property matters we have been talking about or in respect of renewable energy, saying to the Crown Estate, “This is the policy which we wish you to pursue and it must be good management because it is Government policy.”

**Sarah McCarthy-Fry:** Up until you came to the last sentence I may well have agreed with you.

**Q291 John Thurso:** I was trying to be kind.

**Sarah McCarthy-Fry:** Nothing I have said this afternoon has said that I would not be prepared to use the power of direction if I felt it was necessary; and I do not want anyone to go away and say that I have not said I would do that. What I have said is that it is not a power that is used lightly and it is something where we would have to look at all the circumstances.

**Q292 John Thurso:** My concern is that the power of direction has become in the passage of time since 1961 to be viewed as a slap on the wrist, a kind of nuclear option that you do not exercise because they are all being quite nice chaps; rather than what I think it was intended to be in the Act, which is that from time to time ministers actually step up to the plate of their responsibilities and say, “We need to direct these guys because without that direction they cannot do their job properly.” I will stay out of the housing side of it, but if you look at renewable energy when we did the North Sea the Department of Energy did it all—there was no question of the Crown Estate getting involved. Why this time do we need to leave it to them without giving them any direction or strategic thought or input?

**Sarah McCarthy-Fry:** The power of direction is a last resort tool and if you can achieve—

**Q293 John Thurso:** That is what it has become to be believed by the Treasury but it is not what is in the Act.

**Sarah McCarthy-Fry:** But if we can achieve what we want to achieve without having to use the power of direction by consultation and negotiation, then I would rather do that. On the housing we are still at the consultation stage, and there are a lot of questions I need to ask the Commissioners and the negotiations on that will go forward. On the renewables we are still at an early stage. I have not had anything back from DECC to tell me that I need to exercise a power of direction in this. They are working together with the Crown Estate. DECC have the objective of energy security, bringing on low carbon and renewables in the national interest. They have not come to me yet, if they are going to, because they are working with the Crown Estate. Because we have not actually used the power of direction I think that means that we have been able to resolve issues without having to do that.

**Q294 John Thurso:** Let me put this to you. On 8 December, when you appeared in front of us and I asked you what contact you have had with the Crown Estate and you told me that you had not, and you said you thought your officials might have done and that you would check into that; and you have now told us that they do meet on a fairly regular basis. But we are now at 3 March and you have said, “I think this is an area it is important to keep track of” and you have actually between December and March managed to set up a meeting of the Crown Estate for April. Is that enough attention by one of two ministers of the Crown who have the actual power over the Crown Estate?

**Sarah McCarthy-Fry:** As I say, as far as the energy renewables side of it, DECC have been having the ongoing relationship with the Crown Estate and they have not come to me and said there is a problem. As far as the housing side of it, it was brought to my attention by various MPs and since then I have been trying to get a meeting with the Commissioners.

**Q295 John Thurso:** Let me turn quickly to Scotland. The Calman Commission last year—and I will direct this to Mr Henderson, who I suspect knows more about the Calman Commission, but feel free, Minister, if you would like to come in—recommended that the Secretary of State for Scotland should be more active in his use of the powers of direction. They also recommended that more of the powers in relation to the Scottish Crown Estate, which of course until about 100 years ago

was an entirely separate operation—more than 100 years ago—should be undertaken in Scotland. What is the view of the Scotland Office in this regard?

**Mr Henderson:** In the Government’s response to the Calman Commission they accepted the recommendation that as regards the appointment of the Scottish Commissioner there should be consultation with Scottish ministers. The Government did not, however, accept the recommendation that the Secretary of State should place his power of direction. The Government did point out in the White Paper that there were very good and developing relationships between the Crown Estate and the devolved administration, and we heard that from the Chief Executive earlier. We have heard also about the Memorandum of Understanding that will shortly be finalised with the local authorities in the Highland area. We also heard the Chief Executive talk about being open minded about whether there should be more Memoranda of Understanding, perhaps with the devolved administration. We also have a separate annual report now and we have established over the past year or so a Scottish Liaison Committee. So there is evidence, I think, of quite an engagement with Scotland.

**Q296 John Thurso:** A few years ago the Crown Estate Commissioners stopped treating Scotland as a separate management area and now run it all as a UK-based operation. Given what Calman has suggested and given devolution, is that not counterintuitive? Should it not be the other way around? Should it not be like some of the other cross-border authorities where there is actually a separate identifiable Scottish organisation?

**Mr Henderson:** Calman did not recommend that. Calman actually pointed out, if I recall, that there were advantages in making investments in Scotland, to have access to the larger funds of the Crown Estate for the rest of the UK.

**Q297 John Thurso:** Do you think that the body he suggested for more consultation with Scottish ministers is a good idea? Or does your Secretary of State think that?

**Mr Henderson:** Clearly the more dialogue that the Crown Estate has with the devolved administration has to be a good thing.

**Chairman:** We are going to leave it there for the moment but I think you have undertaken, Minister, just to reflect on the power of direction point and to check whether your description of the position is exact. If you are able to help us further on that we need to hear from you, simply because of our timetable, within the next seven days if that is possible. In the meantime, I would like to thank you and your colleagues for helping us this afternoon.<sup>9</sup>

<sup>9</sup> Ev 116

# Written evidence

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## Written evidence submitted by Andy Wightman

### EXECUTIVE SUMMARY

I welcome the inquiry into the management of the Crown Estate. In Scotland, the CEC administers the property, rights and interests of the Crown which are defined by Scots law and thus devolved to the Scottish Parliament. The Crown Estate Commission itself, however, is reserved. This has led to tensions and to a level of unaccountability both locally and nationally which threatens to undermine democracy and the appropriate strategic management of these rights. I suggest that the Committee consider full devolution of the CEC's powers to the Scottish Ministers so that the administration and the rights are held together allowing for their more efficient management and accountability.

### MEMORANDUM

1. My name is Andy Wightman. I am a freelance writer and researcher on land issues in Scotland and the author of *Who Owns Scotland* (1996) and other publications. I am an adviser, consultant and researcher to and on behalf a number of public and private clients and also undertake a range of freelance writing and research on land related issues. Most recently I have undertaken research on Common Good land in Scotland and other forms of commons.

2. I welcome the inquiry announced by the Treasury Committee into the administration and expenditure of the Crown Estate which I believe may be the first such inquiry into the Crown Estate since the Crown Estate Act of 1961. I am submitting this memorandum as a contribution to this inquiry. In it I focus on issues relating to the Crown Estate in Scotland, specifically the administration of the property rights of the Crown Estate in Scotland.

3. The Crown Estate is an oft misunderstood term and first of all I would like to clarify what I mean by it. As defined by the Crown Estate Act 1961, the "Crown Estate Commissioners" (CEC) are a body corporate whilst the "Crown Estate" is the term used for the "property, rights and interests" under the management of the CEC. In recent years the CEC has taken upon itself to brand itself as the Crown Estate when, in fact, the Crown Estate is as defined above.

4. I would also like to clarify the relevant provisions regarding the reserved and devolved powers relating to the CEC and the Crown Estate. Under the terms of the Scotland Act, the management of the Crown Estate and the hereditary revenues are reserved together with the CEC themselves as a body corporate.

5. However, the property, rights and interests that the CEC administer are devolved since they are defined by Scots law. Thus Crown land in Scotland, though administered by the CEC in accordance with the 1961 Act, can be the subject of legislation in the Scottish Parliament. Such legislation can cover both general matters (such as access) which apply to all land or can cover specifically Crown land by amending the nature and character of the rights that comprise it.

6. Historically, there has been much controversy and dispute about the nature of the Crown's property rights in Scotland and the legitimacy of the CEC and its predecessors to take positions (including through the courts) which have been designed to assert and promote the power of the CEC. Examples range from debates about the foreshore in the 19th century to contemporary debates about rights in, for example, Selkirk (over salmon fishing rights), Rothesay (over rights to moorings) and Stirling (ownership and control of the King's Park). I can provide further details of these controversies if required.

7. It is noteworthy that the three contemporary examples I have cited have pitted ordinary local people against the legal might of the CEC. In Selkirk, a determined campaign waged by local people succeeded (after 12 years of wrangling) in returning control of the fishings to the Common Good of the Burgh as an ancient part of the Burgh commons. But this campaign took 12 years of local voluntary effort to achieve a position where the historical truth was finally admitted by the CEC. One person close to the campaign characterised the CEC approach as including "delay, attempts to split us up, simple denial of incontrovertible evidence, superciliousness, distortion, taking things out of context, abrogation of previous agreements and simple fraudulent misrepresentation".

8. In Rothesay, local people have been forced to the Court of Session to defend ancient burgh rights which the CEC have denied exist. Local people should not be faced with such draconian action to assert their ancient rights and privileges.

9. In Stirling, the local Community Council fought in vain to overturn an agreement struck between Stirling Council and the CEC whereby CEC are being paid to transfer ancient possession of the Crown to a new public trust. This was in contrast to when 26 other ancient possessions of the Crown in Scotland had been conveyed by the CEC to Scottish Ministers (actually to the Secretary of State for Scotland) in 1999, immediately prior to the establishment of the Scottish Parliament for no consideration, including part of the ancient possessions of the Crown in Stirling (King's Knot). The central issue here was that the CEC insisted on treating the King's Park as a "rural estate" rather than as an ancient possession of the Crown (which it clearly is having been a Royal hunting forest since medieval times).

10. In addition to specific cases where the CEC has been an obstacle to local common rights, the CEC is obviously playing a significant role in the development of marine renewable energy through its exercise of the property rights of the seabed. In this role it is playing a key role in the development of this new industry but has no accountability either to the Scottish Parliament, Scottish Ministers or local government in whose area the seabed is located.

11. I suggest that it is inappropriate for such a remote and unaccountable body to be exercising such powers and that they would be more appropriately exercised by Scottish Ministers accountable to the Scottish Parliament and by local authorities. In this way, the marine estate could be managed in such a way so as to more closely match local and national strategic policy in Scotland.

12. It is interesting that a similar such approach was taken with land managed by the Forestry Commission (FC) in recent years. Just as the CEC is reserved but the property rights it administers are not, so the FC is reserved but forestry is not. As a consequence of the forestry devolution review, new arrangements are now in place which, through Forestry Commission Scotland, in effect, provide full devolution over forestry which better reflects the role of the Scottish Parliament and its accountability to the Scottish people.

13. It is worth stressing that title to all the property that the FC manages in Scotland is, in fact held not by FC, but by Scottish Ministers and thus it was appropriate that eventually arrangements were reached that better reflected that reality.

14. I would argue should the administration of Crown property rights in Scotland be devolved. These are defined by Scots law, are devolved to the Scottish Parliament, and yet their administration remains with a body corporate in London. Full devolution of the CEC's powers to the Scottish Ministers would enable the administration and the rights to be held together allowing for their more efficient management and accountability.

15. If this proves politically difficult, then the same outcome could be achieved by the Scottish Parliament legislating to transfer title to these rights to Scottish Ministers, leaving the CEC alone (it is reserved) but with nothing to administer.

16. Finally, I commend to the Committee, the report of the Crown Estate Review Working Group—The Crown Estate in Scotland—New Opportunities for Public Benefits. The Group comprises eight organisations being six local authorities in Scotland together with Highlands and Islands Enterprise and the Convention of Scottish Local Authorities. Copies are available at <http://www.highland.gov.uk/yourenvironment/landandwater/crownstatereviewwg.htm>

The report is an excellent and in-depth analysis of the status of the Crown Estate in Scotland and the opportunities that exist for improving the way in which Crown rights are administered.

17. I wish you the best with your inquiry and look forward to following its progress. I hope it can provide the opportunity to deliver a better future for the property, rights and interests of the Crown in Scotland.

*January 2010*

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#### **Written evidence submitted by Country Land and Business Association Ltd**

The CLA is a membership organisation of land owners and managers and other rural businesses who together own and manage about half the rural land area of England and Wales. Our primary purposes are to provide member services and to represent members' interests with regard to their property rights and engendering conditions for profitable rural business.

We have a particular category of membership called Institutional Landowners and, of course, the Crown Estate is one of these members.

We would not normally offer comments on our members' affairs but because of its special position as an important national institution we offer some thoughts on the Crown Estate. We refer solely to the Rural Estate which is one of the largest in the nation.

Precisely because of their size and position in society and in rural communities the Crown Estate tries to be, and we consider, succeeds in being an exemplary landowner. Their motives, in common with most private landowners are to preserve and grow the value of their estate, manage it in an economically, environmentally and socially sustainable way producing a good return. Their financial results certainly place them amongst the best-performing estates.

Because of their size, national coverage and the management approach adopted they provide a number of useful services to the industry as a whole.

Their top management plays a discrete but authoritative role in national agricultural and land management discussions and debates. We certainly value their contribution within our Institutional Landowners Group whose aim is to exchange best practice and to discuss developments and opportunities, in markets and policies.

Whatever the agricultural or rural issue, it will always impact on the Crown Estate somewhere so they are always well tuned in to current issues and debates and can offer helpful advice and thoughts.

The Crown Estate has had a policy of enabling young people to obtain tenancies, and then providing a supportive framework for their business development. This is a useful contribution to bringing much needed new talent and energies into the industry. They are also big enough and have enough tenants to warrant effort bringing tenants together for conferences/professional development and producing a newsletter. These enable good contacts with tenants for exchange of experience and best practice.

The Crown Estate encourages its tenants who can make good case for diversifying, entering environment schemes and engaging in organic farming. They don't crusade for these things but deal with them on the basis of sound business and land stewardship arguments.

Finally, they demonstrated good corporate social responsibility in providing a contribution to the development of the CLA's free to all, on-line, carbon calculator for land based businesses, CALM.

January 2010

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### Written evidence submitted by The Crown Estate (Crown Estate Commissioners)

#### EXECUTIVE SUMMARY

The Crown Estate is part of the hereditary possessions of the Sovereign in right of the Crown. It is not the Sovereign's private estate, nor is it owned by the Government.

The Board of The Crown Estate is charged with managing these property interests, comprising a diverse portfolio across the UK of over 12,000 tenancies. It includes office, retail and industrial premises; housing; farmland, forestry and minerals; parkland; over half the foreshore and almost all the seabed. The Crown Estate is required to enhance the value of the portfolio and its income, and to surrender the profit to the Treasury to the benefit of the taxpayer. The Crown Estate sets clear commercial objectives and financial targets, acting as a responsible long-term steward of its assets.

Over the last 10 years, the value of the portfolio has increased by £2.3 billion and The Crown Estate has paid a total of £1.8 billion to the Treasury. Over the same period The Crown Estate has significantly outperformed the IPD (Investment Property Databank) all property index, the property industry's recognised benchmark. The diversity and quality of the portfolio have helped The Crown Estate weather the recession.

The overall strategy is to concentrate on core holdings and areas of expertise. While the major assets in London's Regent Street and St James's will remain significant, the objective is to build a more balanced portfolio with investment in higher yielding assets elsewhere. The Marine Estate will play an increasing part in this as it continues to facilitate the development of offshore renewable energy.

Stewardship is an integral part of The Crown Estate's commercial strategy. This benefits both the business and the communities and environments in which it operates. Success is more than annual financial performance: it is also important to maintain assets of a quality to provide a sustainable return over the longer term. The Crown Estate is committed to a policy of accountability and transparency and publishes material in a variety of formats to help interested observers understand the business.

The Crown Estate discusses annually with the Treasury the proposed corporate plan, financial targets and investment strategy, keeping officials regularly informed of its business and other significant initiatives. The Crown Estate also works with other government departments and devolved administrations, particularly in relation to offshore energy.

#### THE CROWN ESTATE

1. The Crown Estate can trace its origins back several hundred years and is conscious of its long term responsibilities for its assets. It is charged by Parliament with responsibility for managing the property interests belonging to the Sovereign as part of the hereditary possessions of the Crown. It has four constituent Estates: urban, marine, rural and Windsor.

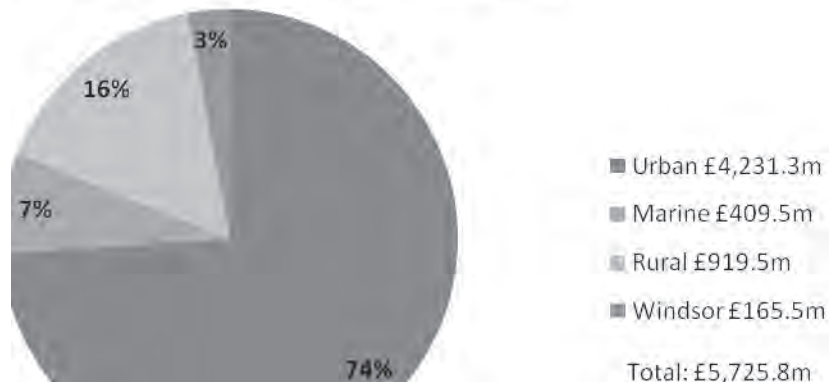
2. The Crown Estate's responsibilities are specified in The Crown Estate Act 1961 (the 1961 Act): in particular, to enhance the value of the estate and its income and to do this having regard to good management. The Crown Estate is therefore a business that focuses on a combination of income return and capital growth. Under the Civil List Act 1952, the net income surplus, ie profit, goes to the Treasury. The Crown Estate is not a government agency, nor a non-departmental public body, nor a company owned by the Government.

3. The Crown Estate expresses its statutory duties through three core values—commercialism, integrity and stewardship. It operates at arm's length from Government, takes a commercial approach and embraces high standards of responsible management.

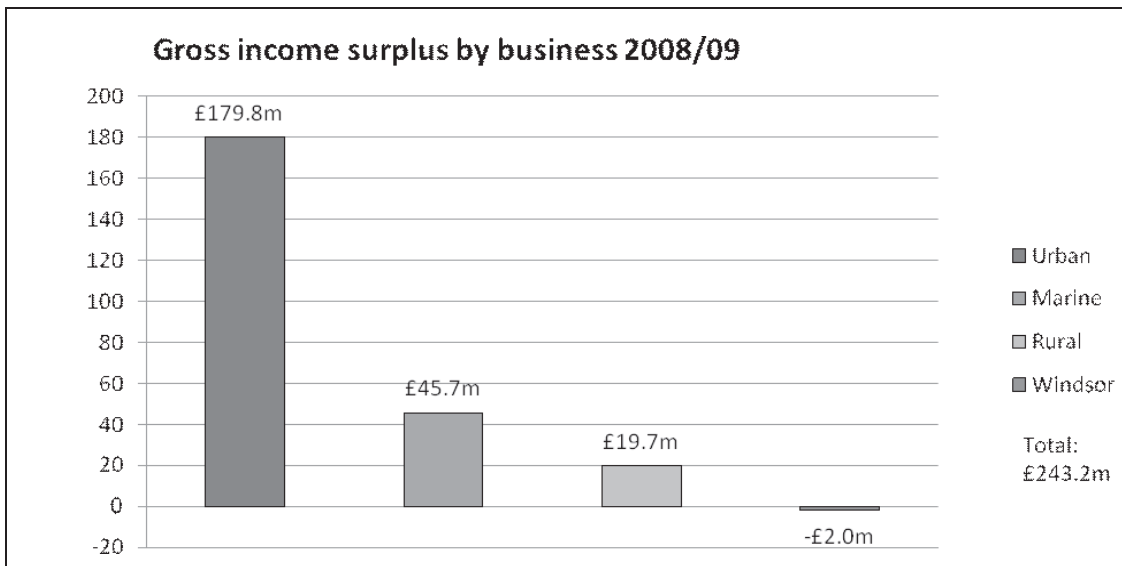
FINANCIAL PERFORMANCE

4. At the end of the financial year 2008–09, the capital value of The Crown Estate was £6.0 billion of which the property portfolio was £5.7 billion. Over the 10 years to March 2009 the value of the property portfolio has increased by 66.7%. The following chart shows the property portfolio value of each of the constituent Estates.

Property value as at 31 March 2009

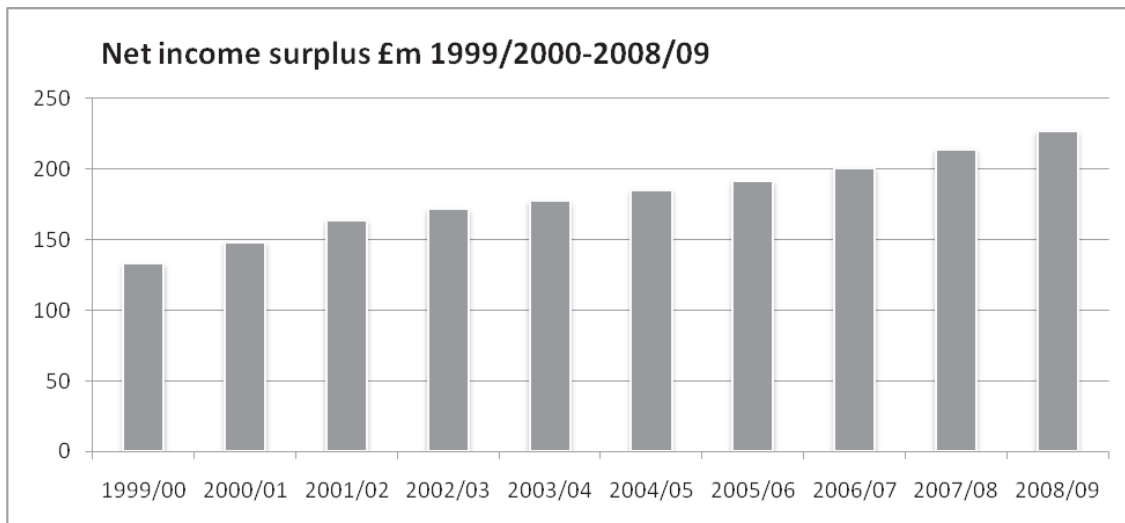


5. The gross income surplus<sup>1</sup> for the financial year 2008–09 was £243.2 million. The following chart shows the gross income surplus contributed by each of the Estates.



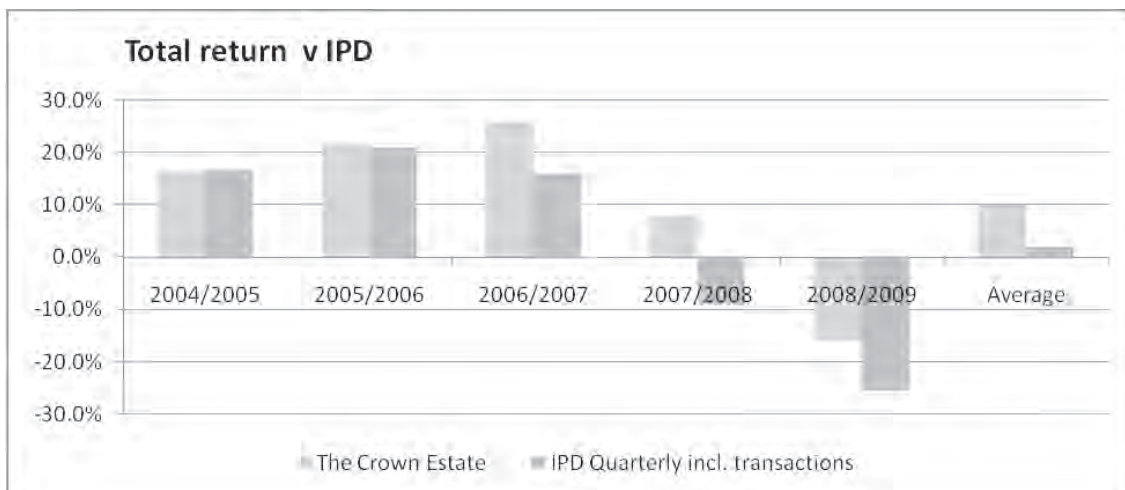
<sup>1</sup> Turnover less operating costs which include management fees and repairs and maintenance.

6. The Crown Estate's total net income surplus,<sup>2</sup> ie profit, is all payable to the Treasury: The Crown Estate is not subject to corporation, income or capital gains tax. In 2008–09 the surplus was £226.5 million. The following chart shows that the surplus grew by 70.5% for the 10 years from 1999–2000 to 2008–09— with total payments of £1.8 billion to the Treasury, to the benefit of the taxpayer.



#### BENCHMARKING

7. Consistent with industry practice, The Crown Estate compares its total return (income return plus capital growth) with the IPD all property index. The following chart shows how The Crown Estate's total return performance compares with this index in each of the last five years.



8. The following table shows total return performance against the IPD index over the last three, five and 10 years.

<i>Annualised Total Return %</i>	<i>3 yr</i>	<i>5 yr</i>	<i>10 yr</i>
The Crown Estate	4.51	10.18	10.84
IPD Quarterly Index	-7.74	2.00	6.09

For 2008–09, The Crown Estate's total return was -15.8, outperforming the IPD Quarterly Index which reported a return of -25.5%.

9. In addition to benchmarking financial performance, The Crown Estate will this year benchmark itself against the Business in the Community (BitC) Corporate Responsibility Index, aiming for "silver" status and, by 2014, "gold".

<sup>2</sup> Gross surplus plus interest receivable, less administrative costs and appropriations to capital.

#### CONSTRAINTS

10. By law, The Crown Estate's operations are limited in certain crucial ways:
  - it is unable to borrow to finance investment;
  - it is unable to retain revenue reserves for investment because the whole of its income surplus is payable to the Treasury; and
  - it is unable to invest in land through limited companies.
11. Because of the first two constraints, funds for capital investment have to be generated from capital activity; through partnering and joint ventures; or through transfers from revenue to capital in limited circumstances, as permitted under the 1961 Act. The consequence of the third constraint is to restrict the opportunities for accessing modern investment vehicles.

#### THE MANAGEMENT OF THE CROWN ESTATE

12. The governance structure of The Crown Estate comprises a non-executive Main Board and an executive Management Board. The Main Board consists of a non-executive chairman, six non-executive members and the chief executive, all of whom have property or other relevant experience or expertise. The Main Board:

- agrees the objectives and strategy of The Crown Estate;
  - ensures that there are effective systems of financial delegation and control and risk management;
  - monitors performance in meeting objectives and implementing strategy;
  - monitors financial performance and stewardship of resources; and
  - approves major transactions.
13. The Management Board, comprising the chief executive and the five executive directors:
- implements the strategic direction of The Crown Estate;
  - sets and ensures the achievement of corporate objectives, including financial performance;
  - keeps under review The Crown Estate's investment strategy, in the light of economic and market conditions;
  - ensures that business risks are properly identified and managed;
  - exercises oversight and control over The Crown Estate's financial, human and other resources; and
  - promotes sustainability and customer focus throughout the business.

14. The chief executive, as accounting officer, is responsible for regularity and propriety in the deployment of The Crown Estate's resources.

15. The Crown Estate adopts a balanced scorecard approach to measuring both financial and non-financial performance against corporate objectives. These have been distilled into nine rolling five year "Going for Gold" targets which are monitored and reviewed regularly. Progress is communicated to all staff.

16. The Crown Estate outsources day-to-day management of the majority of its property portfolio to professional firms of property managing agents, with the in-house team focusing on investment strategy and its implementation; asset management; and property development. The total fees paid to managing agents in 2008–09 for property management were £9.0 million.

17. At 31 March 2009, The Crown Estate's core business employed 184 people on a permanent basis: managers, their supporting teams and central services staff. Additionally, 207 staff were employed in estate work, primarily at Windsor.

18. The total costs of The Crown Estate in 2008–09 were £80.4 million, representing 26.4% of turnover. This consisted of direct expenditure on the Estates of £60.9 million, (such as service charges, which are recoverable from tenants, managing agents' fees, repairs, provision for bad debt, etc); indirect expenditure of £17.0 million (such as employees, accommodation and IT); and depreciation of £2.5 million.

#### ANNUAL REPORT AND CORPORATE GOVERNANCE

19. The Crown Estate is audited by the National Audit Office. In accordance with the 1961 Act, a clear distinction between income and capital has to be maintained, similar to a trust. This is reflected in the annual report.

20. In 2008–09, The Crown Estate adopted International Financial Reporting Standards (IFRS) a year ahead of other public sector organisations.

21. The Annual Report is laid before Parliament and gives a comprehensive account of The Crown Estate's activities. Annual reports are also produced for Scotland, Wales and Northern Ireland. The 2009 Annual Report won two "Building Public Trust" awards: one for "Excellence in Reporting" in the Public Sector and one for "Sustainability Reporting" in the Public Sector.



22. The Crown Estate recognises the importance of employing high standards of governance in performing its obligations, including compliance, where applicable, with the Treasury's corporate governance guidelines.

#### RELATIONS WITH GOVERNMENT

23. In accordance with the 1961 Act, The Crown Estate provides the Treasury with all the information about The Crown Estate's activities which the Treasury requires. The Treasury is kept regularly informed of The Crown Estate's business and significant initiatives to enable the Treasury to satisfy itself that the Estate is performing its duties. There are two formal annual meetings with officials; in the spring on the corporate plan and revenue targets; and in the autumn on the investment strategy, with additional meetings and discussion as the flow of business requires throughout the year. The 1961 Act also confers on the Treasury and the Secretary of State for Scotland a power of direction over the discharge of The Crown Estate's functions but to date this has not been exercised.

24. The Crown Estate also has extensive working relationships with other UK government departments (DECC, DEFRA, BIS, DCLG and DfT) and with a range of government committees and taskforces on subjects including energy, marine environmental management, fisheries and minerals. In many cases there is detailed bilateral collaboration in the sharing of expertise and knowledge, eg constructing the strategic environmental assessment for the current offshore wind farm programme.

25. As offshore renewable energy is a devolved responsibility, The Crown Estate also has comparable relationships with the Scottish Government. There are parallel relationships with the Welsh Assembly Government and the Northern Ireland Executive.

#### INVESTMENT STRATEGY

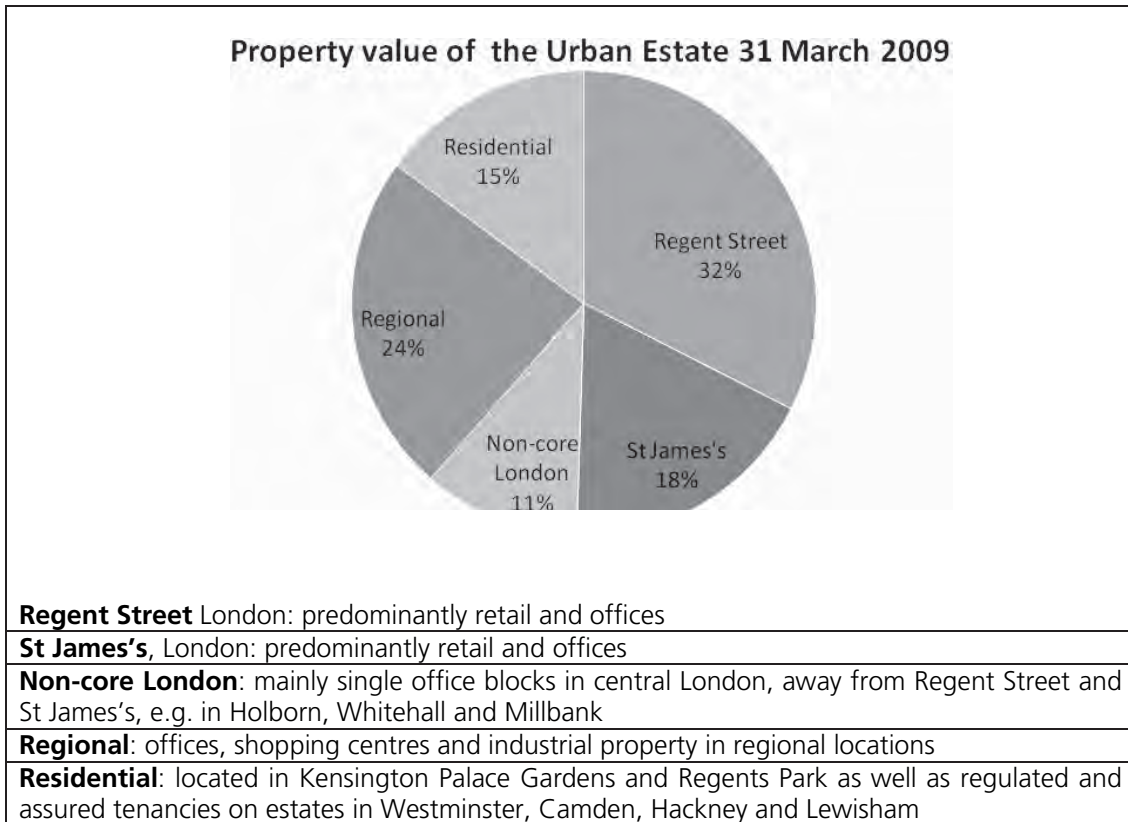
26. In order to enhance the long-term value of the portfolio whilst providing a sustainable source of revenue to the Treasury, The Crown Estate's strategy is to:

- concentrate on key areas of expertise and capitalise on opportunities for specialisation;
- rebalance the portfolio to moderate its current high dependence on central London towards higher yielding investments elsewhere, including playing a full part in realising the potential of the Marine Estate; and
- broaden access to working capital through joint ventures and partnering with others.

27. Within this overall strategy, the priorities of the different Estates reflect the nature of their business. The priority of the Urban Estate is essentially to provide a mixture of long-term capital and income growth. The Marine Estate's priority is to produce a return driven primarily by income rather than capital gain. The Rural Estate's priority is to maximise total returns through capital growth combined with appropriate levels of capital release and increased income. In the case of the Windsor Estate, there are specific duties laid down by the 1961 Act. The following sections explain this in more detail.

## THE URBAN ESTATE

28. The Urban Estate represents 74% of the property value of The Crown Estate and generates a similar proportion of the gross income surplus. It comprises commercial and residential property and is one of the largest commercial property portfolios in London.



29. The overall objective is to concentrate on a limited number of sectors where we have a competitive advantage, for example through concentrated ownership of assets, expertise or local knowledge. Our relative success is due to the quality of the portfolio and a continued focus on long-term opportunities.

30. Regent Street is the most significant part by value of The Crown Estate. The Crown Estate has taken advantage of its contiguous ownership of the Street and over recent years has transformed it into a world class retail and business location. A major development—the largest mixed-use scheme in the West End, the Quadrant,—is currently underway at the southern end of Regent Street comprising offices, a five star hotel, residential and retail accommodation. This will incorporate energy-efficient and environmentally-friendly technology for generating cooling, heat and power. It will also provide the most significant improvement to the quality of London's West End public space since the enhancement of Trafalgar Square.

## PRINCIPAL CHALLENGES

31. Overall the principal challenges facing the Urban Estate are:

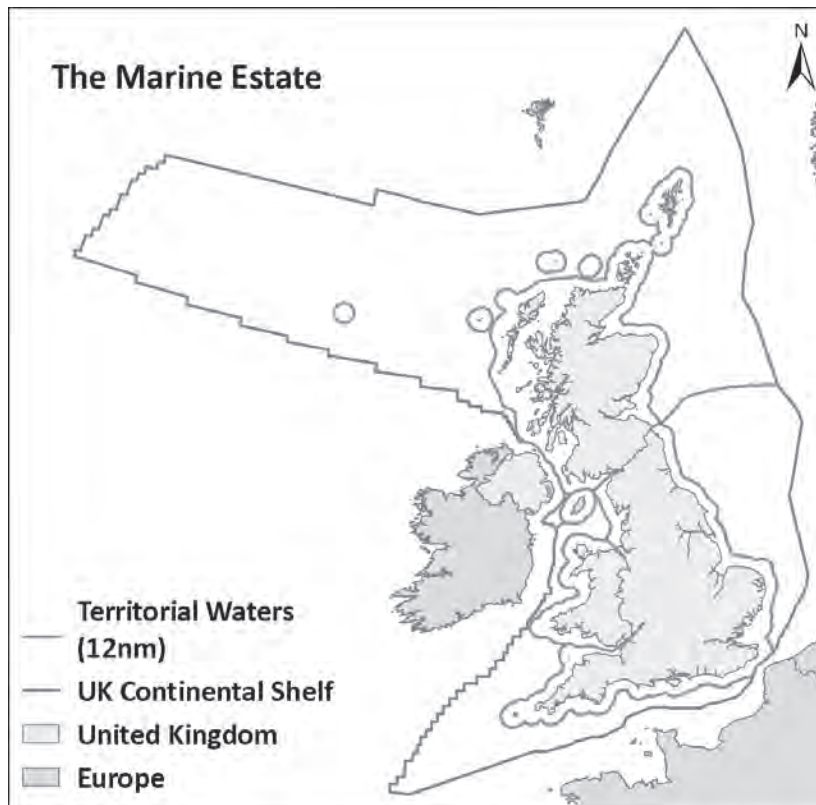
- high dependence on the volatile central London office market;
- limited access to working capital, restricting the ability to invest; and
- managing the increased risk of tenant failure as businesses struggle during the economic downturn.

32. Our response is to reduce our exposure to commercial central London property by strategic disposals of non-core central London holdings and through working with partners in our core holdings. This enables us to spread our risk and access additional sources of investment capital, while retaining a significant element of control over our core holdings in Regent Street and St James's, where we intend to remain major investors. A substantial part of the funds raised from disposals is being invested outside London, in major retail schemes and industrial estates. To manage and mitigate the risk of tenant failure we are increasing our knowledge of occupiers' businesses and, wherever possible, working closely with them to understand their requirements and improve their occupational efficiency.

33. Over the last year, we took advantage of the market downturn to continue to rebalance and diversify our portfolio, resulting in sales and purchases with a combined value of more than £500 million from April 2009. Significant transactions included sales of non-core central London assets and the acquisition of major retail schemes in Exeter and Harlow. We also continued the active asset management of our core central London holdings including the Quadrant development.

#### THE MARINE ESTATE

34. The property under the management of the Marine Estate includes virtually the entire UK seabed out to the 12 nautical mile territorial limit, plus the vested rights to explore and utilise natural resources of the UK Continental Shelf which extends to 200 miles from the coast. These rights include the sub-soil, minerals and substrata below the surface of the foreshore and seabed, but excludes oil, gas and coal. In effect, the Marine Estate manages approximately 20,000 km of the UK's total 36,000 km coastline and approximately 880,000 km<sup>2</sup> of seabed. The Crown Estate does not own the water column or govern public rights such as navigation and fishery over tidal waters.



35. The objective of the Marine Estate is to seek a financial return from the land and property rights under its management whilst placing emphasis on long term stewardship responsibilities and sustainable development of the marine environment. The Crown Estate works closely with government, devolved administrations, local authorities, seabed users and developers, environmental groups and other stakeholders and interest groups.

36. The Marine Estate undertakes or facilitates a diverse range of commercial activities both coastal and offshore. These include: offshore renewable energy and undersea storage of natural gas and carbon dioxide; marine aggregate extraction; submarine cables, pipelines and outfalls; marinas and moorings, port and harbour operations and navigational aids; and mariculture—seaweed harvesting, shellfish cultivation and fish farms.

37. In addition we undertake or facilitate ancillary activities relating to our stewardship role to enhance long-term value. These include: the leasing of about 5,000 km of the UK's coastline to local authorities and other agencies for conservation and preservation; aquaculture research; environmental research; conservation projects and nature reserves; marine archaeological investigations; and public education and interpretation of the marine environment.

## OFFSHORE RENEWABLE ENERGY

38. Under the Energy Act 2004 The Crown Estate licenses the generation of renewable energy on the continental shelf within the Renewable Energy Zone out to 200 nautical miles. The government's target for meeting 25% of the UK's electricity generating capacity from renewable sources by 2020, for reasons both of climate change and energy security, has therefore created new opportunities for The Crown Estate. Its ownership and vested rights for the seabed around the UK makes The Crown Estate uniquely placed to work with government in helping to meet these targets.

39. Under the Energy Act 2008, The Crown Estate also has the right to lease undersea storage of gas and carbon dioxide. Carbon capture and storage (CCS) in the UK sea bed could become important in helping to underpin energy security.

## PRINCIPAL CHALLENGES

40. This substantial offshore renewable energy programme presents significant challenges to the UK. The Crown Estate, by virtue of its ownership and vested rights, is responding in the following ways:

- helping facilitate the establishment of a robust framework to provide confidence for investors and developers to participate in the next phase of the offshore wind energy programme (Round 3), the wave and tidal programme in the Pentland Firth and the offshore wind farm programme in Scottish territorial waters. It is making available £123 million of capital to bring sites under these programmes to the point where they can be developed. On 8 January 2010, The Crown Estate and Government announced the developers for nine new offshore wind zones with a total target capacity of 32 gigawatts. The aim is for legal agreements with developers in the Pentland Firth to be signed by 31 March 2010;
- helping facilitate the establishment of offshore transmission networks for electricity distribution and working closely with the National Grid, OFGEM and DECC; and
- working alongside the UK Government and regulators to establish a robust licensing and leasing programme for the first CCS projects, in the absence of a clear market mechanism for pricing carbon dioxide.

41. In light of these new activities the Marine Estate has invested in appropriate systems and processes and recruited additional qualified and experienced people from relevant sectors.

## THE RURAL ESTATE

42. The Rural Estate is one of the largest commercial rural land holdings in the UK and comprises 146,000 hectares (360,000 acres) of agricultural and common land, forestry, residential and commercial property and minerals. The agricultural sector comprises 450 principal farm holdings and 770 residential tenancies.

43. The principal commercial objectives of the Rural Estate are to enhance income growth; create value through asset management; and to re-balance the portfolio for long-term performance, releasing capital where appropriate. Sales are focused on peripheral land and property with limited long-term prospects. Purchases, such as the Ashby St Ledgers Estate in Northamptonshire and the Tabley Estate in Cheshire, both mixed estates with agricultural, residential and commercial assets, are selected for their long-term potential.

44. This approach is coupled with high standards of stewardship which we believe enhances long-term value. We work in partnership with tenants to help them achieve their own business objectives, and involve other stakeholders to achieve high standards of sustainability. The Crown Estate seeks to be recognised as a landowner with a reputation for fair and environmentally responsible business practices.

## PRINCIPAL CHALLENGES

45. The principal challenges are:

- the characteristics of agricultural investment mean there is restricted scope for tactical trading of the portfolio;
- the scope for maximising income is limited by the legislation governing agricultural tenancies; and
- releasing land for development in ways that are sensitive to local opinion and environmental concerns.

46. To address these challenges, we ensure we are in a position to realise profits when opportunities arise. Additionally, we are working more closely with our tenants to add value to their businesses and create new opportunities to our mutual benefit. Examples of this include the help we have given our farming tenants to develop ancillary businesses by stimulating tourism on the Glenlivet Estate in the Highlands and on the Dunster Estate on the edge of Exmoor.

47. To achieve successful development of surplus land The Crown Estate places priority on extensive stakeholder consultation and on employing high standards of design and construction to benefit individual occupiers and secure sustainable local communities. Examples range from a large-scale business and

technology park at Butterfield in Bedfordshire to a small-scale village development at Burnhill Green in Staffordshire. The development of a Crown Estate quality standard for residential property is designed to add value to our housing stock.

48. Drawing on the expertise of our Marine Estate team, a scoping study recently identified possible onshore renewable energy generation opportunities, with a total output potentially in excess of 500 megawatts. These could involve onshore wind, anaerobic digestion, biomass and hydro technology, which together with micro-generation will benefit individual farm tenants and local communities.

49. As part of our stewardship programme, we reached, a year ahead of schedule, the government target that 95% of our 145 Sites of Special Scientific Interest in “favourable” or “recovering” condition.

#### THE WINDSOR ESTATE

50. The Windsor Estate covers 6,300 hectares (15,600 acres) of the Surrey and Berkshire countryside. It includes Windsor Great Park, farms, forests and residential and commercial properties. Key features include the Savill and Valley Gardens, Virginia Water Lake, Cumberland Lodge (a conference facility), the Long Walk and deer park, six golf courses and Ascot Racecourse. Windsor Castle is an occupied Royal Palace and therefore not in Crown Estate ownership.

51. The 1961 Act requires The Crown Estate to maintain the character of the Windsor Estate as a Royal Park and forest. Subject to that requirement, the Act allows use of the Estate for commercial purposes and access to the public for recreation.

52. Our objectives are therefore to ensure that the Windsor Estate remains a valuable historic, national asset; to maintain and improve the stewardship of the Estate; and to enable millions of people to make use of the various facilities.

53. The challenge is to ensure that as far as possible we offset the costs of complying with our statutory obligation to maintain the Windsor Estate by identifying and maximising sources of revenue. The cost of maintaining the Windsor Estate in 2008–09 was £8.3 million which was offset by revenue of £6.3 million from commercial and residential property, agriculture, visitor revenue, the sale of timber and Christmas trees and filming on the Estate.

#### IN CONCLUSION

54. The Crown Estate is first and foremost a commercial organisation. The diversity of its portfolio spreads risk and provides commercial benefit. The Crown Estate is engaged in issues of major importance—urban development, offshore energy generation and sustainability in the rural economy. Recognising the potential of the assets under our control, we manage them actively and with a long-term perspective.

*January 2010*

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#### **Further written evidence submitted by The Crown Estate (Crown Estate Commissioners)**

##### SCHEDULE OF THE CROWN ESTATE’S PROPERTIES, RIGHTS AND INTERESTS AS AT DECEMBER 2009

This schedule details The Crown Estate’s properties by reference to the four main Estates (Urban, Rural, Windsor and Marine). It draws a distinction between property which is ancient possession or a modern acquisition. Rights and interests are detailed in section 5 (*Other Rights and Interests*).

For the sake of conciseness, this schedule includes only properties with areas greater than 1,000m<sup>2</sup> (for the Urban Estate) and greater than 10ha (for the Rural, Windsor and Marine Estates).

The information and figures used in this schedule are as at December 2009.

1. URBAN ESTATE		Classification and area (in m <sup>2</sup> )*							Ancient Possession?
County/Unitary Authority	Estate description	Office	Retail	Other**	Residential	Industrial			
<i>England</i>									
Berkshire	Kings Ride Park industrial estate, Farley Hall and Kingswood offices, Berkshire	12,800	500	3,000	—	6,000		No	
Buckinghamshire	Bath Road Retail Park, Slough	—	19,000	—	—	—		No	
Cambridgeshire	Unit G, Magna Park, Milton Keynes	—	—	—	—	60,500		No	
Cheshire	Cambridge Business Park	29,000	—	—	—	—		No	
City of Bristol	Chester Castle	1,000	—	2,000	—	—		Yes	
Cumbria	Honda vehicle depot, Avonmouth	—	—	—	—	167,000		No	
Devon	Carlisle Castle	2,500	—	500	—	—		Yes	
Essex	Princesshay, shopping centre, Exeter	1,700	28,500	500	—	—		No	
Greater Manchester	Hoe, Plymouth	—	—	4,000	—	—		Yes	
Herefordshire	Zenith Industrial Estate, Basildon	—	—	—	—	18,500		No	
Hertfordshire	Queensgate Centre retail park, Harlow	—	21,000	—	—	—		No	
Isle of Wight	Altrincham Retail Park	—	20,500	—	—	—		No	
Central London	St James' House, Manchester	6,500	—	—	—	—		No	
	Superstore, Hereford	—	6,500	—	—	—		No	
	The Willows Business Park, Hemel Hempstead	—	—	—	—	5,500		No	
	Abbey View Campus, St Albans	8,000	—	—	—	—		No	
	Carisbrooke Castle	—	—	69,000	—	—		Yes	
	Osborne	—	—	4,500	—	—		No	
	Royal Mint Court and offices in Holborn Viaduct and Farringdon Street, City of London	54,500	500	—	—	—		No	
	St James's (including: Haymarket, Lower Regent Street and Pall Mall)	281,500	41,500	30,500	14,000	—		In part	
	Kensington Palace Gardens and Palace Green	—	—	—	991,000	—		No	

County/Unitary Authority	Estate description	Classification and area (in m <sup>2</sup> )*							Ancient Possession?
		Office	Retail	Other**	Residential	Industrial			
	Lee Green	—	—	—	5,500	—	—	—	
	Millbank	18,500	—	—	18,000	—	—	—	No
	New Oxford Street	18,000	—	—	—	—	—	—	No
	Park Lane	2,000	3,000	2,000	—	—	—	—	Yes
	Regent's Park (including Cumberland Market)	19,500	500	38,500	1,153,000	500	—	—	In part
	Regent Street	108,500	208,500	28,000	5,000	—	—	—	In part
	Stamford Street	—	—	—	42,000	—	—	—	No
	Trafalgar Square and The Strand	6,000	1,500	13,000	—	—	—	—	In part
	Victoria Park	—	—	—	30,500	—	—	—	No
	Whitehall and Victoria	47,000	18,000	—	—	—	—	—	In part
	Blackheath and Eltham	1,000	2,500	9,500	#2	—	—	—	Yes
	Carlsberg, Marlow Way, Croydon	—	—	—	—	7,500	—	—	No
	Hampton	—	500	500	—	—	—	Yes	
	Victory Business Centre, Isleworth	—	—	—	—	4,000	—	—	No
	Richmond and Sudbrook	3,000	—	10,000	—	1,000	—	—	Yes
	Weir Road Industrial Estate, Wimbledon	—	—	—	—	10,000	—	—	No
	Trinity Gardens and Stockbridge House, Newcastle	14,500	—	—	—	—	—	—	No
	The White Lodge Business Estate, Norwich	—	—	—	—	33,500	—	—	No
	Crick Distribution Depot	—	—	—	—	4,500	—	—	No
	Oxonian Park Industrial Estate, Oxford	—	—	—	—	12,000	—	—	No
	Taunton Industrial Estate	—	—	1,000	—	27,000	—	—	No
	Guildford	24,000	—	—	—	—	—	—	No
	Oxshott	—	—	2,000	—	—	—	—	No
	Scottish Equitable House and Atwood House, Birmingham	1,000	4,000	—	—	—	—	—	
	Faraday Park, Swindon	—	—	—	—	11,000	—	—	No
	Crown Gate Shopping Centre, Worcester	—	31,000	—	#	—	—	—	No

County/Unitary Authority	Estate description	Office	Retail	Other**	Classification and area (in m <sup>2</sup> )*		Ancient Possession?
					Residential	Industrial	
Scotland							
City of Edinburgh	39-41 George Street, Edinburgh	2,000	1,000	—	—	—	No

## Notes

\* Areas have been rounded to the nearest 500m<sup>2</sup>.

\*\* Properties which cannot be classified as being used as office, retail or industrial space. The types of "other" usage includes: The marine biological building at Plymouth Hoe, clubs, hotels, educational and medical centres (for example the Royal College of Physicians and the London Business School), car parks, a police station, leisure facilities (for example, golf clubs), yachting and boat facilities, Palaces (for example the Palace of Richmond) and a village hall.

#! These estates contain some residential properties. The Blackheath and Eltham Estate has 130 residential tenancies. The Richmond and Sudbrook Estate has 51 residential tenancies. The Worcester Estate has 15 residential tenancies.

## 2. RURAL ESTATE

County	Estate description	Area (in hectares)*	Classification	Ancient Possession?
England				
Bedfordshire	Chicksands	100	Forestry	No
Cambridgeshire	Holmewood	550	Agricultural	No
Cheshire	Delamere	50	Minerals/Derelict building	Yes
	Tabley	1,450	Agricultural	No
Cumbria	Aldingham	250	Agricultural	In part
	Muchland and Torver	950	Common Land	Yes
Devon	Rosehill Farm	50	Agricultural	No
Dorset	Bryanston	2,000	Agricultural	No
	Bryanston Forest	150	Forestry	No
	Portland	250	Common Land/Minerals	In part
East Riding of Yorkshire	Derwent	900	Agricultural	In part
	Gardham	450	Agricultural	No
	Garton-on-the-Wolds	800	Agricultural	No
	Sunk Island	4,650	Agricultural	No
	Swine	2,100	Agricultural	In part



<i>County</i>	<i>Estate description</i>	<i>Area (in hectares) *</i>	<i>Classification</i>	<i>Ancient Possession?</i>
Essex	Stapleford Abbotts	1,450	Agricultural	In part
	Feering	50	Agricultural	No
Gloucestershire	Clearwell	400	Agricultural	No
Hertfordshire	Gorhambury	1,400	Agricultural	No
	Putteridge	1,350	Agricultural	No
Kent	Neats Court (Isle of Sheppey)	250	Agricultural	In part
	Romney Marsh	3,700	Agricultural	No
Leicestershire	Gopsall	3,050	Agricultural	No
	Gopsall Forestry	150	Agricultural	No
Lincolnshire	Billingborough	5,700	Agricultural	In part
	Ewerby	1,750	Agricultural	No
	Friskney	1,250	Agricultural	No
	Louth	1,900	Agricultural	No
	Whaplode	2,750	Agricultural	In part
	Wingland	4,200	Agricultural	No
Norfolk	Croxton	3,550	Agricultural	No
	King's Lynn	6,050	Agricultural/Salt marsh	No
Northamptonshire	Ashby St Ledgers	650	Agricultural	No
North Yorkshire	Boroughbridge	1,350	Agricultural	In part
Nottinghamshire	Bingham	3,500	Agricultural	No
	Laxton	750	Agricultural	No
Oxfordshire	Wychwood	500	Agricultural	Yes
Somerset	Dunster	2,600	Agricultural	No
	Dunster Woods	1,450	Forestry	No
	Taunton	4,050	Agricultural	No
	Taunton Forestry	900	Forestry	No
Staffordshire and Shropshire	Patshull	1,650	Agricultural	No
	Patshull Forest	250	Forestry	No
Surrey	Oxshott	700	Agricultural/Woodland	No

<i>County</i>	<i>Estate description</i>	<i>Area (in hectares) *</i>	<i>Classification</i>	<i>Ancient Possession?</i>	
Wiltshire	Devizes	4,150	Agricultural	No	
	Savernake	4,000	Agricultural	No	
Wales	Tintern	50	Agricultural	No	
	Aberystwyth	50	Agricultural	No	
	Plynlimon	1,200	Agricultural	In part	
	Welsh Commons	26,900	Agricultural/Common Land/ Minerals	Yes	
Scotland	Stirling	200	Grazing/Leisure	In part	
	Applegirth	6,850	Agricultural	No	
	Applegirth Forestry	650	Forestry	No	
	Fochabers	4,650	Agricultural	No	
	Fochabers Forestry	200	Forestry	No	
	Glenlivet	18,550	Agricultural	No	
	Glenlivet Forestry	3,800	Forestry	No	
	Whitehill	1,400	Agricultural	No	
	Whitehill Woods	250	Forestry	No	
	Dumfries and Galloway	Stirling	200	Grazing/Leisure	In part
		Applegirth	6,850	Agricultural	No
		Applegirth Forestry	650	Forestry	No
Fochabers		4,650	Agricultural	No	
Fochabers Forestry		200	Forestry	No	
Glenlivet		18,550	Agricultural	No	
Glenlivet Forestry		3,800	Forestry	No	
Whitehill		1,400	Agricultural	No	
Whitehill Woods		250	Forestry	No	
Moray		Stirling	200	Grazing/Leisure	In part
		Applegirth	6,850	Agricultural	No
		Applegirth Forestry	650	Forestry	No
	Fochabers	4,650	Agricultural	No	
	Fochabers Forestry	200	Forestry	No	
	Glenlivet	18,550	Agricultural	No	
	Glenlivet Forestry	3,800	Forestry	No	
	Whitehill	1,400	Agricultural	No	
	Whitehill Woods	250	Forestry	No	
	Midlothian	Stirling	200	Grazing/Leisure	In part
		Applegirth	6,850	Agricultural	No
		Applegirth Forestry	650	Forestry	No
Fochabers		4,650	Agricultural	No	
Fochabers Forestry		200	Forestry	No	
Glenlivet		18,550	Agricultural	No	
Glenlivet Forestry		3,800	Forestry	No	
Whitehill		1,400	Agricultural	No	
Whitehill Woods		250	Forestry	No	

*Notes*

\* Areas have been rounded to the nearest 50 ha.

## 3. WINDSOR ESTATE

<i>Windsor Estate</i>	<i>Classification</i>	<i>Area (in hectares) *</i>	<i>Ancient Possession?</i>
Commercial & Residential	Offices, retail and hotel	250	In part
Leisure	Golf Clubs/Ascot Racecourse	250	
Agriculture	Farms	1,200	
Parkland	Home Park/Great Park	1,600	
Forestry	Woodland areas	3,100	

*Notes*

\* Areas have been rounded to the nearest 50 ha.

## 4. MARINE ESTATE

<i>Estate</i>	<i>Description</i>	<i>Ancient Possession?</i>
Foreshore (tidal land between Mean High Water and Mean Low Water*)	Approximately 55% of the UK's foreshore (Non-Crown Estate ownership is geographically scattered and includes some substantial areas of coastline, eg Cornwall and Lancashire, vested in the respective Duchies).	Yes
Territorial seabed	All the UK's seabed from Mean Low Water* to the 12 nautical mile limit.	Yes
Continental shelf & extra-territorial rights	Sovereign rights of the UK in the seabed and its resources vested by the Continental Shelf Act 1964 (sub-soil and substrata below the surface of the seabed, but excluding oil, gas and coal), the Energy Acts 2004 (renewable energy) and 2008 (gas and carbon storage).	No

*Notes*

\* The definition of foreshore limits is slightly different in Scotland.

## 5. OTHER RIGHTS AND INTERESTS

<i>Other Rights and Interests*</i>	<i>Description</i>
Bluewater and Solihull shopping centres	The Crown Estate has a 4.97% share of Lend Lease Retail Partnership which provides an equity interest in both Bluewater Shopping Centre, Kent and Touchwood Court Shopping Centre, Solihull.
Fort Kinnaird shopping park, Edimburgh; Gallagher retail park, Cheltenham; The Shires retail park, Leamington Spa and Crown Point shopping park, Leeds	50% interest
Retail/office buildings, Princes Street, London W1	66.67% interest
Savoy Estate Appointment	Right to receive 23% of the income from the Duchy of Lancaster's Savoy Estate in London
Minerals	Mineral rights in land where The Crown Estate does not own the surface interest (approximately 115,000 hectares)
Mines Royal	Gold and silver in mineral strata in the UK.
Salmon fishings (Scotland only)	Salmon fishings in both tidal and non-tidal waters (if not granted to third parties)
Native mussels and oysters (Scotland only)	Ownership of wild crustaceans (not cultivated)
Reverters and contingent interests	— Properties sold by The Crown Estate for public benefit with a reverter clause, eg on cessation of educational or religious use. — Hereditary properties of the Monarch currently in Government use, which revert to The Crown Estate in the event of the Government use ceasing.

*Notes*

\* Certain very minor historic rights of no commercial significant are omitted.

February 2010

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### Written evidence submitted by Gills Harbour Ltd

1. I write as a director of Gills Harbour Ltd, a community-owned small port in a rural area at the head of Gills Bay, an inlet on Scotland's North Coast on the mainland shores of the Pentland Firth, c 4 miles west of John O'Groats.

2. It fully supports the imaginative sea-bed leasing programme in nearby waters that the Crown Estate is currently conducting, in the hope and expectation that this will provide employment opportunities in what is a "remote" area in the UK, in line with our body's long-held objectives.

3. Harnessing the kinetic energy in the fast-flowing tidal streams of the E. Pentland Firth by consortia awarded sea-bed leases by the Crown Estate should provide UK with its single largest reliable resource for generating renewable electricity; perhaps as much as the output of six or more modern nuclear power-stations if cost-effective generation can be demonstrated, of which a proportion should be 24/7 "base load" electricity.

4. All of the soon-to-be announced leases are in the narrowest East Pentland Firth, where the tidal stream flows most swiftly. All are easily and safely accessible from Gills here. The expectation is that the Pentland Firth will become not only productive, but will prove a realistic "test-bed" for UK based companies to display capabilities "honed" here to many countries seeking to harness near-coast sea-currents.

5. As a Crown Estate spokesperson stated on 28.10.09: "We established the industrial-scale wave and tidal energy programme, the first of its type in the world, to accelerate the commercialisation of this embryonic industry that was struggling to obtain opportunities at the appropriate scale".

6. A "prize" of national and international importance is thus held before us, with more seabed lease bidders than initially anticipated having hurdled the first barrier to obtain "preferred" status.

7. Success should lead, over the coming years & decades, to a very large investment running into billions of pounds, perhaps starting in earnest from c 2015 onwards.

8. This will happen if harnessing the Firth's tidal streams proves capable of generating renewable electricity competitively as well as reliably and so makes an anticipated large contribution to meeting the UK's and Scotland's CO<sub>2</sub> reduction targets.

9. The Crown Estate sea-bed leasing "regime", as confirmed by the UK Parliament in the 2004 Energy Act, is proving crucial as a launch-pad stimulus to this process.

10. It is concentrating minds and efforts at securing this desirable "goal", especially by bringing together (generally under-capitalised) inventors/developers of tidal stream generating devices and innovative turbine engineering companies including Rolls Royce, with major international energy corporations as joint lease applicants. It has also stimulated the activities of contractors with specific areas of expertise.

11. The analogy is that, at present, the development of tidal stream turbines is roughly at the stage aviation was in the era of Louis Bleriot; there is still no agreement as to whether (a) adapted two-way aerogenerators, (b) ducted systems to perhaps double the velocity of the streams and control its "aim", (c) "polo-mint" style devices with induction coils in a casing holding a spinning circular device or (d) others should be preferred.

12. The fact that by 2015-16 several systems are expected to be installed will show the most efficient ones, on which any scarce public funding can be concentrated. With a number of devices being installed, a failure of one may not doom the whole concept.

13. We were pleased by the announcement in November, 2009, by the National Grid and its associate SHETL (Scottish Hydro Electric Transmission Lines) of its choice of Gills Bay as the land-fall "hub" for sub-sea power-lines from tidal-stream generating devices deployed on the seabed.

14. National Grid's Martin Moran concurrently stated its intention of building a new overhead 132 kV overhead wooden-poles grid-line from Gills Bay to Dounreay, 25 miles along the North coast, in line with demand for E Pentland Firth seabed connections from 2015 onwards, with a 340MW capacity.

15. Dounreay is the present terminus of the National Grid, built in the late 1960s/early 1970s to provide connection with the publicly-funded, plutonium-fuelled Prototype Fast Reactor (PFR) there.

16. This concept, that relied on "transmuting" (by controlled irradiation) large British-held supplies of depleted uranium into the former (ie Pu) was seen from the early 1950s to the late 1980s as a main way for the UK in the 21st C to generate non-polluting (and largely CO<sub>2</sub>-free) electricity. It promised UK self-sufficiency, without relying on fuel imports, such as coal and gas, for burning to "boil" water supplying turbine-spinning steam at British power stations.

17. For various national and international reasons the "fast reactor" system was not adopted. Now the PFR, its "dome-housed" DFR predecessor and the associated then "state of the art" engineering and chemical complex is being decommissioned/cleaned-up/demolished, with shut-down expected for 2025.

18. For over 50 years Dounreay has provided good-standard employment for c 2,000 persons allowing young persons in “remote” Caithness (popn 26,000) the opportunity of secure employment with quality engineering training that has proved transferable/adaptable to other energy sectors, especially oil & gas in the North Sea and worldwide. Essentially, no other part of Scotland is within day “travel to work” range of Caithness.

19. It has left a legacy of a small, but significant, group of high-tech energy engineering companies in Caithness, who should be able to participate in the development of “commercial-size” marine electricity generating devices.

20. Our responsibility, as unpaid community company directors, is to manage/develop Gills Harbour in a sustainable manner “for the encouragement of employment through trade, commerce, industry, transport, energy and marine activities (including leisure) at, or in the vicinity of, the harbour”.

21. This reflects the aim of diversifying the local rural economy (then away from small-scale “crofting” agriculture) that was fundamental to the building of the “original” 150-yard-long Gills pier in 1905, broadly as the first phase of a “steamer terminus for the Orkney trade”.

22. We understand that the policy for “renewable” electricity is that it should provide quality employment and investment in rural communities, not just in towns and cities. We also want to see school-leavers with no or few qualifications to obtain jobs/training. It would be untruthful to classify this as a “poverty-stricken” area, yet there is a steady yearly flow of younger people away to towns and cities, that has seen services decline: (eg local Post Offices closed).

23. Tidal stream and wave-power electricity are frequently confused in the public mind, mainly because no marine generating devices have, as yet, evolved beyond the prototype stages. (ie there are no proven devices in either category available “off the shelf”.)

24. The Crown Estate’s innovative leasing procedure in waters off the North of Scotland (“the Pentland Firth and Orkney Islands area”) involves both marine energy types.

25. It has stated publicly that successful licence awards in March/April 2010 will be split 50/50 between the two categories that promise to harness two fundamentally different sources of energy in sea-water, with both needing to be scaled up/proven for commercial viability, hopefully during the coming decade.

26. The Crown Estate’s lease area of interest to wave-power consortia lies close to the North shores of Caithness and Sutherland west of Thurso/Scrabster and off Orkney’s West Coast, while successful tidal stream groups will gain seabed leases in the E. Pentland Firth, as above.

27. The 17 miles long channel stretches east from Dunnet Head, is six to eight miles wide, with an average depth of 60–70 metres; it is a major international “choke-point” trade artery. All generating devices will have to provide 20m clearance from the sea-surface to ensure the free passage of merchant shipping in the main channel; this is guaranteed by the UK Government’s signature of an UN protocol, although the Pentland Firth lies wholly in the UK territorial sea.

28. Its characteristic is the strength of its currents (tidal steams, governed by lunar gravity, not weather) that reverse twice-daily, broadly in line with ebbs and flowing tides. Those regularly exceed 10-12 knots with scientists claiming that as much as 3 million tonnes of seawater per second at peak moves from the Atlantic Ocean into the North Sea and vice-versa.

29. The “nub” of this correspondence relates solely to tidal stream electricity (essentially horizontal salt-water hydro-electric power) for which we believe that Gills Harbour has a clear advantage over all other Scottish mainland bases ; we have not been approached by any potential wave-power developer, nor do we expect to be. Harbours at Scrabster, a suburb of Thurso, Caithness, and Stromness, Orkney are better-sited as wave-power bases.

30. Gills Harbour consists of two parts; (a) an enclosed Inner Basin that is in the process of being deepened and otherwise enhanced by our body to better cater for the needs of Pentland Firth tidal stream developers being granted Crown Estate rights in waters immediately offshore from here, with this phase completed by Spring this year and (b) the ferry terminal (incl. vehicle marshalling area/ferry link-span/terminal/ferry berth/breakwater + terminal buildings) for Pentland Ferries Ltd, with whom it has a PPP-style agreement; in this case, “public” means not citizens UK-wide, but electors listed in the “Gills Defined Area” in Canisbay parish, Caithness.

31. The little port (the site of the original 150 yard-long pier was donated to our predecessor body over a century ago) lies at the head of Gills Bay, well inside the Firth’s Inner Sound tide-streams; it is also clear of swells originating in the North Sea, while the breakwater/berth (see below) provides protection from the prevailing Atlantic-origin westerly swells.

32. It is substantially protected from “fetch” waves by the isle of Stroma and “chain” of Orkney islands stretching 14 miles along from Old Head in South Ronaldsay to Tor Ness on Hoy’s West coast; those isles lies 8–10 miles away. Its wave-fetch “vector” is only c 25 degrees out of 360; much superior to other Caithness mainland ports.

33. The upgrading referred to above has been/is being funded entirely from our own (modest) funds, after listening to the wishes of prospective tidal stream developers. It is, we believe, the first tangible piece of infrastructure enhancement in the area of maximum interest for the safe development of this nascent tidal stream industry.

34. Hopefully this will be the first of several phases of improvements at Gills Harbour; we are being pressed by some developers to have a longer-term programme (of say 15 years) of facility enhancements drafted.

35. We disagree with the criticism about Crown Estate “delays” in the tidal stream leasing process made public last October by John Thurso, MP. We support the Crown Estate’s role in what is a UK seabed leasing “first” and fully acknowledge its difficulties in both judging the technological and financial suitability of applicants or consortia and producing legally-binding contracts that meet with European Law (eg there has to be environmental impact assessments conducted for tidal-stream generating device emplacement).

36. We do not believe that a Spring 2010 award announcement will in any way adversely affect the Crown Estate’s ambitious target of generating c 700 MW of electricity from its licensing area (both wave and tidal steam) in the far North of Scotland by 2020. Both it and HM Treasury have a vested interest in success.

37. I can confidently state that no Gills Harbour office-bearer/director was consulted by the MP prior to his public criticism of the Crown Estate; we made our disagreement with his outburst quickly known to its officials, with whom we had a subsequent meeting, where our delegates were treated with the “courtesy” and “professionalism” that we expect from this body and it was pointed out to us that likely demand for harbour berths could exceed availability/supply.

38. We have no views on either the Crown Estate’s management of its urban estate, nor its rural lands nor Windsor Castle and Royal Parks, all of which feature in your Inquiry, (as per your 09.12.09 intimation) apart from stating the obvious that it must be doing things broadly correctly to have been able to deliver profits regularly to HM Treasury for centuries.

39. The future role of the rapid tidal streams could be significantly enhanced if the hypothesis proposed by our long-term treasurer Billy Magee is proven, as (broadly) looks likely. (see below).

40. We believe that, for certain classes of vessels involved/likely to be engaged in this Crown Estate-inspired tidal-stream electricity project of national importance, Gills Harbour offers clear advantages to users over all other (Scottish) mainland ports; we know that this view is shared by many of the tidal stream developers. In general, they are resistant to chartering oil-rig supply tenders, typically 70m–80m in length, because of high day-rates costs, with crude oil priced internationally at c \$80 per barrel.

41. From Gills Harbour small, but powerful vessels of, say, 15m–25m length involved in conducting sea measurements (current strengths, precise stream directions and related time-variables), detailed sea-bed scanning surveys/analysis and sea-bed soil samplings plus assessments of wave-heights/depths and their interaction with the tide-streams and wind-driven swells from across the Atlantic at various stages of the twice-daily rise and fall “tidal regime”, can gain year-round all-tides access to/from here to all the major licenced “tidal stream” areas in the Firth.

42. The convenience of a Gills Harbour base is underlined by pointing out that using it will allow year-round access to the Crown Estate’s leased areas for vessels (includes catamarans) as above without the need of transiting the “broken waters” (ie in layman’s language “rough seas”) of the two main tidal races on the Pentland Firth’s southern side.

43. Those are (a) The Merry Men of Mey, which starts on each twice-daily ebb-tide just west of St. John’s Point, Gills Bay’s western extremity and (b) the Bores of Duncansby, a flood-tide phenomenon.

44. The “Men” fans during the next six hours outwards in a NW direction to a maximum width of two miles as broken seas from there to Hoy (Orkney) during the west-flowing ebb stream; the Admiralty cautions that, with West or North West gales, the violence of the multi-directional breaking seas “can hardly be exaggerated”.

45. The Bores, sometimes misnamed as the “Duncansby Race”, are active on the daily 12 hours of east-flowing floodtide, and is the twice-daily area of breaking swells seen just offshore from John O’Groats, “working” on even the calmest days. This is said to have been known by 18th century sailors as “Hell’s Mouth”.

46. A recent Fatal Accident Inquiry (6.09) held in Kirkwall, Orkney, into the tragic deaths of two Indian seamen swept off their feet and on to protruding deck machinery by 8 metre swells while working securing anchors on deck on the 74,000 tonne Singapore tanker FR8 Venture shortly after the vessel entered the Pentland Firth from Scapa Flow (at the planned start of a voyage carrying a crude-oil cargo to Houston, Texas) on 11.11.06, may have shed some light on winter Pentland Firth swell conditions.

47. In evidence, Captain James Winterburn, of the Scrabster-Stromness ferry Hamnavoe, stated that breaking seas of 8m were not unexpected in the accident scene to the south of Hoy, adding that he had encountered 12 m swells (c almost 40’) in the Firth. Captain Winterburn’s ferry was in visual range of the laden tanker at the time. This is the winter reality of the Men of Mey area.

48. It is not possible to gain sea access to any of the prospective Crown Estate licensed Pentland Firth tidal stream areas (eg for inspection/regular maintenance) from any Scottish mainland port apart from Gills Harbour, without having to sail through such “wild water” zones, either while outward or inward bound.

49. This has important implications for (a) productivity and (b) for the recruitment of young graduate/craft-skilled engineers needed to bring Pentland Firth tidal-stream electricity “on line”; renewable companies typically pay marginally below oil & gas industry rates. Nothing would disillusion young staff more quickly than having to sail through such waters daily to get to their workplace, when they could travel by road to Gills Harbour and get safe sea-passage to the Crown Estate leased areas from there, without facing such discomfort or even dangers.

50. We have consistently stated to would be developers that winter experience for “manpower and machinery” is essential. We believe that that this message has been/is being taken “on board”. (In this context, “manpower” includes females and “machinery” means “tidal stream generating devices deployed in the E Pentland Firth”).

51. My fellow-director William Simpson and myself both told the Crown Estate’s Scottish Marine Energy Manager Mr Alasdair Rankin that it is more important to get things “right”, rather than “early” at a meeting shortly after the MP made his criticism public.

52. The Lib Dem representative did not state that he was a former chairman of the Harbour Trust at Scrabster, Caithness c 16 miles from here; but at the “wrong” (ie west) side of the Men of Mey tide-race on the ebbs from the Crown Estate’s tidal stream lease areas.

53. We have unencumbered ownership/control over the Inner Basin being deepened plus adjoining areas; it is adjacent to our 8m wide hard slipway, the area’s best, and to Council’s modern access road, also 8m wide, from the A 836 and so on to the UK main road network. Our South Quay lies adjacent to this Council road.

54. This route to the Gills Harbour ferry terminal carries much of Orkney’s (population c 20,000) “import/export” trade by articulated HGV trucks: (eg building supplies, groceries etc. inwards; “vivier” shellfish trucks, live sheep, beef products and salmon outwards). Gills Harbour is the Mainland base for the 50 full-time job equivalent shore and ship-based officers, crews and staff employed by Pentland Ferries, almost all of whom reside locally.

55. It puts no drain on the resources of HM Treasury, for this is the only un-subsidised year-round RO/RO service to any Scotland’s offshore islands. Records of Gills Bay’s use for Orkney (popn c 20,000) crossings go back to the late Middle Ages.

56. The ferry operates across the traditional “short sea route” from NE Caithness to Orkney; the quickest and most sheltered route to the island group with St Margaret’s Hope, its island terminus, being on Orkney’s main road network, via the Churchill Barriers.

57. In contrast, the longer, (28 miles) more exposed route crosses the Western approaches of the Pentland Firth from Scrabster, Caithness to Stromness, Orkney. It is operated by North Link Ferries, part of Caledonian McBrayne, the (Scottish) state shipping line, and gets c £10 million in annual taxpayers’ subsidy, guaranteed under the current contract until 2012, for passengers only.

58. The European Commission forbids freight subsidies, as there is a commercial operator Pentland Ferries Ltd serving the same Orkney Islands market year-round from Gills here.

59. The revenue cost to UK taxpayers of the W. Pentland Firth crossing alone will be near £100 million in the period 2001–12; at a time when its Gills rival can do it commercially and yet find more than £15 million from revenue income to fund a brand-new vessel, plus undertaking major port enhancements here.

60. The former is broadly equal to £70:00 for every passenger who steps on board the c 8,600 tonne mini-liner ferry Hamnavoe, (three times the deadweight tonnage of its P&O Ferries predecessor) owned by the Royal Bank of Scotland, in a lease deal negotiated by Scottish transport civil servants during Sir Fred Goodwin’s heyday.

61. Almost £20 million of public money was spent less than a decade ago in building a deep-water pier at Scrabster to “accommodate” the above.

62. We supported this, although its value as an Orkney ferry terminal was negligible. The pier would be useful for “alongside” berthing of summer cruise liners, and we (and others) believed that it could become the primary Mainland offshore supply base for the large “new Atlantic Frontier” oil and gas-fields, west of Shetland. However winter sea-conditions alongside the pier thwarted this, with the main international offshore engineering business pulling out after three years; although some oil-tenders continue to use Scrabster.

63. At Gills Harbour, we have had a 20-plus year policy of not criticising Scrabster’s Trust; but some members/directors have doubts if this is being reciprocated as regards small-vessel suitability for E Pentland Firth tidal stream developers.

64. The ex-Gills year-round thrice-daily service is popular and profitable. Last year Pentland Ferries replaced its ageing RO:RO ship Claymore with a vessel designed for the 15-mile route; the brand-new £10 million 70 m long catamaran vessel Pentalina.



65. Pentland Ferries MD is Andrew Banks, of St Margaret's Hope, Orkney. His business acumen has been widely admired in the Scottish transport industry and beyond; it could be a "plus" factor in attracting private-sector tidal-stream developers to Gills.

66. Pentland Ferries' vehicle marshalling area and terminal buildings are constructed on reclaimed inter-tidal foreshore owned by our community body.

67. But its 100m long breakwater/berth, an imaginatively internally and externally strengthened recycled former dry-dock, is emplaced on pre-levelled seabed owned by the Crown Estate. The "interior" of the former dock is in-filled with rock-spoil ballast removed from the main Gills Harbour entrance channel in a continuing one-off dredging operation. There is a natural depth of c minus 4 metres LAT (lowest astronomical tide) at the seaward end of the breakwater, dredged inwards from there. There is negligible silting at Gills.

68. We at Gills Harbour Ltd are not parties to the agreements between the Crown Estate and Pentland Ferries that have secured "almost always" access for its modern ship. There has never been a problem in a safe crossing of the Firth from here, only with the inter-face with the land, but the arrangements between those two parties has enabled a solution to be found.

69. The breakwater/berth has also sheltered our Inner Basin, which had previously been subject to small, but significant, swells during strong or gale-force NW winds. Even if the Crown Estate were not acting itself as "enabling agent and driving force" for E. Pentland Firth tidal stream developments, operators would have still have to thank that body for enabling significant safety improvement here.

70. The biggest mobile crane available in Caithness can also use the Gills Harbour council access road; recently an operator lifted a 15 m 30 tonne tender boat on to our adjacent South Quay for prop-shaft repairs etc.

71. At the first "Caithness after Dounreay" Conference in 2006, then Energy Minister Rt. Hon. Malcolm Wicks publicly pledged taxpayers' money support for generic Pentland Firth tidal energy research, as against providing grants to generating device developers, as previously.

72. Amongst the academic/research bodies Involved is the Environmental Research Institute, part of the University of the Highlands and Islands project at Thurso, Caithness, that co-operates with other (mainly UK) universities in its studies into the nature of the Pentland Firth's ever-changing fast-flowing water-column.

73. Its research catamaran Aurora is normally based at Gills Harbour, with one of our directors William Simpson as skipper; the Simpson family own nearby Stroma island, that they use as a sheep-farm etc, serviced from here.

74. The residual knowledge-base about the detailed timings, strengths and variables of the complex tidal-streams in the areas being presently being licensing by the Crown Estate lies with professional small-boat sailors here and in other coastal ports of NE Caithness; Willie Simpson and Billy Magee are amongst the most knowledgeable of the present generation and their expertise has been/is being regularly sought by several would-be developers or their sub-contractors.

75. This expertise peaked in Victorian times when skilled local pilots used small sailing/rowing "yoles" (clinker-built wooden dories of c five to six metres long, with Viking-era antecedents) to access windjammers, and so played a key part in the ensuring the flow of products from East to West coast Britain, plus from the former and from much of NW Europe to/from North America and beyond.

76. The Pentland Firth pilots learned to extract every ounce of forward movement from the tide-streams at all different stages of the twice-daily tide cycle and in almost all weather and swell conditions to safely guide their cargo-ship "charges" through the channel.

77. They knew that, by "tacking" in the narrow confines of the Firth, they could guide those sailing-ships against the wind, but never proceed against a tide-stream. This was important in the era before certificated ships' masters and enforced by marine insurers, who insisted on local pilots being hired for Pentland Firth transits, on pain of otherwise denying cover.

78. As well as pilotage, cod fishing by hand-line (for salt-dried export to S. Europe) from wide-painted "yoles" was a 18th–19th C staple of the local economy ; again detailed knowledge of the tide-streams in ever-varying wind and swell conditions was essential, as it was only during the tide-turn ("slack water" locally) that fishing lines could be dropped plumb to the "catching zone" a few metres above the sea-floor.

79. There is known to be a wide variation in the times of "high water" in very short distances both along the southern shores of the Firth and outwards from the coast; the Magee Hypothesis suggests that this variation can be utilised, by judiciously emplacing arrays, so that round-the-clock electricity generation becomes possible.

80. Billy Magee is one of only a handful of persons with a lifetime's experience of using (motorised) yoles in those waters. An important aim of the multi-million pound research programme currently under way is retrieving the 19th C knowledge by electronic means and adding to it with details of the sea-bed topography and other factors; all necessary before generating device deployment takes place.

81. As a Fellow of the Energy Institute, I am well aware that round-the-clock “base-load” electricity (which does not need back-up generation) is more valuable than even the predictable power output that might be normally expected from tidal stream electricity, (ie if there was to be zero generation on the tide-turn periods).

82. As stated, we believe that winter research and development is essential for Pentland Firth tidal stream electricity to reach its hoped-for fruition; this adds to Gills Harbour’s attractiveness as a base for vessels as above, as clearly the “obstacles” of the tide-races (Men of Mey, Bores etc) are at their most potentially-vicious in the windiest season, when sea-swells are at a maximum and daylight hours are short.

83. Several past coastal developments in Caithness that went ahead without prior (or inadequate) winter-season studies, proved economic “disasters”; those include the collapse in a storm of the Wick Bay breakwater project of the 1870s, from which the town’s economy has arguably never recovered; at the time it was the Western world’s biggest fishing port, but now only has two trawlers remaining.

84. Lessons from recent history involve the multi-million pound cost of retro-fitted measures needed to combat the massive seaweed ingress into the main Dounreay Prototype Fast Reactor (PFR) seawater coolant intake in the early 1980s.

85. In 1997, there was the destruction of the “Osprey” wave-power device emplaced by Inverness company Wavegen off Dounreay, which broke up in moderate swells before a single unit of electricity had been generated.

86. This arguably put back the development of wave-power by some years; the most promising concepts, now under test, use different technologies, such as the Pelamis “sea-snake” and the near-shore sea-bed mounted “Oyster” “fresh water hydro” system (by hydraulic pump) currently under test at EMEC.

87. This is the European Marine Energy Centre with offices at Stromness, Orkney that has a wave-power test site nearby and its tidal stream one off the island of Eday, Orkney. Its principal Mr Neil Kermod, has publicly cautioned over the premature deployment of tidal stream devices in the Firth here.

88. The prospect of a multi-billion pound eventual boost and non-polluting electricity generation on a very large scale to the economies of Caithness, Highland, Scotland and the UK, is too great to be put at risk by inadequate preparation; and that means winter studies/works/inspections.

89. Britain is not the only country looking towards tidal stream for future “green power”; but the presence of the world-scale resources of the Eastern Firth’s streams, all easily accessible from Gills Harbour without the need to cross tide-races, could give the UK’s nascent industry an edge in export markets.

90. It is only in winter that the depth of the Firth’s water column affected by heavy swells, or the preponderance (or otherwise) of suspended solids (from sand to seaware and flotsam) can be fully tested.

91. As all tidal-stream generating devices are prototypes, there is a widespread belief in the industry that successful deployment/proving over several winter seasons (perhaps five years) in Pentland Firth will be necessary before large-scale arrays are placed in the water.

92. Of course some persons get agitated about the lack of certainty; but adequate testing allowing any necessary modifications to turbines and operating procedures must be the proper way forward.

93. The detailed scale of the Firth’s renewable electricity potential cannot be accurately predicted until those and other questions are answered, although it is generally thought to be in the region of 6,000 to 10,000 MW. (Perhaps the equivalent to six to eight nuclear or coal-fired power stations).

94. If round-the-clock generation proves difficult or impossible, that implies back-up “pumped hydro” storage, most likely in Scotland’s Great Glen, as with the predominantly “uphill-pumped, secondary hydro” power station at Foyers, on Loch Ness-side. It was built in the early 1970s as the “twin” of Dounreay PFR, (250 MW) where generation output was known in advance to be variable. (To allow for scientific/engineering experiments to take place).

95. All energy costs are closely related to the world oil price; thanks to intervention of taxpayers’ monies collected by the UK Government, the pace of tidal stream development has not slackened. But it would be naive to expect that the global recession will have no effect.

96. Turning locally, we at Gills Harbour think that it should be (economically) feasible to build a possible new quay on the North side of the Inner Basin’s edge that would give a guaranteed depth of c minus 3m LAT, gaining its shelter from the ferry breakwater/berth.

97. Over the coming decade, taxpayers’ funds will be at a premium and will need to be utilised as judiciously as possible; we are mindful of the potential pain, as outlined recently by regulator OFGEM, (Office of the Gas & Electricity Markets) of the higher household energy prices that a substantial switch-over to low CO<sub>2</sub> electricity will mean for consumers on low fixed incomes, including many pensioners.

98. Perhaps there may be a case for an adjudication panel of private and public sector “experts” to advise on the most judicious use of any public monies earmarked for tidal stream infrastructure from Department of Energy and Climate Change, to guard against any “conflicts”. This may be a matter that your Committee might consider commenting on.

99. In the early years of E Pentland Firth tidal stream electricity, the recently announced replacement of the 50-year-old 132kV Beauly to Denny (eg Inverness to Stirling) Grid line by one of 400,000kV, will be essential.

100. Industry leaders consider that it could take as long as a decade after the E Pentland Firth tidal-stream concept is proven before a “high voltage, direct current” (HVDC) cable can be laid from here on the seabed down Britain’s East coast to the main UK electricity markets.

101. The strong possibility that there could be a surplus of “green” Pentland Firth electricity available locally, especially in the early years, should be seen as an opportunity, not a disadvantage. Already there is talk of an energy-hungry computer data-processing complex at nearby Mey; heat for “polytunnel” horticulture is a possibility, or the cultivation of specialist algae, or even hydrogen, as future fuels.

102. It was in 1907 that playwright/political philosopher George Bernard Shaw first drew attention (in a Fabian Society paper) to the power potential of the Pentland Firth that he had observed while crossing on the mail steamer to Scapa Bay (Kirkwall) for Orkney trout fishing holidays. He thought that its electricity output could one day spare miners the drudgery of dark, unhealthy, underground coal “howking”. Aged 91, he came back to that theme in a letter to the Times during the 20th C’s severest freeze-up in 1947; the technology then did not then exist, but now could be within touching distance now, incorporating advances pioneered in the North Sea oil industry.

103. The aftermath of the 1947 winter saw the first studies into the “fast reactor” concept that led to the Dounreay experiment; a development hastened by the “Great London Smog” of 1952, with c 10,000 deaths, the UK’s single largest 20th C environmental disaster.

104. Gills Harbour Ltd is a non-political body, but when it comes to the fields of transport and energy in the UK, politics is unavoidable.

105. The father-figure of the “original” Gills Pier was Dr Gavin Clark, MP for Caithness, who was J. Keir Hardie’s founding Vice President of the Scottish Labour Party; but the necessary legislation was passed by a Conservative administration.

106. Dr Clark was in turn the “mentor” to a young Tom Johnston, who spear-headed, first as Secretary of State for Scotland and then as chairman, the construction of his vision of harnessing Scottish Highland rivers with hydro-electric power stations and associated dams, tunnels, etc during the 1950s/60s; those were built for the public sector, when UK bank interest rates were c 3%. To realise his dream of providing electricity lines to (almost) every home in the thinly populated Highlands, he had to agree to his N of Scotland Hydro-Electric Board selling power to industry in the Glasgow/Edinburgh belt; hence the Beauly to Denny Grid line.

107. Ever since, energy exploitation/production has been the driving force in the economy of the Highlands & Islands. Local MP Sir David Robertson persuaded his Conservative Government in 1954 to choose Dounreay as the site for the UK’s experimental uranium-fired Dounreay Fast Reactor, while, in 1966, a Labour administration picked Dounreay for the follow-up plutonium-burning Prototype Fast Reactor, completed in the early 1970s.

108. By that time the exploitation of North Sea oil and gas was under way with the construction of rig-building yards, other manufacturing facilities, crude-oil terminals etc, to be followed later by manning and servicing of the offshore production platforms.

109. Since the late 1980s there has been growing interest in “renewables” other than the installed hydro; indeed the first serious study of Britain’s offshore tidal streams to highlight the Pentland Firth was conducted for the Harwell-based Energy Technology Support Unit (ETSU) in the early 1990s.

110. At the time of the hydro projects, the UK was deeply indebted (WWII borrowings from the USA), as is now the case, this time due to the effects of the 2008 international banking crisis. Credit scarcity could be a problem; could there be any merit in studying the financing of the N of S Hydro Electric Board in the 1950s to see if any modern lessons are applicable? Ironically, its still-nationalised Norwegian equivalent Statkraft is expected to be part of a successful consortium for a Crown Estate tidal stream licence here.

111. Almost three centuries ago (early 1700s) Gills Bay played an important role in Britain’s first “Industrial Revolution” by supplying blocks of semi-manufactured “soda ash”, an essential ingredient of “fast” dyes for the textile industry, as well as necessary for the mass production manufacture of glass and soap; the alkaline product was made from seaweed harvested from its inter-tidal zone, cut, dried and liquefied in kilns here and then allowed to solidify, before being broken up into smaller “slabs” for onward shipping.

112. Now with the Crown Estate’s licencing of sea-bed areas in the E Pentland Firth, Gills Harbour Ltd hopes and expects to play important role in Britain’s new “marine energy” revolution and invites your goodwill.

113. We at Gills Harbour Ltd are happy to discuss/demonstrate any of the above with any Committee members and provide verbal evidence for cross-examination if requested.

## Written evidence submitted by Highland Council

### INTRODUCTION

Highland Council welcomes the opportunity to contribute to this important inquiry and hopes that the Treasury sub-committee will find its submission of value.

The sub-committee may be aware that Highland Council has campaigned for major reform of the Crown Estate in Scotland for many years. Within its many commitments on the economy, the Council has agreed to continue to seek a strategic shift in the ownership of marine resources by working with the Scottish Government and pressing the UK Government to conduct a full review of the Crown Estates.

In February 2007 Highland Council (with its Highland and Island local authority partners and Highlands and Islands Enterprise published the report titled “The Crown Estate in Scotland—New Opportunities for Public Benefits”. The report did much to clarify the position of the Crown Estate in Scotland and to identify alternative management options that would deliver additional public benefit. Recognising that the Treasury sub-committee intends to look at the rural and urban estates in addition to the marine estate, Highland Council recommends the report to the Treasury sub-committee as an up to date source of information on the Crown Estate in Scotland.

### RENEWABLE ENERGY DEVELOPMENT

In addition to the commitment mentioned above, the Programme for the Highland Council 2009—11 contains a number of commitments designed to support the development of the renewable energy sector in the Highlands. These include specific targets for installed capacity and for the development of marine renewable energy in the Pentland Firth.

The Council recognises the world class skills of the workforce at Dounreay and is committed to working in partnership with relevant agencies and the Scottish and UK Governments to safeguard and enhance the social and economic environments of Caithness and North Sutherland during the Dounreay decommissioning.

With regard to the above points, Highland Council recognises the important influence that the Crown Estate Commissioners have in supporting the achievement of the Council’s goals. As such, the Council wishes to work closely with the Crown Estates Commissioners and all relevant Government and agency partners in the area. Further details of the Councils involvement in marine energy partnerships can be provided if the Inquiry wishes.

A vital concern of the Council’s is that it needs to secure major local financial community benefits (in addition to employment, training and business benefits) from marine energy development around the Highlands and Islands. To this end the Council is now working with the Crown Estate Commissioners and its Highland and Islands local authority partners (via the Highlands and Islands Conveners’ Group) and Highlands and Islands Enterprise to agree a Memorandum of Understanding with the Crown Estate Commissioners.

Highland Council also wishes to see conditions conducive to sustained investment in the Highlands and Islands. The Council accepts that un-necessary delays in allocating leases combined with recent reports of three-fold increases in transmission charges may increase uncertainty, particularly at the early stages of development. Clarity and stability are important prerequisites for potential developers of marine energy. The Council would welcome the Inquiry views on how both can be enhanced.

A further concern of the Council’s is that marine renewable energy development takes place in a sustainable manner that is fully integrated with the marine spatial planning process at a national and local level. The importance of appropriate consultation as part of this process is obvious. Highland Council wishes to see greater efforts to fully integrate the role of the Crown Estate Commissioners with the marine planning process at national and local level in Scotland. This implies a need for greater integration with Marine Scotland, which will shortly have responsibility for marine planning and licensing, with the passage of the Marine (Scotland) Act 2010.

### SUMMARY

Highland Council welcomes the Treasury sub-committee inquiry into the Crown Estate. The Council is committed to seeking a review of the Crown Estate in Scotland and has started to work with the Crown Estate Commissioners towards the delivery of its Programme commitments for the Highlands, via a proposed Memorandum of Understanding. Notwithstanding this work the Council would welcome the Inquiry’s views on opportunities for:

- (a) maximising of local community benefit from marine renewable energy developments;
- (b) reducing uncertainty in support of investor confidence; and
- (c) greater integration of the Scottish Marine Estate with national and local marine planning frameworks resulting from the Marine (Scotland) Act 2010.

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ORAL EVIDENCE

Highland Council notes that the Treasury sub-committee expects to hear oral evidence during February and would welcome the opportunity to contribute further at this stage of the inquiry.

January 2010

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**Written evidence submitted by Project Management Support Services Ltd**

RENEWABLES SECTOR CONSTRUCTION (DESIGN AND MANAGEMENT), (CDM) CONSIDERATIONS

1. In the last decade there has been an exponential growth in the Renewables sector to deliver solutions and projects. Many of the projects have been involved in prototype development and testing and by the nature of this type of pioneer work it is often shrouded in secrecy and resistant to current legislation. This is often the case although most companies now understand the implications of CDM, and the best of these companies do try to make an effort but it is not thorough enough and often unnecessary risks can be taken.

2. It can be argued now that a clear understanding of CDM requirements will work well with overall business model. The Crown Estates are very rigorous in their competency requirements for developers to comply in every respect with proposals and that includes competency in CDM and that general arrangements have minimised risks. It is particularly notable that the estimated cost of a single fatality may cost the Duty Holder up to £15 million pounds. In addition to that the Corporate Homicide/Manslaughter Act are now on the Statute books.

The five duty holders under CDM law are:

- Client.
- Designer.
- CDM-Coordinator.
- Principal Contractor.
- Contractor.

3. Each duty holder has very detailed duties to comply specified in the ACoP (approved code of practice) If we consider these in sequence I will highlight the main areas of concern regarding Renewable projects:

*Client:* The client must adequately resource the project in terms of time and finance and mobilisation of the contractor. He must consult at the earliest stages and appoint a CDM Coordinator.

*Designer:* The designer must advise the Client at the earliest stage to appoint a CDM-C. The CDM-C will be involved in the Design Risk Registers and checking designer competency. Designers must design out risk or show mitigation strategies.

*Principal Contractor:* The principal contractor who may on occasions be also the Client and designer must produce a Pre Construction Information Plan (PCI) which will be audited by the CDM-C. These are key documents and fundamental to the tendering processes within CDM Law.

*CDM Coordinator:* The CDM-C must ensure that all the arrangements are competent and that the right information gets to the right people at the right time. The CDM-C must be trained and competent to comply with Section 4 of the ACoP.

*Contractor:* During the life of a project there will be several contractors all of whom need to be checked for competency. Contractors must also produce Risk Assessments and method statements for all the works that they carry out and that arrangement should be site specific.

CONCLUSION

4. At present there is an opportunity to move forward with the CDM legislation that will enable this industry sector to be safer. The adoption of the Legislation and using it in an applied manner will reduce injuries and fatalities as construction increases rather than forced improvement through multiple deaths and injuries. This should be embedded in Crown Estate Competency requirements and contracts.

January 2010

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**Written evidence submitted by The Renewable Energy Association**

1.1 The Renewable Energy Association represents British renewable energy producers and promotes the use of sustainable energy in the UK. The membership is active across the whole spectrum of renewables, including wave and tidal, electric power, heat and transport fuels. The REA represents a wide variety of

organisations, including generators, project developers, fuel and power suppliers, equipment producers and service providers. Members range in size from major multinationals to sole traders. The membership is about 600, making the REA the largest renewable energy trade association in the UK.

1.2 In order to cover sector-specific issues, a number of Sector Groups have been set up. The Ocean Energy Sector Group was set up to cover wave and tidal energy. It has over 100 members, including several that have direct experience of dealing with The Crown Estate (TCE). The primary focus of the Group is the progress of energy conversion device development to prove the capability and survivability of full-scale prototypes, and the transitional measures required to finance projects and bring them to commercial fruition. Measures taken by TCE to support marine renewables are therefore of great importance to the Group and we welcome the opportunity to present evidence to the Treasury Sub-Committee on the administration and expenditure of TCE, in as far as it relates to the Marine Estate.

## 2. THE UK MARINE ENERGY RESOURCE AND CURRENT STATUS OF MARINE ENERGY TECHNOLOGIES

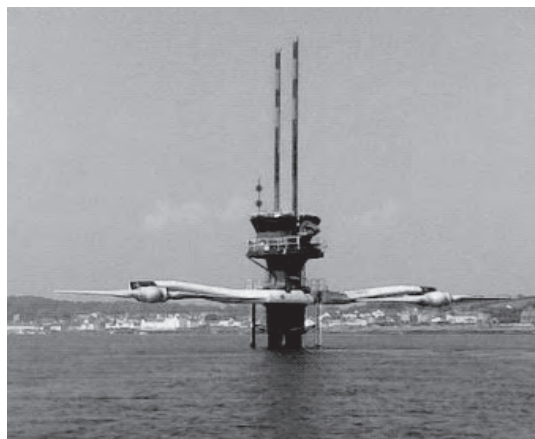
2.1 In 1997, the Marine Foresight Panel reported: “It has been estimated that if less than 0.1% of the renewable energy available in the oceans could be converted to electricity, it would satisfy the world demand for energy more than five times over.” The UK is blessed with abundant marine energy, possessing 50% of Europe’s tidal energy resource (10–15% of the global resource) and 35% of Europe’s wave energy resource. Our country is acknowledged to be the current world leader in marine energy technologies. There are numerous developers of marine energy generators, with a handful of lead companies that have reached a critical stage in progressing their technology to market.

2.2 The concept of a tidal stream turbine is similar to a wind turbine, but instead of being driven by the wind, it is driven by a current of fast-flowing water. However, unlike wind, the flow speed and timing of a tidal stream (and therefore of the energy generated) is totally predictable and tidal turbines are visually unobtrusive since they run underwater.

2.3 The pioneering company Marine Current Turbines has operated “Seaflow”, a 300kW demonstration tidal generator, in the Bristol Channel since 2003 and installed a 1.2MW grid-connected turbine “Seagen” in Strangford Lough, Northern Ireland during 2008. By November 2009 Seagen had delivered over 350MWh into the Northern Ireland electricity grid and it is now officially accredited to Ofgem as a “UK power Station”.



**Seaflow tidal generator.** Here the turbine assembly is raised for maintenance. It will slide down the pile and operate underwater for electricity generation



**Seagen tidal generator.** The white cross arm carries a turbine at each end. When running underwater this machine will generate sufficient electricity for 1000 homes

2.4 The power of ocean waves has long been respected by seafarers who work in the marine environment and recognise the sometimes-destructive forces of the sea. Innovative concepts to capture and utilise that power have been developed in the UK since the 1980s, resulting in two basic types of device. The first type captures the energy from waves breaking on shore (eg Wavegen’s grid-connected Limpet unit on the Isle of Islay); the second type exploits the motion of offshore ocean swells.

2.5 The advantages of wave energy over wind are that it is more predictable (because waves arrive first and last longer than the wind that generates them), the energy density is higher (because water is 830 times heavier than air) and wave generators have minimal visual impact.



**Pelamis wave generator.** Three 750KW Pelamis devices await installation off the north coast of Portugal. They can supply sufficient electricity to power 1500 homes



**Wave generators are visually unobtrusive.** Here the Pelamis wave energy device is barely visible from shore while under test in the Orkneys

2.6 The UK company Pelamis Wave Power Ltd tested its 750kW Pelamis generator at the European Marine Energy Centre in the Orkneys in 2004. Pelamis means sea snake. The machine comprises a number of cylindrical segments, rather like a string of sausages that move relative to each other as a wave passes beneath the machine. The relative motion of the segments is used to pump hydraulic fluid through a turbine that generates electricity.

2.7 Member companies of the REA's Ocean Energy Group, such as MCT and Pelamis Wave Power, interface closely with TCE and look for TCE support as they strive to take forward the UK's embryonic marine renewable energy sector.

### 3. THE CROWN ESTATE MEASURES IN SUPPORT OF MARINE RENEWABLE ENERGY

3.1 In general, the REA has found TCE supportive of marine renewables and we would be surprised if this were not the case, given the future potential for revenue generation through leases of the seabed.

3.2 A particularly helpful measure, in terms of facilitating the marine energy industry's influence over legislation and regulatory matters, has been the hosting of the Seabed User and Developer Group (SUDG). This Group consists of representatives from a number of established marine industries such as ports, oil and gas, subsea cables and marine aggregates. The two trade associations with interests in marine energy, the REA and BWEA, were also welcomed as members and by association with these "big hitters", the embryonic marine renewable industry is able to punch well above its weight. For example, SUDG was invited on several occasions to meet with the Defra Minister and his team on matters relating to the Marine and Coastal Access Bill, prior to Royal Assent, and we expect to continue this relationship as the secondary legislation is developed. The Group also issues joint responses to Government consultations, which carry much weight because of the influential industries that the Group represents.

3.3 The REA appreciates TCE's continued support of SUDG, through the provision of human, financial and in-kind resources.

3.4 The REA is aware of several initiatives by TCE in support of marine renewable, including:

- Working with the industry to resolve the issue of perpetual liabilities for developers of marine energy projects and agreeing to take on perpetually liabilities after decommissioning.
- Conducting bird survey and other environmental work for offshore wind sites.
- Provision of speakers and chair persons for the REA's Wave And Tidal Technologies Symposium (WATTS).
- Sponsoring the BWEA's Marine Energy Supply Chain events.

#### 4. THE CROWN ESTATE'S INTERFACE WITH OTHER GOVERNMENT DEPARTMENTS

4.1 *Devolved administrations*: Devolution presents a challenge to delivery of a UK wide approach to marine renewable energy. There are issues related to devolution that raise concerns, particularly in relation to the Marine and Coastal Access Act:

- Will cross border differences lead to differing standards of protection or enforcement of Marine Conservation Zones?
- Will political decisions outweigh logical or practical approaches to coherent and co-ordinated management of the entire UK seas?
- Will the different devolved administrations require the same levels of evidence and methodologies for data gathering?
- Will the devolved administrations work to similar timetables for issuing consents?

As the manager of the Marine Estate (almost all of the UK seabed out to the 12 nautical mile limit), TCE can play a vital role in coordinating the marine management approaches of the devolved administrations.

4.2 *Defra*: The REA was surprised that, as owners/managers of the seabed, the Crown Estate was no more involved than any other marine stakeholder or consultee in formulation of the Marine and Coastal Access Bill.

4.3 *Consenting and Licensing*: It would be helpful to developers if the marine licensing system and seabed leasing arrangements for development were to be integrated. This will involve liaison with Defra, DECC, the IPC and the new Marine Management Organisation

#### 5. HOW COULD TCE IMPROVE SUPPORT FOR MARINE RENEWABLES?

5.1 Some REA members have stated that it would be helpful if TCE provided more transparency regarding their future plans for offshore development and bidding rounds for wave and tidal energy sites.

5.2 Members have also voiced concern over the existing procedure, whereby TCE reports directly to the Treasury. They would prefer a more transparent reporting procedure, through a Ministry such as Defra.

#### 6. CONCLUSIONS

6.1 The REA has found the Crown Estate generally supportive of offshore renewable energy. We believe it has an important role to play in ensuring that there is a coordinated approach to management of the UK seas across the devolved administrations and we would like to see a closer involvement with other Government departments over legislative and regulatory matters.

6.2 Some REA members have found the Crown Estate lacking in transparency and this could be improved by a more open reporting system and by timely publication of development plans.

6.3 Please do not hesitate to contact the REA if you wish to discuss any of the points we have raised in this written evidence to the Treasury Sub-Committee.

January 2010

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### Written evidence submitted by The Carbon Capture and Storage Association

#### INTRODUCTION

1. The Carbon Capture and Storage Association welcomes this opportunity to respond to the Treasury Select Committee inquiry into the management of The Crown Estate (TCE).

2. The CCSA brings together a wide range of specialist companies across the spectrum of carbon capture and storage (CCS) technology, as well as a variety of support services to the energy sector. The Association exists to represent the interests of its members in promoting the business of CCS and to assist policy developments in the UK and the EU towards a long term regulatory framework for CCS, as a means of abating carbon dioxide emissions.

#### BACKGROUND

3. Following the adoption of the Climate Change Act in December 2008, the UK is now legally committed to ambitious targets for reducing CO<sub>2</sub> emissions—34% by 2020 and 80% by 2050. Meeting these targets, whilst ensuring a diverse and secure energy supply portfolio, represents a significant challenge and the importance of urgently rolling out a wide range of low-carbon options on a large scale, cannot be understated.

4. Carbon capture and storage can be defined as a suite of technologies that firstly capture CO<sub>2</sub> from large point sources, followed by transportation (usually by pipeline), with the ultimate aim to permanently store the CO<sub>2</sub> in deep sub-surface geological formations, such as depleted oil and gas fields and saline formations. Through various trapping mechanisms, the CO<sub>2</sub> is locked into the storage formation, thereby preventing it



from entering the atmosphere. Although CO<sub>2</sub> can be stored in sub-surface formations both on and offshore, the UK is in an extremely fortunate position, as the proximity to the North Sea provides the UK with vast CO<sub>2</sub> storage capacity. The British Geological Survey have estimated that depleted oil and gas fields alone in the UK Continental Shelf, have the capacity to store all current UK industrial CO<sub>2</sub> emissions for up to 38 years—and significantly greater capacity is possible once saline formations are included in these estimates.<sup>3</sup> The North Sea therefore offers the UK the opportunity to become a leading country in the early development of a CO<sub>2</sub> storage industry, which could potentially represent an important international market opportunity for the UK in the future—through the ability to store CO<sub>2</sub> from other countries that may have fewer storage opportunities of their own.

5. As the UK is likely to continue to rely on fossil fuels for much of its energy needs in the near future, the ability to capture and store up to 90% of the associated CO<sub>2</sub> emissions currently represents the only option for enabling this fuel source to contribute towards energy security goals whilst ensuring the UK's climate change commitments are met. In addition, CO<sub>2</sub> capture and storage is the only low-carbon option available for many energy intensive industries such as steel, cement and chemicals. There are also significant benefits to the early strategic development of transport and storage infrastructure, that will facilitate a future CCS industry.

6. The large-scale and permanent storage of CO<sub>2</sub> is therefore fundamental to meeting the UK's ambitious climate change targets, and it is imperative that no barriers to development are introduced—thereby enabling the UK to begin using CCS to reduce CO<sub>2</sub> emissions as soon as possible. The early deployment of CCS also represents a cost-effective technology option in mitigating climate change—the International Energy Agency (IEA) have estimated that meeting global 2050 emissions reductions targets without CCS may increase costs by more than 70%,<sup>4</sup> and the IEA have recently published their CCS roadmap, setting out a pathway for the urgent development of CCS to meet ambitious global climate change goals.<sup>5</sup>

7. Under the Energy Act 2008 TCE was granted the carbon storage rights to the seabed across the entire UK Continental Shelf. Practically, a company wishing to undertake CCS has to secure a lease from TCE in addition to a Licence issued by the Department for Energy and Climate Change (DECC).

#### THE ROLE OF THE CROWN ESTATE IN CCS LEASING

8. Across the CCS chain, the major barriers to deployment are regulation and funding. This is particularly the case for CO<sub>2</sub> storage, which represents an entirely new regulatory challenge (although there are some technical similarities with petroleum exploration and production activities). The UK is progressing rapidly in developing an effective regulatory framework for CO<sub>2</sub> storage and a DECC Consultation on the regulations for a CO<sub>2</sub> storage licensing regime has just closed. Whilst these proposals from DECC are welcomed by the CCS industry, there is a strong need to ensure that the role that TCE plays in the development of CO<sub>2</sub> storage is fully compatible with and complementary to other regulation.

9. Although CO<sub>2</sub> storage operators would have preferred a one-stop-shop government body to deal with the regulation of CO<sub>2</sub> storage, TCE's role as a landlord for the UK Territorial Waters beyond the 12-mile limit, as set out by the Energy Act 2008, is now widely accepted by the industry.

10. It must be emphasised that, whilst the role of landlord is different to that of the regulator (DECC), the two will need to work very closely together to avoid any bureaucratic duplications or complications. It is the role of DECC to develop and implement regulation that effectively meets the various (and complex) priorities of energy and climate change policy. It is our view that, as the landlord, TCE should base its lease award decision making on the same criteria as DECC applies to licensing.

11. It is also worth noting the large and growing number of marine industries that are and will be very active in the UK offshore in the near future. There is already a plethora of regulatory bodies with sometimes conflicting responsibilities—TCE is one amongst these. It is therefore even more important to ensure as close cooperation as possible between all the regulatory bodies and agencies, enabling overarching national energy and climate change priorities to be met in an efficient and urgent manner.

12. We particularly emphasise the importance of ensuring that the interaction between CO<sub>2</sub> storage and other marine activities is carefully handled, especially the interaction with existing petroleum licence holders. There is a need for significant coordination between DECC, TCE, CO<sub>2</sub> storage operators and petroleum licence holders when a CO<sub>2</sub> storage operator submits an application to TCE for a CO<sub>2</sub> storage lease. As TCE does not have any formal involvement in the petroleum licensing process, the situation must be avoided where TCE grants a CO<sub>2</sub> storage lease in a hydrocarbon field where hydrocarbon production has not yet been completed.

Commercial concerns.

13. TCE was set up under the Crown Estates Act 1961 with a statutory duty to maximise the return to their sole shareholder, HM Treasury. It also has an obligation to avoid abusing any monopoly position that may arise. In the case of CCS, these two obligations appear particularly conflicting and incompatible.

<sup>3</sup> Industrial Carbon Dioxide Emissions and Carbon Dioxide Storage Potential in the UK, BGS commissioned by BERR, 2006.

<sup>4</sup> IEA World Energy Outlook 2009.

<sup>5</sup> IEA Technology Roadmap—Carbon Capture and Storage, 2009.

14. CCS is not a commercial business. It owes its existence to climate mitigation regulation and it will therefore never command high margins. The CCS chain involves the capture, the transportation and the storage of CO<sub>2</sub> and of this value chain storage occupies only a small proportion. Anything that adds to the cost of storage may be inhibitory not only to the development of domestic projects that reduce UK's emissions but also to a potential market that is likely to emerge whereby the UK may charge to store emissions from our continental neighbours.

15. CCS will currently only be commercially viable with substantial public support. The proposal in the Energy Bill 2009 to fund four CCS projects through the introduction of a levy, whilst very welcome, ultimately obliges the consumer to pay for CCS. An excessive charge by TCE for a CO<sub>2</sub> storage lease could be viewed as a stealth tax on electricity consumption. A charging structure that is cost reflective would be understandable, however additional charges will simply add to the burden of public support that will be required in the early stages of CCS deployment.

16. As the sole provider of offshore CO<sub>2</sub> storage leases, it is apparent that TCE is in a monopoly supply position. This situation is unique to the UK, with no parallel in other countries developing CCS licence regimes. Due to the TCE obligation to maximise the revenue to the Treasury, we are concerned that CO<sub>2</sub> storage operators will be unable to obtain a true market rent from TCE. We regard it as imperative that an open, transparent and uniform charging structure is developed at the earliest possible stage with a view to stimulating the development of this vital UK industry. This would also meet the requirement in the EU CCS Directive that Member States must adopt a transparent licence fee structure for CO<sub>2</sub> storage.

17. We are pleased that early reluctance by TCE to discuss any aspect of such a charging structure with the CCSA, on the grounds that such a discussion would be anti-competitive, has now been replaced with some useful and constructive dialogue on these topics. Given this open and constructive approach it should be possible to achieve a satisfactory solution to the offshore charging regime for storing CO<sub>2</sub> that encompasses the points made above.

*The view expressed in this paper cannot be taken to represent the views of all members of the CCSA. However, they do reflect a general consensus within the Association.*

January 2010

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### Written evidence submitted by Tom Appleby

#### THE CROWN'S MARINE ESTATE—A SOVEREIGN WEALTH FUND?

##### 1. EXECUTIVE SUMMARY

1.1 The marine estate comprises some 50,000 square miles of seabed and 55% of UK foreshore, an area of land roughly the size of England.<sup>6</sup>

1.2 Technological development has led to a number of new uses for the seabed, and it is likely that new uses will continue to be explored, from aquaculture to energy generation and recreation.

1.3 New uses often require new legal mechanisms, and these can be expensive at first to implement. There has also been a great deal of new legislation for marine regulation, which affects all marine users.

1.4 Under the Crown Estate Act 1961 the Crown Estate Commissioners do not have a duty simply to enhance the value and return from the estate. They must also act according to the principles of good management. A public body must also comply with its statutory duties, such as having regard for biodiversity under the Natural Environment and Rural Communities Act 2006, requirements from the EU such as the Habitats Directive 1992 and government policy such as making surplus assets available for local communities following the Quirk Review.

1.5 There is no strict legal definition of good management. As a result interpretation is left to plain English and common practice to establish. With such a large parcel of land good management and thus the Crown Estate Commissioners' duties should be broadened to include issues such as stewardship.

1.6 A strict imperative on the Crown Estate Commissioners to profit maximise puts them in a difficult and often controversial position, particularly when negotiating with other state bodies whose public duties are more explicit.

1.7 A broader stewardship function implies more active management and therefore expense, than absentee land ownership via a kind of sovereign wealth fund. Measuring the simple commercial return will not tell the whole story and care needs to be taken to value the true public benefit of this vast estate.

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<sup>6</sup> Royal Commission on Environmental Pollution (2004) Turning the Tide HMSO 30 Fig 2-XXX.

## 2. THE SUBMISSION

2.1 Tom Appleby is a non-practising solicitor and former commercial property lawyer.

2.2 He is a senior lecturer in law at the University of the West of England, Bristol, where he lectures on a Royal Institute of Chartered Surveyors accredited masters course in real estate law and in administrative law.

2.3 He is a visiting research fellow at the University of Bristol Law School.

2.4 He is environmental trustee of a trust port, Gloucester Harbour Trustees.

2.5 He is a director of the Community of Arran Seabed Trust Limited, which established Scotland's first complete marine reserve.

2.6 He has published numerous papers on marine law and property rights.

## 3. THE MARINE ESTATE

3.1 By any measure the Crown's marine estate is enormous. It comprises 55% of the foreshore and the seabed to the 12 mile nautical mile limit of Britain and Northern Ireland, together with some mineral and electricity generation rights beyond that. The marine estate is roughly 50,000 square miles, about the size of England. Ownership of the seabed is generally subject to the public rights of navigation and fishing, but otherwise any activity which significantly interferes with the seabed requires a licence or lease from the Crown. The Crown Estate Commissioners therefore authorise as owners issues as diverse as aggregates dredging, fish farming, marina developments and the creation of underwater structures.

## 4. TECHNOLOGICAL DEVELOPMENT

4.1 Developments in technology mean that the seabed is increasingly being put to more and more diverse uses. In the 19th and early 20th centuries there was the development of undersea mining and cable laying. In the late 20th and early 21st century there has been an explosion of new uses, from marina developments to aquaculture and from windfarms to the deliberate sinking of wrecks for recreation. All of these diverse uses and others require consent from the Crown Estate Commissioners.

## 5. MARINE REGULATION

5.1 Increasing competition for space in the sea has led to an increasingly complex legislative environment. Fish farms in Scotland now require planning permission since the Water Environment and Water Services (Scotland) Act 2003. The Marine and Coastal Access Act 2009 makes provision for marine conservation zones, marine planning, marine licensing and the creation of a new regulatory body, the Marine Management Organisation. Even relatively established practices such as developments affecting shellfish farms have been subjected to restrictive interpretation in the courts in the *Isle of Anglesey County Council and another v Welsh Ministers and others* [2009] EWCA Civ 94. The result is that unlike land based commercial development many of the fundamental regulations relating to development of the seabed have changed or are in the process of changing. This has inherent costs.

## 6. THE CROWN ESTATES COMMISSIONERS DUTIES

6.1 The Crown Estate Commissioners' obligations are set out at s1(3) Crown Estate Act 1961:

*to maintain and enhance [the estate's] value and the return obtained from it, but with due regard to the requirements of good management.* [my emphasis]

These obligations need to be broadened to include other statutory duties such as the biodiversity duty of public bodies set out in s40(1) Natural Environment and Rural Communities Act 2004:

*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.*

6.2 As a public body the Crown Estate is also a competent authority for activities which it permits inside marine natura 2000 sites.<sup>7</sup> There are many of these sites inside UK waters and they require special attention, additional environmental impact assessments and potentially compensatory measures if the activity proposed is too harmful under Article 6 of the European Habitats Directive 1992.

6.3 In addition the Crown Estate is subject to government policy on the use of public land. For instance, following the Quirk review, government policy moved towards developing community ownership of surplus public land, where appropriate.<sup>8</sup>

<sup>7</sup> See [www.jncc.gov.uk/default.aspx?page=1445](http://www.jncc.gov.uk/default.aspx?page=1445) accessed 11th January 2010 for a list of Special areas of conservation and special protection areas which comprise natura 2000 sites.

<sup>8</sup> <http://www.communities.gov.uk/documents/communities/pdf/322579.pdf> accessed 11 January 2010.

## 7. GOOD ESTATE MANAGEMENT

7.1 While it is true the Crown Estate Commissioners do have a duty to maintain and enhance the return from the estate, they must also comply with other legislative and policy requirements placed on public authorities and comply with the principles of good estate management.

7.2 The principles of good estate management are not specifically enshrined in law and the exact nature of the Crown Estate Commissioners' obligations in this respect will depend on fact and degree. It is perfectly appropriate that, with an estate the size of England, some elements of the estate should be managed with an eye for profit, but others should be managed with a view to public stewardship. Which aspect of the Commissioners' role is relevant will often depend on factors associated with the local environment and community.

7.3 Regardless of the legal duties on the Crown Estate Commissioners a strict policy of profit maximization is likely to be impractical in any event. A true private landowner might charge the public for sunbathing on the beach for instance, since there is no right to do so under English law.<sup>9</sup> It would take a very brave set of Commissioners indeed to undertake such a policy.

## 8. AN EXAMPLE OF THE FAILURE OF PROFIT MAXIMIZATION

8.1 In 2006 the Highland Council in Scotland established a working group to review the operations of the Crown Estate in Scotland. A draft report was circulated in November of that year. One of the key findings in the report are set out point 26:

*The most prominent issues over the Crown Estate in Scotland are with the [Crown Estate Commissioners]' approach to managing Scotland's seabed and Crown foreshore, including the narrowness of the [Crown Estate Commissioners]' focus on securing revenue from developments involving these resources and its limited re-investment of those revenues in Scotland.<sup>10</sup>*

8.2 The perceived narrow approach of the Crown Estate Commissioners' activities for profit maximization encouraged calls from the Scottish authorities for the full devolution of the Crown Estate. To some extent this must be discounted as part of the politics of devolution, but the Scottish authorities clearly felt that too much focus on profit maximization of the marine estate was a problem. Moreover they felt that the Crown Estate Commissioners should have an equivalent role to a local authority rather than private owner. Indeed the draft report goes on to state at paragraph 36:

*Greater public benefits and accountability would also come from the transfer of responsibility for Crown foreshore to the respective local authorities in each area. This role could be integrated with their many existing responsibilities over the foreshore and a statutory responsibility for the existing public rights over the foreshore.*

8.3 Since then relations between the Crown Estate Commissioners and the Scottish authorities have improved. The Crown Estate Commissioners even published a circular entitled "You'll be surprised what the Crown Estate does for Scotland"<sup>11</sup> highlighting its environmental and community benefits, as well as its economic activities.

## 9. CONCLUSION AND RECOMMENDATIONS

9.1 It is tempting to treat the Crown Estate as a sovereign wealth fund, but to do so is a mistake. The size of the marine estate, the circumstances of its creation and the diversity of its uses mean that such a treatment will fall short of the true obligations on the Crown Estate Commissioners and could lead to significant problems with adjoining public bodies, marine users and the general public.

9.2 The quirky nature of the estate means that managing it properly is a relatively labour intensive task and the public benefit of much of the estate cannot be measured easily by simple accounting practices.

January 2010

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### Written evidence submitted by the Gas Storage Operators' Group (GSOG)

#### A SUMMARY OF THE MAIN POINTS

The Crown Estate (TCE) appears not to be acting strictly in accordance with the powers and duties granted to it under the Crown Estate Act.

This is evidenced firstly by the apparent inclusion of a monopoly value in TCE's proposed rental charges for offshore gas storage leases and secondly by TCE not appearing to have regard to all the circumstances of the case when setting commercial terms and prescribing lease provisions.

<sup>9</sup> Halsbury Laws of England Vol 1 (2) 802 accessed 10th January 2010.

<sup>10</sup> <http://www.highland.gov.uk/NR/rdonlyres/4CB5EE4C-4F40-4F7C-88A2-28FBC1DB2301/0/lesc19.pdf> accessed 11 January 2010.

<sup>11</sup> [http://www.thecrownestate.co.uk/scotland\\_crown\\_estate.pdf](http://www.thecrownestate.co.uk/scotland_crown_estate.pdf) accessed 11 January 2010.

The time being taken to produce fully termed agreements is also a concern and could delay investment in new seasonal gas storage capacity in the UK.

The Gas Storage Operators' Group (GSOG) believes that the economic viability of offshore gas storage projects is being threatened by TCE's excessive rental proposals and unacceptable lease provisions.

#### A BRIEF INTRODUCTION TO THE GSOG

This submission is made by the Gas Storage Operators Group (GSOG) which is a trade association formed in May 2006 within SBGI. The group has 16 members, comprising almost all the active participants in the GB Gas Storage Market, and as such represents a wide range of interests. The group includes both established operators and developers of new storage projects, large multinational companies and smaller private ventures. The current members of the group and signatories to this submission are detailed in Appendix 1.

#### FACTUAL INFORMATION GSOG WOULD LIKE THE COMMITTEE TO BE AWARE OF

The Energy Act 2008 introduced new licensing frameworks for both offshore natural gas storage and offshore CO<sub>2</sub> storage. These new licensing schemes constitute part of a wider Government's response to the issues raised in the Energy White Paper 2007: Meeting the Energy Challenge; in particular addressing the twin long-term challenges of tackling climate change by reducing carbon dioxide emissions and ensuring secure, clean and affordable energy as we become increasingly dependent on imported fuel.

The Act represented an opportunity for Government to introduce bespoke, streamlined licensing frameworks for both challenges, yet at the same time it also introduced a new role for TCE by conferring on it property rights beyond the 12 mile limit of the UK's Territorial Waters.

GSOG has welcomed the opportunities created by the Energy Act 2008 for offshore gas storage and if correctly developed, these opportunities could serve to address the current serious shortage of gas storage capacity in the UK and hence enhance the security of the UK's gas supply. Overall, these opportunities could bring renewed and badly needed investment into the UKCS, which would greatly benefit the UK as a whole. Successful realisation of these opportunities relies on the developers having confidence that the UK regime will be operated effectively, efficiently and in a manner consistent with national interest. Developers would expect that overall returns are likely to be commensurate with the risk of investing significant sums with no guarantee of success. If the rental tariff is set too high, or there is a lack of co-ordination between TCE and the relevant government departments, principally the Department of Energy and Climate Change (DECC), there is a risk that the opportunities will not be realised and investment will be allocated elsewhere.

TCE's statutory duties under the Crown Estate Act 1961 require that "the Commissioners shall not sell, lease or otherwise dispose of any land of the Crown Estate, or any right or privilege over or in relation to such land, except for the best consideration in money or money's worth which in their opinion can reasonably be obtained, *having regard to all the circumstances of the case but excluding any element of monopoly value attributable to the extent of the Crown's ownership of comparable land*".

The TCE is negotiating leases for the right to conduct gas storage operations in offshore depleted gas fields with two companies. Based on the rental charges mentioned so far by TCE the companies do not consider this statutory duty is being followed. The intent behind the legislation was surely that an approach to charging based on a broad principle of "what the market will reasonably bear" should be significantly qualified where there is an element of monopoly power inherent in TCE's position—as there surely is here where TCE's exclusive rights under the Energy Act give it a complete *de jure* and *de facto* monopoly over the grant of offshore storage leases. It is hard to imagine a clearer monopoly. Indeed where potential supply clearly exceeds demand<sup>12</sup> we cannot see how the requirements of the 1961 Act can be met in this case by a charging regime other than one based on administrative cost plus a reasonable return for risk undertaken (if any), such as the DECC is proposing to use as the basis for its storage licence fees. The indicative proposals from TCE to date suggest a proposed charging regime quite different from that, and one that is incompatible with the requirements of the Act.

In addition to proposing rental charges that appear to include an element of monopoly value, we have not seen any evidence that TCE is observant in its duty to the wider requirement to "have regard to all the circumstances of the case" which should also require TCE to adapt its charging policy to the clear desire of Government, to encourage the provision of natural gas storage in the national interest. For example we see TCE seeking to impose provisions in the lease which will act as serious impediments to investment in seasonal gas storage including overage charges and periodic rent reviews in addition to annual rental charge escalation.

Provisions in the draft lease documents duplicate regulatory activities undertaken by the licensor DECC (in some circumstances, even exceeding those obligations that would be owed under existing regulation). Parallel licensing regimes administered by DECC will already provide for the necessary regulation,

<sup>12</sup> Fugro Robertson's Jan 2006 report titled "*From gas field to gas storage: Identifying and evaluating UK gas storage prospects*" identified 57 offshore fields with combined working gas volume of 95 BCM. The GB market requires circa 19BCM capacity (equating to between 16% and 24% of average demand in 2020 depending on demand scenario) to bring it in line with other European gas import dependent comparators.

administered by officials with the appropriate competencies, and thus there is no justification for this additional layer of bureaucracy. TCE is proposing powers that take it beyond the remit of purely a landlord, and in the interests of simplifying the regulatory regime we are firmly of the view that TCE should curtail its proposed involvement and instead take its direction from the DECC licensing framework.

TCE has also asserted a right of approval over certain decisions that appear to be outside the remit of an offshore gas storage landlord. For example, TCE currently propose that it has absolute rights of approval of extensions of time of the lease periods and modifications to the proposed specifications. Our position is that DECC (rather than TCE) would be in the best position to determine what lay in the national interest in these circumstances. Furthermore, if approval is required from DECC and TCE in such circumstances then project delays would arise in the event that DECC and TCE did not agree on a course of action.

Finally, TCE have not been prompt in responding to issues raised by potential developers and this continued delay has introduced unwelcome uncertainty to projects at a time where projects require injections of investment.

#### ANY RECOMMENDATIONS THAT YOU WOULD LIKE THE COMMITTEE TO CONSIDER INCLUDING IN ITS REPORT

We believe the provisions in the 1961 Act to be sufficient to allow TCE to introduce: rental charges based on administrative cost plus a reasonable return for risk undertaken (if any), such as the DECC is proposing to use as the basis for its storage licence fees. “Light touch” lease provisions that do not duplicate requirements elsewhere, do not introduce unnecessary risk and regulatory burden.

Even if we are mistaken in our view of the approach required by the 1961 Act—and we do not believe we are—we would still remain extremely concerned that the currently indicated approach will undermine the viability of some schemes and thus cut directly across the delivery of the Government’s wider energy agenda. The Chancellor of the Exchequer has a power to direct the Commissioners under section 1(4) of the 1961 Act. The level of charges indicated is clearly way above administrative cost and appears to include a highly burdensome charge in return for a service whose economic value is not clear. If the 1961 Act does not itself require a change to the currently indicated policy, we would still urge most strongly that such a change be made, if necessary by altering the basic legal remit of TCE, at least in this field. We appreciate that this may not be a matter for TCE alone.

### APPENDIX 1

#### LIST OF MEMBERS OF THE GAS STORAGE OPERATORS GROUP

Bord Gais Eireann  
 Canatxx Gas Storage Limited  
 Centrica Storage Limited  
 E.ON Gas Storage UK Limited  
 EDF Trading Gas Storage Limited  
 Eni UK Limited  
 Gateway Gas Storage Company Limited  
 INEOS Enterprises  
 National Grid LNG Storage  
 Infrastrata plc  
 Scottish Power Energy Management Limited  
 SSE Hornsea Limited  
 Star Energy Group plc  
 Statoil (UK) Limited  
 Storengy UK Limited  
 Wingas Storage UK Limited

It should be noted that one of our GSOG members, namely Gateway Gas Storage, has already concluded an offshore lease with the Crown Estate. Therefore, in Gateway’s particular case, not all the points made in this GSOG submission of evidence are applicable.

*January 2010*

#### Written evidence submitted by National Farmers Union (NFU)

##### EXECUTIVE SUMMARY

1. This submission is made by the National Farmers’ Union (NFU). The NFU represents 55,000 farm businesses in England and Wales involving an estimated 155,000 farmers, managers and partners in the business. In addition we have 55,000 countryside members with an interest in farming and the country. The NFU represents both owner occupiers and tenant farmers.

2. The Tenanted sector is a key part of the agricultural economy, with one third of the NFU membership stating that a tenancy is the basis of the main part of their farming business. The NFU, in representing its members' interests, meets annually with (amongst other institutional landlords) representatives of the Crown Estate to discuss issues of mutual interest and to raise individual member concerns. These meetings have been taking place on an annual basis since the outbreak of Foot & Mouth Disease in 2001.

3. The NFU is concerned to ensure that any landlord, in carrying out their role, does so in a responsible way. For this reason we do not always see "bottom line" profit as the only measure of success. We take the view that many landlords will see capital value gains as evidenced by the long term trend in rising land values and that these should be properly accounted for when assessing the value of an agricultural estate as part of a mixed estate portfolio.

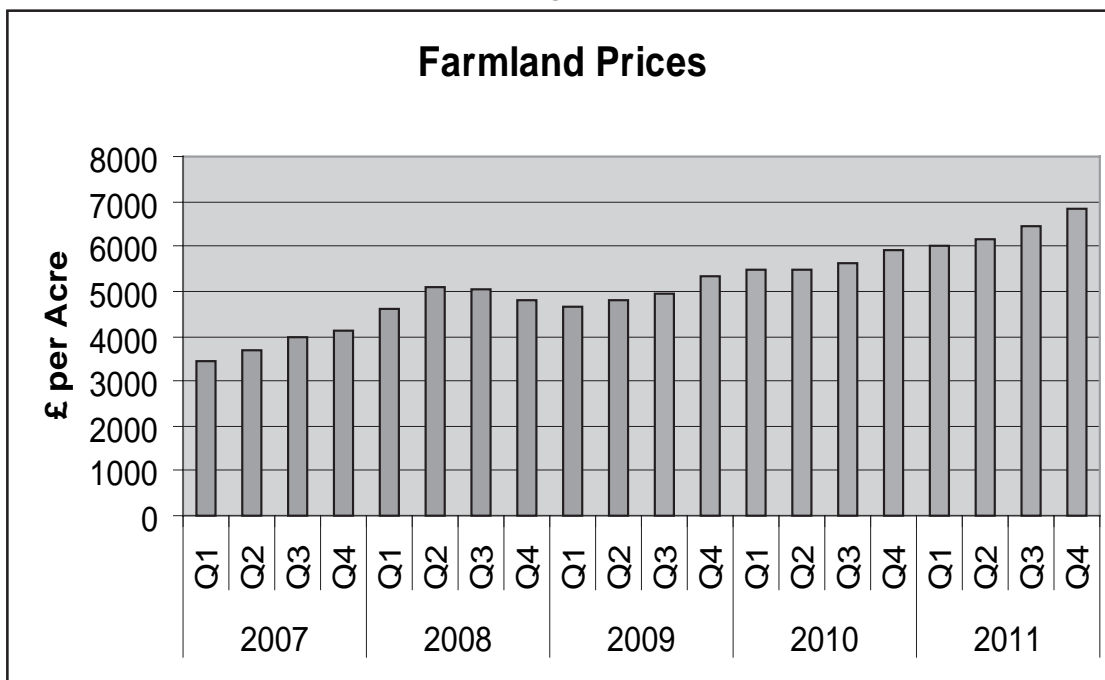
#### RESPONSE

4. In recent times, the regulatory requirements imposed on certain sectors have necessitated investment by farming businesses for no discernable benefit. This has inevitably led to significant tensions in the landlord and tenant relationship. One such example of this is the requirement for slurry storage under the Nitrate Vulnerable Zone Regulations.

5. The phasing out of Agricultural Buildings Allowances by the Treasury, announced in the 2008 Budget, has decreased the incentive on the part of a landlord to invest in their estate. This has had a damaging effect on the investment in agricultural infrastructure at a time when we believe investment should be encouraged, particularly in light of Government's recognition now of the need to look carefully at food security as evidenced by the recent Defra paper Food 2030. The NFU believes that estates where well managed investment is made by landlords will benefit from increased rental returns as well as an enhanced capital value of the estate leading to a double benefit to landlords.

6. The NFU understands that in recent years, in contrast to other parts of the Crown Estate, the Agricultural Estate has performed well, particularly when compared against the Urban Estate. It should be remembered that agricultural land has over time always provided a stable hedge against higher risk investments. This must be measured against the long term picture for agriculture which will have to supply a world population forecast to be over 9 billion by 2050. The NFU believes that the future of the agricultural sector is positive and that many landlords will see capital value gains as evidenced by the long term trend in rising land values and that these should be properly accounted for when assessing the value of an agricultural estate as part of a mixed estate portfolio.<sup>13</sup> Figure 1 below illustrates recent farmland values and their predicted rise.

Figure 1



Source: Smiths Gore

7. The NFU would like to see the Crown Estate look more at new opportunities in the agricultural sector. Many tenants will be keen to diversify to spread the risk of relying purely on agricultural returns for the business. "The Business Deal" is something we will watch with interest, as a new initiative, to see how tenants of the Agricultural Estate fare in accessing this initiative.

<sup>13</sup> See research published by Knight Frank in 2009, available online at <http://www.uklanddirectory.org.uk/land-price-boom.asp>

8. Traditionally, the agricultural landlord tenant relationship is a long term business relationship. On occasion this relationship is damaged by short term approaches being made to matters like rent reviews. To set this in context, recent rent reviews (2007) were carried out not by Crown Estate staff but sub-contracted to private firms of agents. This approach coincided with a change of managing agent (Cluttons were not re-awarded the contract) and this led to prolonged rent reviews and, more worryingly, rent reviews initiated by one firm of chartered surveyors but concluded by another, where the latter were not fully familiar with the Estate. This introduced unnecessary additional cost to the tenant, and issues such as this do little to improve the quality of the relationship between landlord and tenant in the longer term.

9. The NFU held a tenants conference on 19th November 2009 to look at the issues facing the tenanted sector, at which Chris Bouchier spoke. Overwhelmingly these were length of tenancy terms, investment in agricultural holdings and availability of rural housing. The introduction of Agricultural Tenancies Act 1995 (ATA '95) Farm Business Tenancies (FBTs) reversed the previous period of declining let land. However currently FBTs are let for relatively short periods of time. The Central Association of Agricultural Values survey records the recent length of all new FBTs as averaging three years and six months<sup>14</sup> and of all new equipped holdings (usually farms with a house, buildings and land) at 11.47 years.<sup>15</sup> Neither of these terms allow the tenant enough time to invest in the holding, given the possibility that he may not secure a further term after the initial tenancy comes to an end. Furthermore, when it comes to capital, Banks are often less willing to lend money to these businesses given the relatively short terms offered by landlords.

10. We do not have data specifically relating to the terms offered by the Crown Estate for FBTs, but in the opinion of the NFU, offering a longer term to tenants would be preferable, not only from an agricultural perspective (providing certainty of occupation), but also this could potentially reduce the administrative cost of running the estate to the landlord in terms of reviewing FBT agreements for renewal.

11. Investment in agricultural tenancies is something that the NFU is very concerned about. We believe that generally investment has been lacking in agricultural tenancies as a consequence of low profitability in recent years, compounded more recently by the removal of Agricultural Building Allowances. With regard to the Crown Estate we find members reporting that investment is patchy with some parts of the estate receiving significant investment and reports of other parts finding it difficult to secure that investment. What would be preferable and beneficial to the capital value of the estate would be a clear programme of work that will be carried out so that tenants can be clear about when the farms they occupy will receive investment.

12. The announcement by Defra Minister, Lord Davies, at last year's NFU Tenants conference, of a review of the fiscal aspects of the Tenancy Reform Industry Group (TRIG) is welcome, and we remain positive to the view that change along the lines proposed by the industry can be secured. This will fit with the many aspirations set out in the recent Defra vision for the food system, Food 2030.

13. Availability of rural housing for retiring tenants, remains an issue for all landlords, but we believe that the Crown Estate has a social responsibility in acting on behalf of the taxpayer to promote best practice in its work on assisting those tenants that wish to retire from agriculture. Historically retiring tenant farmers would have moved to other properties on an estate. More recently that trend has changed which in itself prevents new entrants from gaining an opportunity to farm on their own account possibly with greater drive and enthusiasm to deliver increased returns to the estate. We believe this is something that the Crown Estate could take a leading role in by assisting those tenants who wish to retire.

14. The Crown Estate is well positioned to fulfil a role of being an exemplar estate from which other institutional and private landlords can observe best practice. The Crown Estate can lead on matters such as the introduction of new technologies, business diversification, and renewable energy generation.

15. Overall the NFU believes the Crown Estate meets its objectives of providing a surplus for the benefit of the taxpayer. We do believe that more investment could be made in the existing estate to further enhance its capital value and improve the businesses of the Crown Estate tenants. The Crown Estate must continue in the future to be alive to new opportunities that tenants may wish to take part in, particularly where these add to the profitability of those agricultural businesses. These opportunities frequently will add to the broader profitability and sustainability of the rural economy and directly to the either the income or the asset value of the Crown Estate.

16. It is not possible for the NFU to comment in detail on the administration and expenditure of the Crown Estate as we are not familiar with this part of their business. Other than to comment that members have not complained to us of unnecessary waste or poor management of resources by the Crown Estate.

*January 2010*

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<sup>14</sup> The Central Association of Agricultural Valuers Annual Tenanted Farms Survey 2008.

<sup>15</sup> Ibid.



## Written evidence submitted by BP plc

### INTRODUCTION

1. BP's main activities in the United Kingdom Continental Shelf (UKCS) are related to oil and gas production. In terms of net acreage, we are the fourth license holder in the UK as well as one of the largest basin operators. BP's net oil and gas production in 2009 represented over 11% of the UK's aggregate output. We remain the largest investor in the UKCS and expect to invest close to £1 billion in 2010. In the calendar year 2008, BP paid in excess of £1.6 billion in taxes to the UK exchequer.

2. We have no current plans to invest in offshore wind in the UKCS. Our remit for activities in alternative energy is global, and for wind our focus is on the United States. To this extent, we have no direct experience of the success to date of the Crown Estate Commissioners in advancing specific UK projects. Our main focus on alternative energy in the UK is currently towards the development of sustainable biofuels.

3. Carbon Capture and Storage (CCS) potentially has a natural fit with our traditional activities, and within our global investment portfolio we are already progressing two of the largest CCS projects to be found anywhere in the world—in Abu Dhabi, and California. While we are no longer a participant in the UK's current CCS competition, we continue to take a deep interest in understanding the potential which the UKCS offers for CCS, and the interactions with our existing operations.

### THE MARINE ESTATE

4. It follows from the above that BP wishes the development of offshore wind, methane storage, CO<sub>2</sub> storage and other uses of the seabed to proceed at the right scale and with no detrimental impact on the role played by existing oil and gas operations in contributing to the security of UK energy supplies.

5. It is wise to acknowledge the tensions which are inevitably inherent in the interactions between established industries and potential new developments. In such circumstances, it is always necessary to balance the current and established rights of existing operators with the actions which are necessary to stimulate the growth of any new business. The Crown Estate has a difficult task as it strives to ensure its Marine Estate delivers a full potential contribution towards new energy supplies without negatively impacting recovery of oil and gas reserves or eroding the existing tax base from oil and gas activities

6. Thus, BP sees the following as some of the more critical tensions which the Crown Estate needs to manage successfully:

- It is essential that the rights of existing license-holders are respected when offering leases to new users of the marine environment.
- It is necessary to balance the environmental protection of the sea with the need to support the delivery of HMG's targets and stated ambitions for each of the different uses of the marine environment. This involves managing current perceptions of the "industrialisation" of the UKCS;
- While innovation and change will be essential in developing and expanding new Marine Estate businesses, there is an enormous amount of existing expertise in offshore operations and subsurface activities which has a great deal to contribute in terms of experience. There has to be a seamless integration of new entrants with mature players, while also making full use of the subsurface expertise offered by the Department of Energy and Climate Change (DECC).
- The Crown Estate will have to work in concert with other UK government bodies and the devolved governments (including Marine Management Organisation/Marine Scotland, Environment Agency/Scottish & Environment Protection Agency, and DECC) in order to plan appropriately, to optimise the use of the marine environment and to avoid conflicts between the rights enshrined in existing leases and the responsibilities which arise under existing licenses. Clear, joined-up and transparent processes in this area will be essential for accelerating specific developments.

### CONCLUSION

7. BP believes that the Crown Estate can identify and mitigate these inherent tensions successfully, so long as it is provided with the necessary support from across relevant parts of government and is encouraged to work closely with all industries involved within the marine environment, both existing and new players. The objective of secure, reliable and cost effective supply of energy to the UK is common to all, but there is the potential to create competitive tension between the different industries as new businesses are introduced to

the marine environment. The overall objective of maximising the potential of the UKCS to continue to provide the United Kingdom with a significant component of the country's essential energy supplies is paramount.

January 2010

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### Written evidence submitted by Natural England

#### SUMMARY

This submission refers to the Crown Estate's management of the natural environment contained within its English land and seabed ownership. This includes:

- *Management of designated sites.* Specifically Sites of Special Scientific Interest (SSSIs), the majority of which lie within their agricultural land holdings or on the coast. Crown Estate is working with Defra and Natural England to ensure its SSSIs are in favourable condition, thus contributing to meeting the Government's commitment to having 95% of all SSSI land in favourable condition by the end of 2010. Natural England has no major concerns about Crown Estate's management of their SSSI holdings.
- *Management of the wider landscape.* Crown Estate is in the process of drafting Biodiversity Action Plans (BAP). Natural England would recommend that Crown Estate adopts the approach set out in the new "Securing Biodiversity Framework" to deliver biodiversity outcomes on a larger scale, and also considers the enhanced benefits for landscape, recreation, soil, water and carbon that Crown Estate could deliver in future. Natural England would be very happy to advise the Crown estate in this work.
- *Engagement with its agricultural tenants.* We have noted that closer relationships are being developed with its tenants. We would like to see this further developed so that Crown Estate is a more active partner in helping its tenants to achieve more sustainable agriculture, for example by ensuring that wherever possible its land is entered into an appropriate Environmental Stewardship scheme.
- *Management of the Marine Environment.* Crown Estate has worked closely with Natural England to ensure that early proposals for new offshore windfarm development take proper account of the impacts on wildlife and landscape.

#### THE CROWN ESTATE'S OWNERSHIP

1. The Crown Estate faces similar challenges to those of other land owners in that it needs to achieve profits whilst protecting and enhancing the natural environment. Its UK agricultural land holding covers approximately 110,000 ha (300,000 acres); most of this is let under agricultural tenancies. The bulk of the English estate is in the southern half of the country, (particularly Eastern and South West England), with predominantly an arable/mixed farm type. It has relatively little land in the uplands or on peat, the exception being some in the Somerset, Brendon Hills area and in Cambridgeshire, near Peterborough. Crown Estate also owns the seabed out to 12 nautical miles, putting it in a position of responsibility with respect to the marine environment.

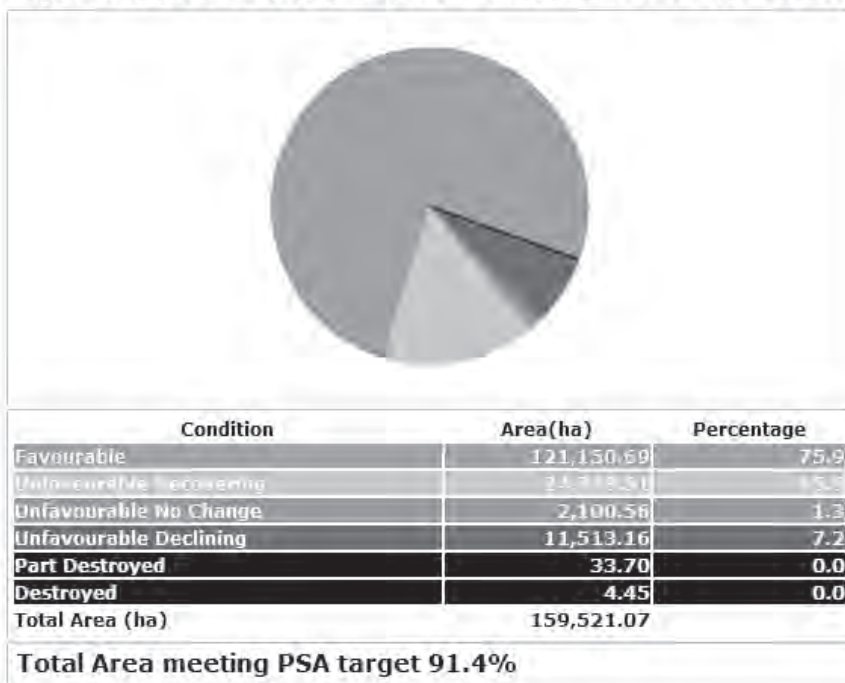
#### DESIGNATED AREAS

2. The Crown Estate is a significant owner of land which is designated as Sites of Special Scientific Interest (SSSI), c168,000ha, and it has taken its commitment to meet the Government's biodiversity commitments seriously. Fortunately, despite a lack of legal clarity, Crown Estate takes the view that, as a public body (with their own enabling legislation), they are responsible for meeting the government's condition targets for all SSSI land on their estate whether tenanted or not—this target is for 95% of all SSSI land to be in favourable condition by the end of 2010.

3. Crown Estate sit on the Defra Major Landowners Group (MLG) which was established to facilitate meeting the SSSI target. They own more SSSI land by a long way than any other member of the group. The majority of their SSSI land (160,600ha) is classified as coastal (falling under the Marine Estate) with the remainder (7690ha) falling under the Rural Estate, although the Rural Estate generally takes responsibility for managing all its SSSIs. The Marine Estate currently has 91.4% of land meeting target and the Rural Estate 96.3%.

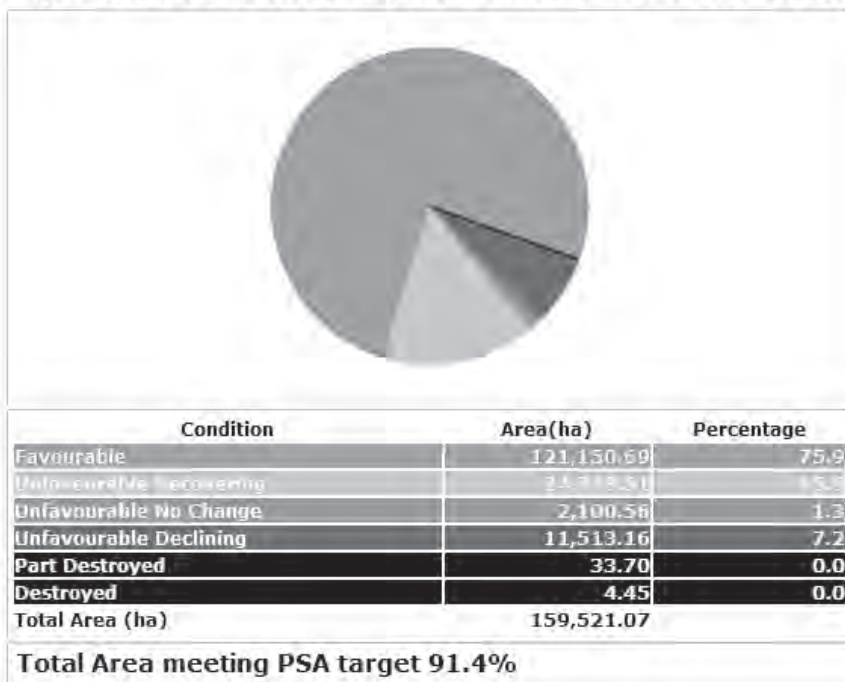
**Figure 1**  
**AREA OF MARINE ESTATE MEETING PSA SSSI TARGET**

Major Landowners Group ->Headline Statistics -> Crown Estate - Marine



**Figure 2**  
**AREA OF RURAL ESTATE MEETING PSA SSSI TARGET**

Major Landowners Group ->Headline Statistics -> Crown Estate - Marine



4. Crown Estate are keen to ensure that its tenants are eligible to join environmental schemes such as Environmental Stewardship, as a means of supporting the appropriate management of SSSIs and other sites, and as a result they have resisted the idea of inserting conservation clauses into their tenancies because this may risk tenant's exclusion from such schemes.

5. In liaison with Natural England and Defra, Crown Estate has agreed specific measures (remedies) to enable SSSI land in unfavourable condition that is within the Rural Estate, to hit the government target by the end of the year. Of the 20 agreed remedies, 14 are currently underway or completed with further work required on the balance. Remedies have also been identified for SSSIs under the Marine Estate, although in all cases these remedies fall to other organisations to progress.

6. Crown Estate also owns areas of land within areas designated for landscape purposes, including National Parks (including 70% of Exmoor) and Areas of Outstanding Natural Beauty. Although technically exempt from the duty placed on public bodies to have regard to the purposes of National Park and AONB designation, again we note that Crown Estate acts within the spirit of the duty. Accordingly their ownership of parts of these designated landscapes is often helpful to the purposes of the designation.

#### THE CROWN ESTATE'S MANAGEMENT OF THE WIDER LANDSCAPE OUTSIDE DESIGNATED SITES

7. Crown Estate has established a Biodiversity working group. The aim of this group is to create an overarching Biodiversity Action Plan (BAP) for the whole Crown Estate (this work is complete) followed by more detailed plans for each of the four component estates (this work is currently in progress). A contractor has been brought in to draft specific plans for specific properties around England. This work is also in progress.

8. Natural England believes that Crown Estate should now begin to explore the potential for achieving more for the natural environment by working at a landscape scale, with neighbouring landowners and regional partners to deliver specific outcomes, and developing innovative and cost effective ways of achieving them. For example, Crown Estate should give consideration to issues such as the need to adapt to and mitigate against the effects of climate change, both on the natural environment of its holdings and on its productive capacity. It should consider the enhanced benefits for landscape, recreation, soil and water that Crown Estate could deliver.

#### THE CROWN ESTATE'S ENGAGEMENT WITH ITS AGRICULTURAL TENANTS

9. The estate is currently managed through 3 Land Agents—Carter Jonas, Smiths Gore and Knight Frank. We are aware that although in the past the relationship between the Crown Estate Rural Team and tenants has been distant, with all contact being directed through the agents, Crown Estate is now seeking to establish more direct tenant engagement. Potential benefits of this approach include gaining a more direct input into the delivery of environmental benefits through agri-environment schemes.

10. Crown Estate has been actively encouraging their tenants to demonstrate more sustainable land management through engagement with various initiatives including the LEAF Audit, the carbon Trust and the CLA CALM (Carbon Auditing for Land Managers) tool. Crown Estate are also working with Waitrose on supply chain and branding. The supply chain is close to completion with tenants as producers, Waitrose as retailers and Dovecote Park as processors.

11. Natural England welcomes this activity as evidence that, in pursuing the Crown Estate's aim to maximise returns to the taxpayer, it is looking to ensure that its land management activities are undertaken in a way which ensure the natural resources, which its future income ultimately depends, are not degraded. We believe that Crown Estate should share the aspiration that the most sustainable land management practices will be the most profitable to pursue and encourage its tenants to adopt more sustainable practices. Where opportunities exist, land managed under the rural estate should be within an Environmental Stewardship scheme, as this will reward the estate for the public benefits delivered and is unlikely to be at any financial detriment to the Estate's revenues.

#### THE CROWN ESTATE'S MANAGEMENT OF ITS MARINE ESTATE

12. England's Marine environment is currently the focus of efforts to protect and enhance the distribution and condition of marine habitats and ecosystems. This same area is presents significant new opportunities for renewable energy generation, notably through offshore wind farms. Crown Estate recently completed a tender exercise for the next generation of offshore wind farms—an ambitious development representing the largest potential use by area of UK seas apart from fishing that could have a sizeable impact on marine

wildlife and habitats. Natural England was very pleased that this selection process took proper account of the impacts on wildlife and on the land and seascape settings and that we were asked to provide advice on known areas of sensitivity to avoid or areas which will require careful consideration from an environmental perspective. Although there will be further work to be done with the successful bidders, we believe that the approach adopted by Crown Estate presents the best possible opportunity to create flagship projects with strong environmental credentials in English territorial waters.

*January 2010*

#### **Written evidence submitted by English Heritage**

1. English Heritage is a Non-Departmental Public Body established under the National Heritage Act 1983 to help protect the historic environment of England and promote awareness, understanding and enjoyment of it. We are the Government's statutory adviser on the historic environment and although we are sponsored by the Department for Culture, Media and Sport, our funding agreement is co-signed by the Department for the Environment, Food and Rural Affairs and Communities and Local Government.

2. English Heritage has a significant amount of contact with the Crown Estate in relation to development of its land holdings and in relation to the Marine Estate.

#### **THE CROWN ESTATE'S LAND HOLDINGS**

3. In relation to its land holdings, English Heritage has regular and close contact with the Crown Estate, particularly in relation to its core holdings in the Regent Street and St James' areas. These large areas of central London are extremely sensitive and dealing with a single owner undoubtedly ensures greater consistency of approach and thus easier to manage from the English Heritage perspective of responding to planning applications. As statutory consultees, English Heritage is involved in detailed negotiations on redevelopment proposals. The overall impression is that the Crown Estate is a good steward of the historic environment and it draws a reasonable balance between the goal of maximising commercial returns and the conservation of historic buildings. Having established a constructive and consultative relationship, the occasions when the Crown Estate and English Heritage disagree significantly on the approach to be taken on a particular site are now rare. The approach of the Crown Estate to development opportunities is in English Heritage's experience comparable with that of the premier private development companies in England. The success of their approach is reflected in the commercial success of the refurbishment of the historic Regent Street area. Their recent purchase of 50% of the Princesshay retail development in Exeter from Land Securities is in English Heritage's opinion, a further example of their recognition of the commercial value of development that exploits and enhances the historic significance of its setting.

#### **THE MARINE ESTATE**

4. The increasing interest in exploiting the resources of the marine environment has important implications for the historic environment. Marine development can affect the setting of terrestrial heritage assets, and directly affect known and anticipated assets on or under the seabed. To help them understand and sensibly manage the impact on the latter, the Crown Estate is half-funding with English Heritage, for three years (2009–11), a Maritime Archaeologist to advise on marine aggregate extraction licence proposals. This will improve English Heritage's ability to advise in the expanding area of marine development control and assist the Crown Estate in complying with that control.

5. English Heritage is aware that the Crown Estate is actively discussing enhancements to the conditions they require of companies applying for licences and clarifying ownership of non-wreck material of historic significance discovered during aggregate extraction.

6. The English Heritage view is that in relation to their marine estate, the Crown Estate carry out their stewardship of the historic environment responsibly and has engaged closely with English Heritage to ensure relations are good.

7. Although there is regular contact on casework, English Heritage would welcome stronger links at a national policy and strategic level.

#### **CONCLUSIONS**

8. English Heritage has good relations with the Crown Estate and believes it carries out its stewardship of the historic environment appropriately. As a commercially successful organisation it sets a generally good example of how such success can be consistent with developers' responsibilities as owners of historic significant elements of the wider environment.

9. English Heritage suggests that the Committee endorses the Crown Estates current management of its historic assets and underlines the importance of this approach continuing into the future. English Heritage is keen to develop its relationship with the Crown Estate to ensure it continues to manage its estate well. With such a high-profile estate, a sound balance of commercial responsibilities with environmental standards presents a positive message to private and public sector developers.

January 2010

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### **Written evidence submitted by Scottish and Southern Energy**

#### **SSE'S INVOLVEMENT WITH THE CROWN ESTATE**

SSE has worked with The Crown Estate extensively over the last few years with regard to offshore wind, cable and wave and tidal installations.

In 2010, SSE won exclusivity for the development of the following two UK Round 3 zones:

- Firth of Forth zone (3.5GW), in the SeaGreen Renewables partnership with SSE and Fluor.
- Dogger Bank zone (9GW), in the Forewind Consortium equally owned by each of SSE with RWE Npower Renewables, Statoil and Statkraft—9 GW

In 2009, SSE won exclusivity for the development of the following wind farms in the Scottish Waters Crown Estate Round:

- Bell Rock (700MW), in partnership with Fluor.
- Kintyre (378MW) independently.
- Islay (680MW) independently.
- Beatrice (920MW), in partnership with SeaEnergy Renewables.

SSE is developing the Greater Gabbard offshore wind farm, part of the Round 2 process, in partnership with RWE Npower Renewables.

SSE is actively engaged in discussions with The Crown Estate with regard to marine renewable projects of a commercial scale.

SSE has also dealt with the Crown Estate with relation to offshore cables which it has installed which number over 100 and serve some of the United Kingdoms most remote communities.

#### **SSE'S COMMENTS ON THE CROWN ESTATE**

SSE understands that the Treasury Sub-Committee is seeking to look at how effectively the Crown Estate Commissioners are rising to the challenges they face including, for example, the development of renewable energy.

SSE believes that The Crown Estate has been highly proactive in helping the UK to rise to the challenge of tackling Climate Change and meeting European Renewable Targets. The proactive and rapid steps that they have taken have resulted in the UK taking a global position of leadership in the offshore wind sector, which SSE hopes to see replicated with regard to marine technologies.

The Crown Estate has been particularly helpful in its approach to ensuring that suitable zones have been found for offshore wind installations. The zonal approach has provided developers with a flexible approach to site identification, with the developer then able to develop the zone as they see fit.

The Crown Estate has also been very effective in its stakeholder engagement, both with Government, statutory advisers and other stakeholders. This collaborative approach has been effective in overcoming obstacles to date and has been extremely useful from the developers' perspective. The establishment of COWRIE and the research provided by it has also been valuable to the industry.

Finally, SSE has been both a winner and a loser in competitive tenders run by The Crown Estate. On every occasion SSE believes that the tender process has been fair, even handed and run in a way which leads us to believe that a fully competitive approach has been taken at all times. SSE has no complaints and looks forward to participating in future tenders over the years ahead.

January 2010

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## Written evidence submitted by Comhairle nan Eilean Siar (Western Isles Council)

### EXECUTIVE SUMMARY

Comhairle nan Eilean Siar is concerned that administration of, and revenues from, territorial waters around the Western Isles is managed from London with little appreciable benefit for local communities.

Marine energy development is set to become a major player in the Western Isles economy, given that the Western Isles host the best wave resource in Europe.

A new model for community benefit from marine energy deployment should be put in place now before the industry becomes a multi billion pound concern. The current Crown Estate lease model is outdated, unfair and discriminatory and this inequality will be compounded as the industry grows.

It is critical to the sustainability of the Western Isles economy that significant lease income from the growing marine energy industry is retained in the Western Isles.

Onshore wind proposals for the Western Isles had the potential to deliver an agreed community benefit package of up to £20 million per annum to Western Isles communities.

The people of the Western Isles view their seas as they do their land—there as a resource for the local community. Where possible, lease income from marine projects should follow the onshore wind model and remain in the Western Isles.

The islands of Scotland should play a more active part in management of their coastal waters and should take a corresponding benefit from the resources present in these waters.

Devolution has moved the Crown Estate further away from Scottish sea-based communities and lessened the Crown Estates accountability in Scotland. Crown Estate administration and revenues of Scottish territorial waters should operate as part of the Scottish Government/Marine Scotland.

Management of the local foreshore should transfer to the relevant Local Authority.

The Crown Estate lease process is rigid and inflexible, incapable of responding to fast moving developments in the marine energy sector. We need a more responsive process which can accommodate speculative marine deployments outwith the terms of current or proposed lease bidding rounds.

### BACKGROUND

1.1 The House of Commons Treasury Sub-Committee is conducting an inquiry into the administration and expenditure of the Crown Estate. The inquiry will look at how effectively the Crown Estate is rising to the challenges they face including, for example, the development of renewable energy in their four business areas:

- the Urban Estate (commercial and residential property in London and elsewhere);
- the Marine Estate (55% of the UK's foreshore and almost all of the seabed out to the 12 mile nautical limit);
- the Rural Estate (agricultural land, forests and residential / commercial property in England, Scotland and Wales); and
- Windsor Estate (including the Royal Park).

1.2 The inquiry will also focus on the extent to which the Crown Estate is achieving their objectives to earn a surplus for the benefit of the UK taxpayer and enhance the value of their estates.

1.3 The main concern of Comhairle nan Eilean Siar in respect of the Crown Estate is the Crown Estate's Marine Estate business area and it should be noted that all net surplus revenue from the operation of this Estate goes to the Treasury for general Government expenditure.

1.4 The Crown Estate in Scotland consists of ancient possessions of the Crown in Scotland and some properties bought on its behalf during the 20th Century:

- main ancient—ownership of Scotland's seabed out to the 12 nautical mile limit, property rights over the continental seabed out to the 200 mile limit (excluding oil, gas and coal) and ownership of around half the length of Scotland's foreshore;
- other ancient—rights to salmon fishing, naturally occurring oysters and mussels and to mine gold and silver and ownership of two small areas of urban land; and
- modern—ownership of four rural estates and three urban commercial properties.

1.5 The Crown Estate manages these properties and property rights in Scotland on behalf of the UK-wide Crown Estate but they are owned by the Crown in Scotland under Scots Law. The Scottish territorial seabed, out to 12 nautical miles, accounts for just over half of the Crown Estates' territorial area in Scotland.

1.6 In 2005–06, Crown Estate revenues from Scotland were £14 million and, each year, over 80% of Scottish Crown Estate revenue is net surplus that goes to the Treasury. Under the Scotland Act 1998, Crown Estate administration of Crown property rights in Scotland was reserved to the UK Parliament. Ministerial responsibility for the Crown Estate in Scotland lies with the Secretary of State for Scotland in Westminster and Scottish Ministers have no direct influence over Crown Estate operations in Scotland.

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## THE STRUCTURE OF CROWN ESTATE OPERATIONS IN SCOTLAND

2.1 The main concern of the Comhairle in respect of the Crown Estate is in its management of the Scottish territorial seabed and the Crown foreshore and the limited re-investment of the accrued revenues in the local area. The islands of the Outer Hebrides are operating at the margins of the UK economy and are significantly challenged by issues such as depopulation and industrial decline. One key growth area open to the islands is the abundant energy within the seas round about them.

2.2 Considerable returns for the host community are available from onshore wind development but direct community benefit from deployment in the marine environment—with potentially greater returns than onshore wind—will be very limited due to the archaic structure of the Crown Estate and the way in which its Scottish interests are managed.

2.3 Devolution presented an opportunity to refocus the way in which Crown property rights are managed in Scotland to benefit the local communities but this opportunity was missed. The Crown Estate's response to Devolution was to close its Scottish Headquarters and to move management of Crown properties in Scotland to its London office. The property rights of the Crown in Scotland are now managed, by sector, from London in common with the wider UK estate.

2.4 This move has lessened the accountability of the Crown Estate in Scotland and further limits local benefits from its management of Crown property rights in Scotland.

2.5 The Forestry Commission, which has strong historical links with the Crown Estate, managed its response to Devolution quite differently. At Devolution, Forestry Commission Scotland was established, accountable to the Scottish Government and acting as a department of the Scottish Government. Scotland's national forest estate is now managed to deliver Scottish Government objectives which support the wellbeing of Scotland's communities.

The Comhairle would recommend that Crown Estate operations in Scotland be restructured on the Forestry Commission Scotland model in order to enhance accountability in Scotland and to retain community benefit in the communities which host aquaculture and marine energy development.

Short of full devolution of Crown Estate interests, the Comhairle would recommend that Crown Estate administration and revenues of Scottish territorial waters should operate as part of the Scottish Government/Marine Scotland who are already heavily involved in marine spatial planning.

The Comhairle would further recommend that management of the local foreshore should transfer to the relevant Local Authority.

## THE CROWN ESTATE AND MARINE RENEWABLE ENERGY

3.1 In the case of onshore wind, there is a clear route to community involvement and benefit through lease payments for the land on which turbines are situated. This ensures a direct linkage to the communities who own the land and host the development. These revenues go directly into the host community, creating employment and regenerating fragile micro-economies. In the case of developments on the Isle of Lewis, potential existed of a community benefits package of over £20 million per annum. Funding at this level can be transformational for struggling communities.

3.2 Where marine renewable energy development takes place in the coastal waters of these same communities, the principal should be the same. The community hosting developments should enjoy a significant share of lease revenues while allowing for the viability and sustainability of the commercial operations. Under existing arrangements, host communities receive no share of lease income but may receive a discretionary benefit payment from developers. This is, however, presently assessed as unlikely given the current state of the technology. For the Comhairle it would be unacceptable that revenue from Hebridean waters would bypass the community of the Outer Hebrides on its way to the Treasury in London.

3.3 The Comhairle does, however, accept that marine energy technology is still in the development phase and that deployment costs are high. It further accepts that Crown Estate revenues from marine leases are currently a fraction of equivalent land leases for onshore wind due to the fragility of the marine industry. However, this sector is scheduled to grow exponentially over the period 2015 to 2050 and, unless the current lease model is changed, the Crown Estate stand to benefit from unprecedented levels of lease income while host communities miss out on the economic benefit of these transformational developments.

3.4 The Comhairle welcomes the current commitment of the Crown Estate to re-invest a proportion of lease income into a technology development fund but is concerned that the relative proportion of this investment will shrink as the returns on marine renewable energy grow. There is the clear danger that the Crown Estate will retain a fixed rate of lease income investment in this fund but that the growing margin from increasing lease charges will bypass the host community and go directly to the Treasury.

3.5 It is simply unacceptable for the Crown Estate to control the Outer Hebrides seabed from London and all the revenues which will come from it as marine energy off the west coast of these islands grows into a multi-billion pound industry.



3.6 At a time of economic difficulty and industrial decline, the islands need to play a more active role in managing their coastal waters and need to receive a corresponding share of the benefit from these waters. With the best wave resource in Europe, these islands are well placed to reap the benefits and apply them to the regeneration of fragile communities.

3.7 The Crown Estate's lease bidding process seems too rigid to accommodate the fast moving nature of the growing marine energy industry. Comhairle nan Eilean Siar regularly deals with developers who may shortly require a deployment window outwith the terms of current or proposed lease bidding rounds. Furthermore, the lease bidding process seems to proceed independently of the marine spatial planning and, with the Comhairle about to embark on a Marine Spatial Plan for West of Hebrides, this lack of integration is a concern.

The Comhairle would recommend that the communities who host marine energy deployments in their coastal waters should benefit from a significant share of seabed lease income channelled through a recognised, local development body. This share should increase as marine technology becomes established and the return on marine renewable energy grows.

The Comhairle would further recommended that, in terms of marine energy development, any lease income over an agreed basic Crown Estate rent should be received and administered by the Scottish Government, preferably through the Scottish Government sponsored local Regional Initiative Project Board. This Project Board will also negotiate with developers over direct community benefit payments.

Finally, the Comhairle would recommend that the Crown Estate abandon the rigid lease bidding process in favour of a more flexible and responsive approach to marine energy deployment.

*January 2010*

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### **Written evidence submitted by the British Wind Energy Association (BWEA) & Scottish Renewables**

#### **1. EXECUTIVE SUMMARY**

1.1 The Crown Estate has taken the very bold step of leading the UK offshore and marine renewables industry towards making a huge contribution to our 2020 renewable energy targets. This initiative and leadership is to be applauded, BWEA and Scottish Renewables therefore welcome the involvement of The Crown Estate in reaching these goals.

1.2 The offshore wind industry in the UK is particularly welcoming of The Crown Estate's efforts to drive forward the sector, managing extremely complex issues and processes efficiently, coordinating development activities and sharing project risk. This partnership approach is proving very valuable to the sector.

1.3 BWEA and Scottish Renewables would welcome continued and increased efforts by The Crown Estate in engaging with the supply chain of the offshore and marine renewables sectors during the industry growth phase in order to keep the flow of information to support companies moving at this crucial time.

1.4 Due to the embryonic nature and specific needs of the wave and tidal energy sectors, we believe a closely consultative, tailored approach to future leasing processes is crucial to supporting the growth of this industry, keeping constraints to a minimum and providing as much flexibility for deployment as possible. Scottish Renewables and BWEA would strongly welcome early and continued engagement with The Crown Estate to discuss options for potential future leasing arrangements.

1.5 The Crown Estate is playing a very important role in promoting collaboration and coordination within the offshore wind sector. The marine energy sector could perhaps benefit even more from this approach, and we believe that The Crown Estate could play a key role in enabling the sector to develop industry-wide solutions. Scottish Renewables and BWEA would welcome the opportunity to work with The Crown Estate on such initiatives.

#### **2. INTRODUCTION**

2.1 Scottish Renewables is the voice of the renewable energy industry in Scotland, representing over 280 member organisations involved in the development of offshore wind, wave and tidal energy projects, including related infrastructure, off the coasts of Scotland. The British Wind Energy Association (BWEA) is the leading UK renewable energy trade association. With over 540 corporate members BWEA represents the large majority of the wind, wave and tidal energy companies in the UK. BWEA and Scottish Renewables are informed by an established and active network of working groups consisting of leading experts in the renewables industry. We have received multiple individual contributions on this consultation from member companies.

2.2 We would like to thank the Committee for the opportunity to submit evidence to this inquiry. We recognise the focus of the inquiry is on the administration and expenditure of The Crown Estate (TCE), looking at how effectively The Crown Estate Commissioners are responding to the challenges of the development of renewable energy.

2.3 BWEA and Scottish Renewables have a close working relationship with The Crown Estate and we are keen to build on this relationship to facilitate the increased success of the renewables industry in the UK.

2.4 This submission is concerned solely with the development of offshore and marine renewables within the Marine Estate.

2.5 We have found there to be significant differences between the views and experiences of the wave and tidal sector and those of the offshore wind sector with regards to TCE. The offshore wind sector generally feels the approach of TCE in driving forward development in this industry is to be applauded. With regards the marine energy sector, we welcome the initiative taken by TCE to support this industry, however we have received a range of views on the way TCE has conducted its management of leasing for wave and tidal projects.

2.6 This submission details some of the key views of our memberships, with corresponding recommendations shown in italics.

### 3. MANAGEMENT OF OFFSHORE WIND LEASING ROUNDS

3.1 *Strong industry support:* Scottish Renewables and BWEA recognise the exemplary overall management of the Round 3 leasing process for UK offshore wind development. TCE's leadership and delivery-focused approach in progressing the development of offshore wind projects across the UK has been extremely beneficial in driving forward the potential of over 45 GW of installed capacity off UK coasts.

3.2 TCE's role in coordinating activities with the development consortia of these projects has been of great value, including conducting initial survey work and ongoing engagement with stakeholders at a regional level.

3.3 We welcome TCE's "risk sharing" approach with developers, particularly in relation to the consenting regime, grid connection and the offshore transmissions arrangements process.

3.4 *Supply chain engagement:* Scottish Renewables and BWEA welcomes the initiative to hold a series of "Share Fair" events around the UK in early 2010 to engage with supply chain stakeholders, and recognise TCE's key role in these.

3.5 It is crucial that there be sufficient dialogue in the industry growth phase, and a recognised channel for those who may not be developers but may have a significant investment stake in delivering against developments to have an opportunity to voice opinions, and to understand how TCE's policy may affect their businesses going forward. We hope that the Share Fair events are simply the start of a much bigger initiative, which will require significant effort on a regular basis to keep the information flow moving.

3.6 This form of engagement would also serve to help fill any perceived "credibility gap", in terms of persuading potential investors and suppliers of likely timing of developments and the extent to which real projects will develop in the future.

### 4. MANAGEMENT OF THE WAVE AND TIDAL ENERGY LEASING PROCESS

4.1 TCE should be applauded for the scale of its ambition in endeavouring to kick start the wave and tidal industry via a major leasing round in the Pentland Firth and Orkney Waters (PFOW) region. We are supportive of this in principle, but it was perhaps inevitable that a new process of this type and scale would deliver some lessons for the future. We would therefore make some recommendations to help improve any future leasing processes.

4.2 Tailor to specific sector needs: The wave and tidal industries are at a far earlier stage of development than the offshore wind sector, and as such require a different approach. Marine renewable energy developers cannot construct projects unless a seabed lease is granted by TCE. There are two ways for a company to obtain a seabed lease: make a demonstrator lease application or submit a bid in a competitive leasing tender issued by TCE. Demonstrator leases are capped by TCE at 10MW or 20 devices. Once an area is released to competitive leasing tender, TCE has stated it is "unlikely to approve any demonstration or pre-commercial arrays" leases within this area.<sup>16</sup> In the case of the PFOW Strategic Area, this effectively means that the Orkney archipelago and the north coast of Scotland from Durness to Sinclair Bay is not available to demonstration deployment, yet this is an area which contains a massive proportion of the UK's tidal resource.

4.3 The marine renewable energy industry needs to deploy early demonstrator projects to prove technology, demonstrate acceptable environmental impact and give confidence to funders and underwriters in order to unlock large scale investment.

4.4 We would suggest that TCE may wish to consider following a similar model to that which they have used for offshore wind demonstration sites. For example, to take a more strategic approach and set aside a zoned area for small-scale arrays where a number of demonstration deployments could be delivered and supported, with group grid connections, etc. This would promote demonstration development at this early stage in the industry's growth and allow for some of the larger environmental uncertainties to be properly assessed in "benign" areas (known as "deploy and monitor") before progressing to very large leases.

<sup>16</sup> The Crown Estate Wave and Tidal Application Process. [www.thecrownestate.co.uk/our\\_portfolio/marine/wave-tidal/application\\_process.htm](http://www.thecrownestate.co.uk/our_portfolio/marine/wave-tidal/application_process.htm)

4.5 *Timing of tender process:* Some parts of the industry feel strongly that this leasing process is premature, as most wave and tidal technology developers are currently at the stage of proving their technologies. We admire TCE for taking such a bold step in attempting to drive the sector forward, and the industry broadly regards TCE as an enabler to support project delivery. However, technology status and timing are important considerations. The competitive process has put developers in competition with each other, yet at this early stage, collaboration may be more appropriate if we are to overcome the substantial common hurdles and risks, such as access to the grid. The current process could risk leading to inefficient allocation of sites and resources.

4.6 We acknowledge that TCE was approached to run a wave and tidal leasing round, but that it could only run one where a Strategic Environmental Assessment (SEA) had been conducted and where viable market support existed. We therefore accept there were few alternative options around the UK to the PFOW.

4.7 Scottish Renewables and BWEA would recommend that The Crown Estate takes a strategic approach in future rounds in order to promote collaboration, conducting a thorough consultation process with industry prior to launching further rounds.

4.8 *Overcoming shared challenges:* All wave and tidal energy companies are early-stage, high-risk businesses operating with limited resources. The majority of developers currently work largely in isolation, with limited co-operation in sharing intellectual property and other resources (a status reinforced by a competitive leasing process). Any further risks borne by developers through resource-intensive lease terms—which could potentially be accommodated at very little extra risk by TCE on an industry-wide basis—have the effect of increasing developers' transaction, insurance and financing costs, and reducing the viability of individual projects, to the detriment of the growth of the industry as a whole.

4.9 We recognise, however, that this large-scale development approach is considered to be a “positive risk”, which it is hoped will stimulate the industry without encouraging applications for leases that are unlikely to be developed upon.

4.10 Scottish Renewables and BWEA recognise that The Crown Estate is going beyond its traditional role of landowner in a number of areas for the benefit of the renewables industry, for example establishing a developers' forum for the PFOW round. We would encourage TCE to continue this role, acting as a catalyst for growth, to enable the marine renewable energy sector to overcome some of its shared challenges, such as supporting research and establishing robust assessment methods for marine consenting as it has for offshore wind. The Crown Estate could play a key role in enabling the sector to develop industry-wide solutions, BWEA and Scottish Renewables would welcome the opportunity to work with TCE on such initiatives.

4.11 Future leasing rounds: There is uncertainty about the timing and location of future leasing rounds, which creates difficulty for business planning. There is strong support within our wave and tidal membership for further leasing rounds to be open on a rolling basis, following SEA completion and market support, and for these to be set out in a planned programme so that industry can plan ahead. We believe that in the next few years The Crown Estate should consider enabling leasing rounds with the option to develop test sites, thereby opening up new sites to developers as their technology improves. This process should remain open to individual negotiations with developers on a site-by-site basis.

4.12 BWEA and Scottish Renewables understand the need to maintain commercial confidentiality, however it is important that an ongoing dialogue exists between TCE and industry, not least to keep applicants informed of the status of agreements. We intend to continue engaging closely with TCE in order to promote an open, transparent flow of information between the organisation and industry.

## 5. CONCLUSIONS

5.1 Scottish Renewables and BWEA broadly welcomes the efforts that The Crown Estate has made in driving forward the UK offshore wind, wave and tidal industries. The initiative and leadership shown by TCE in moving the offshore renewable energy industry forward has created a step-change in the renewables landscape of the UK, and is to be applauded.

5.2 We would, however, strongly recommend that TCE takes the opportunity to reflect on the way it has handled leasing processes up until now—particularly with regards the wave and tidal sectors—and consider how these processes could be improved going forward. We look forward to active engagement between TCE, industry and government to see what common challenges the industry faces and where TCE could proactively and positively play a role in bringing forward solutions.

5.3 BWEA and Scottish Renewables would be very happy to facilitate discussions between developers and The Crown Estate, where useful.

### Written evidence submitted by the Scottish Government

The Crown Estate in Scotland is substantial, including 36,000 hectares of rural land, split into five estates, mixed office and retail property and around half of the foreshore and almost all of the seabed out to the 12 nautical mile territorial limit. The revenue from this property is paid to the Treasury.

The Scotland Act includes a specific reservation of the management of the Crown Estate which limits the engagement of the Scottish Parliament and Scottish Government in respect of the Estate and of the Crown Estate Commissioners.

For some years there has been concern in Scotland, largely from marine users, about whether the management of the Crown Estate in Scotland was sufficiently attuned to Scottish interests.

The Crown Estate has recently sought to increase its engagement with Scottish interests. The Scottish Government now has observer status on the Crown Estate Scottish stakeholder group and has also been working in partnership on a number of projects, particularly on marine issues. The role of the marine estate is particularly important because of the substantial wave, wind and tidal resources in the waters around Scotland.

The position of the Crown Estate was highlighted in the Scottish Government White Paper “Your Scotland Your voice; a National conversation”. <http://www.scotland.gov.uk/Publications/2009/11/26155932/0>. In particular, this highlighted that revenues collected from Scottish coastal businesses by the Crown Estate bring very little visible benefit to Scotland.

The Commission on Scottish Devolution recommended that the United Kingdom Government should consult Scottish Ministers and more actively exercise powers of direction under the Crown Estate Act 1961. The Commission also proposed that the appointment of a Scottish Crown Estate Commissioner should be made following formal consultation with Scottish Ministers. These recommendations have not yet been implemented.

#### MARINE RENEWABLES

The effectiveness of The Crown Estate Commissioners in rising to the challenge of developing renewable energy in the Marine Estate is of high strategic importance to the Scottish Government. One of the Scottish Government’s key priorities is the development of a successful renewable energy industry—underpinned by the enormous natural resource that exists in Scotland and around its coastline. Ambitious targets have been set to meet 50% of Scotland’s electricity demand and 20% of primary energy demand from renewable resources by 2020.

Although onshore wind accounts for much of Scotland’s existing installed renewable energy capacity, offshore wind and marine renewable energy will play an increasingly important role in the years up to and beyond 2020. Scotland is estimated to possess 25% of Europe’s offshore wind and tidal resource and 10% of its wave energy resource which provides significant potential for harnessing renewable energy.

In terms of renewable development, to date, the Scottish Government’s principal involvement with The Crown Estate has centred on activities relating to the Round 3 and Scottish Territorial Waters offshore wind zones, as well as the marine leasing round in the Pentland Firth and Orkney Waters area.

Generally, the Scottish Government, Marine Scotland and the economic development agencies have developed a positive and constructive working relationship with the Crown Estate.

A good example is the work that is being taken forward through the Pentland Firth Coordination Committee. The Pentland Firth Coordination Committee is led jointly by the Crown Estate, Scottish Government, Highlands and Islands Enterprise, Highlands Council and Orkney Islands Council. The Committee is focussed on successful delivery of projects with lease awards comprising 700 MW of installed wave and tidal energy capacity in the Pentland Firth and Orkney Waters area. Therefore, the interest of the Committee is primarily on identifying and addressing barriers to the development of these marine renewable projects to allow these projects to deliver to their project plans. Good progress is already being made and this is largely due to the high level of cooperation and joined up working amongst the Pentland Firth Coordination Committee partners and their efforts in engaging with a broad range of interested stakeholders.

Given the fragile coastal economies in many parts of Scotland and the competition for use of marine space, it is important that wider socio-economic benefits from marine energy are seen as fair and equitable. However it remains the case that the administration of the Crown Estate gives the highest priority to revenue generation and appreciation of assets in the short and medium terms and this can limit the readiness of the Estate to support activities which have longer paybacks and returns are less certain.

The Crown Estate has taken a very constructive, approach to supporting the development of marine renewables. But there are issues on the status of activities which improve sustainability, against that of other economic activities. This could have the unfortunate implication of constraining the progress of emerging

industries, which have huge potential, such as wave and tidal energy but where the business case is less robust. The Scottish Government believes that a stronger focus on sustainable development would be a more appropriate basis for the approach to the exploitation of these national assets, given our international commitments on climate change.

*February 2010*

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#### **Written evidence submitted by the British Ports Association**

1. This submission is made on behalf of the British Ports Association, a membership organization representing the interests of 86 port authorities throughout the UK.

The majority of BPA members will have dealings with the Crown Estate mainly in reaching agreement on leasehold negotiations, but also on joint projects to develop the marine estate. In 1998 we agreed guidelines with the Crown Estate whose purpose was to assist in reaching settlements on leasehold and freehold negotiations and promote a better understanding of the role and nature of ports and the responsibilities and policies of the Crown Estate. All in all, the relationship with the Crown Estate has improved over the past few years and our brief comments below summarise the current situation.

2. Generally, dealings with the Crown Estate on maritime issues are positive and business like; we have not been made aware of any fundamental criticisms of the Crown Estate's relationship with ports.

3. Use made by the Crown Estate of agents sometimes leads to deals of a more "commercial property" nature than might be appropriate to the maritime sector and especially ports as key parts of the UK economy; however, there seems to be a better appreciation of the basic ports business model and the long term nature of investments.

4. One area of potential improvement that has been identified is a speedier process for permitting smaller scale developments especially for offshore renewables. The Crown Estate's attention goes to the larger projects sometimes to the detriment of smaller developments. Also, the bureaucracy involved with smaller developments can be a disincentive.

5. Notwithstanding the above, there is the perennial issue with the Crown Estate of what constitutes the "market" in which they operate. An example has been provided by one member who is a tenant of the Crown Estate for mooring space for leisure craft. The Crown Estate have a virtual monopoly on mooring fundus across the region in which the port operates. Rents are assessed against market value, but as the Crown Estate are the monopoly provider, it would be difficult to regard this as in any way a genuine market. There are those who believe, therefore, with justification, that they are in a vulnerable position and always paying, at the very least, the top market rate. There are other examples of problems for port developers created by this monopoly position.

6. Following on from point 5, there does seem to be uncertainty within the industry about appeals against Crown Estate valuation decisions. In our guidelines, the District Valuer is mentioned as an arbitrator, but information on access to a transparent, low cost system of appeal should be more easily available.

*February 2010*

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#### **Written evidence submitted by the Caithness Chamber of Commerce**

##### **RENEWABLE ENERGY DEVELOPMENTS IN THE PENTLAND FIRTH**

I am writing on behalf of the Caithness Chamber of Commerce to put forward a submission for the Treasury Select Committee's hearing on the Crown Estate.

Caithness Chamber of Commerce is a member of Scottish Chambers of Commerce and represents a wide number of businesses across all sectors. It sits on the major stakeholder groups within the area representing the 'voice' of business and helps to influence key policy decisions. It is also actively supporting the inter-agency partnership spearheading efforts to offset the rundown of the Dounreay nuclear site.

As the clock ticks on decommissioning it is critical that any plans to help meet this challenge are implemented now. The area's economy hangs in the balance and marine renewable energy is the area's major opportunity and lifeline. Our local supply chain, facilities and location are well placed to capitalise on the opportunities in the Pentland Firth. The Dounreay nuclear site injects some £80m into the area's economy each year with one in every five jobs in Caithness located there. A baseline study undertaken in 2006 estimated that Dounreay supports one in every four jobs in Caithness. So as you can see there is an extremely urgent need to diversify the area's economy.

Though we fully appreciate the complexities of leasing the seabed, we are extremely concerned that the process does not help the planning of local infrastructure nor does it support marine technology providers. It also hampers our local supply chain's efforts to diversify into this emerging industry. We believe efforts

need to be made to streamline the bureaucratic process which surrounds renewable energy per se in order to encourage investment, develop the industry and help give Caithness the economic lifeline it so desperately needs.

I hope you find this submission helpful to your investigation and we look forward to hearing the outcome.

February 2010

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### Written evidence submitted by The Co-operative Farms

#### 1. INTRODUCTION

1.1 *The Co-operative Group* is the UK's largest mutual retailer. It is the fifth largest food retailer, the third largest network of community pharmacy branches, the number one provider of funeral services and the largest independent travel business. The Co-operative Group also has strong market positions in banking and insurance. The Group employs 123,000 people, has 4.5 million members and around 5,300 retail outlets. As well as delivering on its financial and operational goals, The Co-operative Group aims to deliver on its social goals, playing an active part supporting local communities and the wider world.

1.2 *The Co-operative Farms* is the one of the largest commercial farmers in the UK. It is wholly owned by the Co-operative Group. We farm over 15,000 acres of land owned by the Co-operative Group in England and Scotland and a further 35,000 acres on behalf of our third party landowners. The Co-operative Farms produces food that is sold in our food stores under the brand name "Grown by Us". Produce sold varies according to the season and location of the farms. Our contribution to this inquiry is made primarily as The Co-operative Farms who are tenants of the Crown Estate.

1.3 *Renewables generation* is at the heart of The Co-operative Group's commercial strategies across the various sectors in which we operate. In 2005 the Coldham Wind Farm an 8 turbine (16 MW) wind farm was launched, which is a joint venture between The Co-operative Group and Scottish Power. In addition, other wind farm developments are proposed on both Co-operative Group and third party owned land as well as various exemplar sustainable development projects that will incorporate a range of renewable power generation initiatives.

1.4 The Co-operative Farms welcomes the opportunity to provide evidence to the Treasury Sub-Committee as part of its inquiry into the Management of the Crown Estate. Our submission will focus on the rural estate of the Crown Estate and will outline our experience as a tenant farmer of working with the Crown Estate.

#### 2. THE CO-OPERATIVE FARMS AND THE CROWN ESTATE AT ASHBY ST LEDGERS ESTATE

2.1 The Co-operative Farms farm both land owned by the Co-operative Group and that owned by third party landowners. Most of the third party land is farmed under contract farming agreements or partnerships and a few tenancies. The Crown Estate, as an investment business, can only operate with tenancies.

2.2 The Co-operative Farms is a tenant of the Ashby St Ledgers Estate in Warwickshire. This was bought by the Crown Estate in October 2005. We are arable farmers on the Estate and work alongside a dairy farm tenant and a commercial shoot.

2.3 The Ashby St Ledgers Estate is the only occasion on which the Co-operative Farms has been asked to tender for a Crown Estate tenancy. The estate was purchased from an in-hand farmer and the Crown Estate needed a business that could take over the employees and tenancy and run it from the date of purchase. The Co-operative Farms was in a strong position to deliver this. We took over the farm on the day of purchase and set about turning the farm into a profitable business. We removed senior management and other employees in a sensitive manner, and looked after the organic dairy farm until a suitable tenant could be found. The farm manager and tractor driver were employees at the time of takeover and have developed significantly with the Co-operative Farms, expanding responsibility and skills. A lot of work has been put into tidying up the farm, largely by the two employees themselves, with some minor investment by the Crown Estates. Since the time of purchase the Crown Estates have invested significantly in the dairy unit with the new tenant.

2.4 The Co-operative Farms has a strong working relationship with the Crown Estate, although day-to-day dealings are with their agents, Carter Jonas. The efforts made by the Co-operative Farms to improve the estate have been both encouraged and welcomed by the Crown Estate. We find the Crown Estate professional, approachable and fair to work with. In the words of the farm manager "We know where we stand with them". In comparison to other agreements, we think the rents we pay are fair: we are now on the second three year agreement, this length of agreement is standard in the industry.

### 3. SUSTAINABLE FARMING AT ASHBY ST LEDGERS

3.1 The Co-operative Farms is committed to farming in a way that is responsible, sustainable, and in-line with our co-operative values. Not only is this important for wildlife and eco-systems, but also to our customers and members, who want high quality, affordable food that they can trust has been farmed to the highest standards. These standards are applied on all land that we farm, including Ashby St Ledgers.

3.2 Following a request from the Crown Estate, preliminary discussions have taken place between the Co-operative Group and the Crown Estate's managing agents to explore whether there might be the potential to develop an anaerobic digestion facility on the Ashby St Ledgers Estate.

### 4. PROMOTING AWARENESS OF FOOD PRODUCTION AT ASHBY ST LEDGERS

4.1 The Co-operative Group believes in the importance of raising awareness about how food is produced, and educating people about the links between food, farming and the countryside. With the support of the Crown Estate, Ashby St Ledgers is one of the Co-operative Farms sites for an initiative known as "From Farm to Fork".<sup>17</sup>

4.2 "From Farm to Fork" is an outdoor learning experience that gives primary school children a better understanding of where their food comes from and how to cook it.

4.3 Launched in September 2005 on our Stoughton Estate near Leicester, there are now 8 sites in England and Scotland. Over 20,000 primary school children have spent a day on farm to see how crops are grown and gain an appreciation of the importance of farming, both in supplying food and protecting wildlife in its natural habitat. Children also learn about the importance of eating a varied and balanced diet in order to make good choices about what they eat. The educational content is linked to the school curriculum.

4.4 The Crown Estate provided financial support to help establish the programme at Ashby St Ledgers. The Crown Estate funded the capital works together with a contribution towards the part time teacher in the first year. Over 2,000 children have visited the Ashby St Ledgers site and Crown Estate office staff have also spent an educational day on the farm, using the From Farm to Fork facilities and farm plots following the same programme as the children.

### 5. CONCLUSIONS

5.1 The Co-operative Farms, working in partnership with the Crown Estates, believe that the Ashby St Ledgers Estate has been farmed in a responsible and sustainable manner whilst making commercial returns for all parties involved. We would like to be given the opportunity to farm more land for the Crown Estate.

February 2010

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### Written evidence submitted by the Lunar Energy Group Ltd

Lunar Energy Group Limited ("Lunar Energy") has been involved in tidal energy since 2001. The technology which it is developing is a horizontal axis, ducted turbine and the power conversion module and generator package have been dry tested at commercial scale (1MW). Lunar Energy is working with EON to install its commercial prototype in the United Kingdom and also with Hyundai Samho Heavy Industries and the Korean Midland Power Company to demonstrate its technology in Korea. Lunar Energy was part of a consortium that submitted a bid to the Crown Estate for a site under the recent Pentland Firth and Orkney Waters Leasing Round for wave and tidal ("PFOWLR"). The consortium progressed through the early stages of the bidding process but was ultimately unsuccessful in its application to secure a site. As a result of its experiences of that tender process Lunar Energy is of the view that the Crown Estate have missed opportunities to promote British technologies and safeguard British interests and jobs. Lunar Energy's view of the issues arising are as follows:-

1.1 *Need for consultation:* There was little or no consultation with industry prior to launching the PFOWLR, nor was the strategy communicated to stakeholders. Early consultation would have highlighted the extremely limited grid access, the very few exploitable tidal sites, the lack of reliable resource data and the requirements of the relevant regulatory bodies.

1.2 *Timing:* The wave and tidal industries are at an early stage of development and the opportunity to bid for commercial scale sites is premature.

1.3 *Specific sector needs:* At the tidal industry's early stage of development what is needed is access to small scale demonstration sites to prove arrays of a few devices. The Crown Estate have intimated that no demonstration sites will be approved within the PFOWLR, this effectively excludes most of the best resources in the United Kingdom.

1.4 Further, even where a demonstrator lease might be allowed, this is limited to 10MW in scale and to a seven year life, which means that the site cannot be commercially viable. This restricts the attractiveness for investment and will delay early stage development. Given the present debate about the levels of ROC

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<sup>17</sup> <http://www.face-online.org.uk>

support needed for early stage wave & tidal deployments, it is our view that the demonstration leases should be for up to 30MW and a minimum period of 25 years duration. Failure to recognise the very high capital costs involved in wave & tidal development will have the effect of thwarting early stage development in UK waters and instead drive these developments overseas with the consequent loss to the United Kingdom of expertise and jobs.

1.5 There are probably fewer than 10 United Kingdom tidal companies and to make available a site where these deployments could take place should be relatively easy. As each one would require to be no more than 1km<sup>2</sup> each.

1.6. Supporting Technology Developers: The PFOWLR invited bids from consortia with specified technologies, with multiple technologies or with no technologies. This has created a situation of confusion and has undermined the commercial advantage of technology developers.

1.7 *Transparency*: We do not believe that the Crown Estate tender process was transparent. It is essential that any future rounds conducted by the Crown Estate should be more transparent in terms of the approach to application, the information required and the criteria against which it will be interpreted and judged.

1.8 *Greater flexibility*: The Crown Estate is in a powerful position and must appreciate the consequences that its decisions may have on the early stage companies that are developing these technologies.

1.9 *Alignment with national strategic goals*: The UK government has set challenging targets for renewable energy and has invested much to support the fledgling wave and tidal industries. It is important therefore that these same companies can get access to demonstration sites to be able to prove their technologies and safeguard British innovation and future jobs.

1.10 *Future leasing rounds*: There is uncertainty about the timing and location of future leasing rounds, which creates difficulty for business planning.

1.11 *Access to Finance*: Access to a demonstration site is an important stepping stone in the development programme towards full commercialisation of marine technologies. It is only once the technology is proven in a marine environment that funders will have the confidence to back large-scale commercial arrays. By denying access to demonstration sites in the area with the best tidal resources, developers are then trying to access more marginal sites with less commercial potential and this is likely to take longer and incur higher risks, which will mean that the first revenues for these technologies will be pushed back. This in turn, reduces the valuations of these technologies on a discounted cashflow basis and also makes fund-raising more difficult. Therefore, it is an important touchstone for funders to be assured that technology developers are able to obtain demonstration leases and can point to a clear path to commercialisation, without which vital funding to continue technology development will be denied.

#### GLOSSARY OF TERMS

*PFOWLR*—The Pentland Firth and Orkney Waters Leasing Round—this is the title given to the Crown Estate's first competitive tender process for commercial scale wave and tidal sites of up to 300MW in size in and around the Pentland Firth and Orkney islands.

*MW*—Megawatt—this is the standard unit of measurement for power generation projects. One megawatt is sufficient to provide power for approximately 1,000 homes.

*ROC*—Renewable Obligation Certificate—there is a requirement under the Energy Act 2002 for Electricity companies to source a proportion of their power from renewables (the Renewable Obligation). The renewable electricity generated receives one ROC per hour for each MW of power produced. In an effort to encourage certain types of renewables, which are accepted as having higher operating costs, the Government introduced banding for ROCs in 2008. Under these provisions Offshore wind, wave and tidal developments receive 2 ROCs per hour for each MW produced. Presently, the wave & tidal industries are lobbying the government to have the ROC banding for wave & tidal increased further, in recognition of the early stage of development of these technologies and the high capital costs of offshore deployment.

February 2010

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#### Written evidence submitted by Statoil ASA

#### INQUIRY INTO THE ROLE AND RESPONSIBILITIES OF THE CROWN ESTATE COMMISSIONERS UNITED KINGDOM

1. Statoil ASA welcomes the opportunity to submit evidence to the inquiry that the House of Commons Treasury Sub Committee is undertaking into the role and responsibility of the Crown Estate Commissioners.

2. This submission is concerned solely on our experience with development of offshore wind within the Marine Estate.



3. Statoil is developing the Sheringham Shoal Offshore Windfarm in the Greater Wash Area together with our partner Statkraft AS. This 317 MW offshore wind farm is scheduled to be in operation from spring 2011. Statoil has also together with our partner on the project submitted an application for an extension of the Sheringham Shoal offshore windfarm.

4. Statoil is also a part of the Forewind consortium that in 2010 was awarded the 9 GW Dogger Bank Zone in the 3 Round of offshore leases.

5. In our view, the Crown Estate has taken a constructive and proactive partnership role in the in the Round 3 leasing process with a focus on delivery. The Crown Estates efforts in driving forward the sector through coordinatiing development activities and coordinating engagement with stakeholders is of great value and will be crucial to successful delivery of offshore wind. We especially appreciate the initiatives to secure cooperation and sharing of best practise among the developers.

6. We believe that the zonal approach taken by the Crown Estate for Round 3 enables the developers to build a project portfolio and ensure that an area is developed in a cost effective manner.

7. Statoil also appreciate the initiative by the Crown Estate to engage with the supply chain stakeholders.

Similarly, the engagement with the Crown Estate on the development of Sheringham Shoal as well as the ongoing process related to the extension of Sheringham Shoal is constructive and focusing on delivery.

February 2010

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### Written evidence submitted by the Scottish Salmon Producers Organisation

#### INTRODUCTION

The Scottish Salmon Producers' Organisation (SSPO), on behalf of Scotland's salmon farmers in mainland Scotland, Orkney, Shetland and the Western Isles, is pleased to respond to the call for evidence for the Treasury Sub-Committee inquiry into the administration and expenditure of The Crown Estate.

The salmon farming industry in the UK is centred on the north-west coast and islands of Scotland where the high quality of the marine environment is essential to the industry's successful operation. Scottish Farmed Salmon has been awarded EU PGI status, marking the high-quality of its production environment, the highly controlled management systems under which it is produced and the distinctive characteristics of the fish itself. Over 95% of the salmon produced in Scotland is farmed under a UKAS accredited, independently audited and certified production scheme deriving from the *Code of Good Practice for Scottish Finfish Aquaculture*.

The salmon farming industry is of major importance to Scotland. It is a significant contributor to the Scottish economy—salmon and salmon products account for approaching 40% of all Scottish food exports. In economic terms, the salmon industry has a farm gate value of around £385m per annum—a value as large as the landings of the Scottish fishing industry, and larger than any Scottish livestock sector other than Scotch beef (ca £450 million). Importantly, much of the economic and employment benefit of salmon farming is in the most remote and fragile areas of Scotland (see the Industry Research Report at <http://www.scottishsalmon.co.uk>).

The worldwide demand for seafood is continuously increasing, both because of the rise in global population and because more fish is being eaten per person. In western countries, consumption has been strongly driven by the attraction of fish as a convenient, enjoyable, highly nutritious food and by the widely recognised health benefits of the omega-3 fatty acids found in oil-rich fish, such as salmon. With static or declining catches in many traditional sea fisheries, the gap between fish-catch supply and consumer demand is being met by a sustained global growth in aquaculture. Increased fish supply from aquaculture is a major EU policy priority, because over 60% of the fish and seafood currently consumed in the EU is imported. EU finfish aquaculture is focused mainly on widespread small-scale trout production, on sea bass and sea bream production in Southern Europe, and on salmon production in Scotland.

The Scottish industry currently produces around 133,000 tonnes of salmon per year. However, it is planned to expand production by 3-5% per year for the next five years. This expansion will take place within the Scottish Government's *Fresh Start—the Renewed Strategic Framework for Scottish Aquaculture* policy and will be supported by a streamlined approach to development planning which is set out in Delivering Planning Reform for Aquaculture, a recent joint initiative between the Scottish Local Authorities, Scottish Environment Protection Agency (SEPA), Scottish Natural Heritage (SNH), Marine Scotland (MS) and the SSPO, endorsed by Scottish Ministers.

Industry growth will be accompanied by developments in farming systems and equipment designs, including new technology which will allow farms to operate further offshore. This will involve substantial new investment by industry and the creation of new jobs. Over £40m of new farm investment has recently been announced, as has planning approval for new processing facilities in the Western Isles.

In summary the Scottish salmon farming industry is of major strategic importance to Scotland, the UK and the EU and it is planning for a steady increase in production which will reflect the growth in market demand.

## ROLE OF THE CROWN ESTATE

The Crown Estate was historically an important player in the development of the Scottish salmon industry; it was the custodian of the sea bed and also responsible for development planning and licensing of fish farms in most areas of Scotland (excepting Shetland and Orkney, where alternative statutory licensing arrangements applied).

The planning and licensing system was changed progressively through ‘interim arrangements’ from the late 1990’s, and planning development was fully transferred to Local Authority control under the *Town and Country Planning Marine Fish Farming (Scotland) Order (2007)*. This brought aquaculture under the *Town and Country Planning Act (1997)*, but with a raft of additional statutory advisory and licensing requirements under environmental legislation, fish health legislation and wildlife and habitat legislation. These advisory and licensing functions are undertaken by SEPA, MS and SNH. The local District Salmon Fisheries Boards are also statutory consultees in the development planning process.

Thus, the primary function that remains with The Crown Estate is that which relates to leasing of the seabed to finfish farmers (and shellfish farmers). In effect, it acts as a landlord.

## GENERAL COMMENTS ON THE CROWN ESTATE’S SCOTTISH OPERATIONS

It is important to say that the Crown Estate’s relationship with the SSPO and the salmon industry more widely is generally good. There are some matters in which the industry and The Crown Estate have common interests. In these cases (for example aspects of regulation and some aspects of marine development) there is very effective and open dialogue and, in many cases, significant information sharing and cooperation. The establishment of the The Crown Estate Scottish Liaison Group and the publication of a specific Scottish Report have been significant recent communication developments and they are to be applauded and encouraged.

There are also instances where The Crown Estate has acted as sponsor and funder or co-funder of initiatives to the benefit of the industry. Examples of this would be The Crown Estate’s innovation in establishing an industry awards event to provide impetus for continuous improvement of industry standards; its investment in some areas of applied research; and its support for specific development projects benefiting industry and The Crown Estate’s longer-term interests. All these activities are welcomed and appreciated by the industry. They are also well organised and efficiently administered. They reflect well on The Crown Estate’s professionalism and recognised administrative competence.

## LEASING OF AQUACULTURE SITES

### *Background*

There are some minor variants in the leasing schemes for aquaculture sites (these relate to their stage of planning consent in the transfer process from the ‘old’ Crown Estate approval to the Local Authority system). However, the basic model for a “normal”, fully-approved site is that the lease is for a 25 year period and a lease fee is paid annually. A “lease” may cover one or more farms but is the operational unit that The Crown Estate uses for billing. The administration of this system appears to operate fully effectively.

Salmon production is based on a two-year growth-to-harvest cycle and the lease fee arrangements reflect this. There is a basic £500 charge in years when fish are not harvested or when a site is held fallow. However, in years when fish are harvested the base rental is waived and a charge is made per tonne of gutted fish harvested. The present charge rates are £17.00 per tonne for fish produced on the Scottish mainland and £15.30 per tonne for fish produced in Shetland, Orkney and the Western Isles. (There is a past-history of legal challenge to The Crown Estate’s charges by island communities; our understanding is that the differential rate was developed to reflect the greater transport costs incurred by island producers). The charge rates are reviewed every 5 years by a group appointed to undertake the task. The last review was undertaken in 2006–07.

At that time, it was also determined that the basic rate charged for fallow sites would be increased in steps for sites that were held as “long-term fallow”. This was intended to act as a disincentive to owners who did not utilise their leases for the production of fish.

### *Comment*

There have been a number of adjustments in the detail of the lease system over the years but the underlying charging system has remained largely unchanged. One disadvantage of the present system is that it is widely regarded as a tax on fish production rather than as a lease for a location.

The remit of the present inquiry does not encompass this issue. However, given the increasing cost of establishing and operating salmon farms we consider that there is a need to review the basis of leasing fees and that this should be done at the next five-year review. In due course we will seek to raise this with The Crown Estate.

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## DEVELOPMENT OF NEW AQUACULTURE SITES

### *Background*

The establishment of a new farm site has now become a major and very expensive process involving not only investment in cages and equipment but also the substantial cost of meeting planning and regulatory requirements. This acts as a significant barrier to expansion of the industry, particularly for SMEs and for “new entrants”. Additionally, since the planning process has been placed under the Town and Country Planning Act (1997) there are indications that Local Authorities will seek planning gain from industry developments. This will inevitably further raise the barrier to new developments.

There is a feeling amongst aquaculture companies that whilst they carry substantial cost (and risk of unrecovered investment) in the development planning process for new farm sites, The Crown Estate bears no cost or risk at all. However, it does receive an immediate financial benefit in income when a site has been developed successfully. It is widely considered that this is not equitable and that a cost-sharing system is justified, particularly in regard to the cost of meeting statutory requirements.

Likewise, there is a widely held view amongst the relevant Scottish Local Authorities that whilst The Crown Estate gains income from an aquaculture development, there is no direct income benefit to the Local Authority or local community. We recognise that this could be regarded as a failure to understand that The Crown Estate’s surplus is returned to the Treasury and could to be regarded as a component of the block grant to the Scottish Government and thence to Scottish Local Authorities. However, this cyclical route of funding lacks transparency and does little to convince those who wish to see a shorter, more direct method of local financial benefit.

### *Comment*

We recognise that the two issues we have raised are not without complexity. However, we consider that they will not recede in importance and need to be addressed constructively.

We do not consider it would be realistic for The Crown Estate to become directly engaged in new site development. However, we firmly believe there is a case for an initial waiver on lease charge for newly developed aquaculture sites for a period of five years after establishment. This would allow investing companies to offset some of their initial investment costs and help redress the additional cost of creating local benefit through planning gain.

This is an approach we believe The Crown Estate should consider. Further, we recommend that it creates an administrative mechanism whereby this matter and other similar issues could be considered with the industry with a view to achieving a solution. This would be to the long-term benefit of both the industry and The Crown Estate itself.

## RESPONDING TO SCOTTISH DEVOLUTION

Irrespective of any wider constitutional considerations, devolution of government is a reality which conditions the operating environment for Scottish businesses. The present Scottish Government has made a firm commitment ‘to create a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth’. Moreover, within that framework, they have expressed clear support for the expansion of salmon farming and other forms of aquaculture.

However, it is apparent that there is a risk of lack of connection between The Crown Estate and the Scottish governmental processes, and this presents a challenge both for the Scottish Government and The Crown Estate.

From the standpoint of the aquaculture industry we are concerned about the prospect of a growing divide, particularly where different public policies develop north and south of the Border. We strongly recommend that The Crown Estate actively considers administrative structures which would increase the devolved autonomy of its operations in Scotland and would create a more tangible linkage with the Scottish Government.

*February 2010*

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### **Written evidence submitted by Westminster City Council**

1. The Crown Estate (CE) is one of the major development players in Westminster. It is a key member of the Westminster Property Association. Over the last five years it has submitted nearly 200 planning and related applications to us for determination. The CE holdings within Westminster comprise nearly 1000 listed buildings, with 94% falling within conservation areas. It is a valued consultee on our published planning work, including the Core Strategy, conservation audits, and supplementary planning documents.

2. We recognise that the CE has to reconcile potentially competing objectives, with its need to bring value to the Exchequer whilst fulfilling its vital stewardship role of historic buildings and public realm at the heart of London. As the local authority we cannot and do not make any special provision for the CE because of

its Exchequer responsibilities. We do not forgive it any normal expectations incumbent on any other major developer such as new buildings of the highest quality, mixed uses including housing and affordable housing, community and cultural uses, or for section 106 contributions to secure other public benefits.

3. Our relationship with the CE is a productive one based on mutual trust and an understanding of each other's operational objectives. They use consultants of the top rank giving us the vital assurance that applications will be well judged from the outset. The planning advisers for example are leading consultancies handling major projects across London. As a consequence they are influential on policy makers at Westminster and at the GLA. We expect to see challenging responses to our emerging policies and we thrive on the debate this provokes. The result, such as collaboration on public realm credits and innovative schemes such as the Oxford Circus Diagonals, are the product of this. Others may prove more challenging, such as residential land use credits, but we welcome this engagement and are confident that the result will be robust and practicable policies that serve as the best fit for all our objectives.

4. Since 2001 The Crown Estate have submitted 10 major proposals for the development of a number of buildings along Regent Street and one on Piccadilly. These have formed part of the Crown Estate's on-going strategy, The Vision, for the promotion of Regent Street and the immediate surrounding area as a major international shopping and business destination. All the proposals are the subject of, and guided by, detailed pre-application discussions with the Council to deal with the sensitive issues arising from the fact that all the sites are within the Regent Street/St James's Conservation Area and all buildings fronting Regent Street are listed Grade II. The Council and The Crown Estate have also worked together to secure considerable improvements to the public realm. The first site to be completed was the block containing the Apple store; the latest includes redevelopment of the former Café Royal into a luxury hotel and new shopping facilities.

5. I attach as appendix 1 [not printed] a short review of these schemes showing the public benefit outcomes. A recurring theme is the provision of benefits that secure public realm improvements, public art, security measures, innovative employment and training initiatives, and mixed uses in line with our long standing policies. For many residents and businesses with a "localism" philosophy, this is the real and quantifiable legacy of the CE rather than its contribution to the Exchequer.

6. Outside the commercial heartland, the CE has considerable holdings in Millbank and Regent's Park. We have not seen much development activity on these parts of the estate. Regent's Park is particularly sensitive and we would be concerned if the CE were to promote any commercialisation of these precious areas within and close to the Royal Park. We are currently engaged in pre application discussions on one site where these matters could be raised. With regard to Millbank residential estate we are aware that the CE is considering the options for future management or sale.

7. We are particularly pleased that the CE has adopted a corporate responsibility strategy that puts climate change at its heart. I attach as appendix 2 [not printed] the minutes of the Go Green Task Group dated 27 November 2008 covering a presentation by the CE. Its stewardship of so many listed buildings makes it vital that the CE lead the field in terms of retrofitting to add new technologies and renewable energies to minimise its carbon footprint. We are confident that initiatives such as the Regent Street Sustainability Strategy will show other more reluctant developers of the practicality and commercial sense of vigorously pursuing the ambition of a zero carbon footprint well before it becomes required by policy. Appendix 3 [not printed] is a typical analysis by my officers of the sustainability, energy and biodiversity proposals in a CE planning application.

8. Going forward we would hope to see new or further collaboration on the following from the Westminster Property Association (WPA) and its members, with the CE in particular given its position at the heart of Westminster and its proven corporate responsibility commitments:

- Reinforcing a commitment to mixed uses as the essential bedrock of a sustainable historic environment of world wide significance.
- Securing public engagement to ensure that development opportunities are considered early by all stakeholders so that consultation is not advocacy of a completed product but is a dynamic partnership of shared objectives.
- Further work on safer public realm with the development of innovative funding mechanisms as well as design to underpin new measures to manage social disorder and to lead the field on designing in counter terrorism measures.
- Securing exemplary design of new buildings and public spaces and post permission close attention to detail by the chosen architect.
- Expanding local procurement, training and employment initiatives.
- Proving that zero carbon footprints are achievable in historic environments.
- Constructive engagement throughout the remaining Core Strategy process and through the City Management Plan process and related SPDs.

I have every confidence on the evidence to date that the CE will rise to these demanding challenges. These will take time and will depend on as yet untested technology and the creation of innovative policy measures, but they are all vital to the continuing well being of Westminster and demand attention and commitment from all of us.

February 2010

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### Written evidence submitted by the Regent Street Association

#### 1. THE REGENT STREET ASSOCIATION

1.1 The Regent Street Association (RSA) exists for the benefit of tenants in Regent Street and was founded in 1925 when The Crown Estate was redeveloping the street. The retailers considered they would have more influence with their landlord if they spoke with one voice when dealing with the rebuilding programme.

1.2 Today the RSA is a thriving organisation comprising of 285 members in total and of these 97 are retailers, 43 restaurants, 6 hotels and 139 office tenants, see Appendix I. It is now part of the New West End Company, the organisation set up to run the Business Improvement District for the West End comprising Oxford Street, Regent Street and Bond Street.

#### 1.3 Membership of the RSA offers:

- Marketing opportunities through the RSA and New West End Company.
- Inclusion in regentstreetonline.com
- Advertising in the Regent Street Guide.
- Participation in the Regent Street Privilege Card scheme.
- Discount for members and colleagues through the Privilege Card.
- Assistance from Sister, the consumer PR agency for Regent Street.
- Invitations to networking events.
- Participation in all street events,—the Regent Street Christmas Lights, A Taste of Spain, Display of Veteran Cars on Regent Street and the Regent Street Festival.

#### 1.4 The RSA attends meetings or is involved with the following organisations:

- The Oxford Street, Regent Street and Bond Street (ORB) Action Plan Planning Group, an initiative led by Westminster City Council to improve

the Public Realm of the West End, which includes Transport for London and The New West End Company.

- West End Marketing Alliance (WEMA)—A group organised by Westminster City Council with the purpose of marketing the West End as a whole including Soho, Covent Garden, Theatre land and more.
- Visit London.
- Visit Britain.
- Key Partners Meetings—New West End Company.
- Operational and Strategic Board Meetings—New West End Company.
- Launch of new retail/restaurant units.
- Heddon Street Tenants.
- Swallow Street Tenants.
- All members.
- Local amenity societies (Soho Society and Residents' Society of Mayfair & St James's).

#### 2. RELATIONSHIP WITH THE CROWN ESTATE

2.1 Over the last 15 years the relationship between The Crown Estate and the RSA has improved enormously. Previously there was little communication; now there is a true partnership which has grown particularly over the last 10 years because of the redevelopment in Regent Street.

2.2 The RSA considers the street well managed. It benefits from single ownership whereas Oxford Street suffers from the lack of vision which is a by-product of multiple ownership. The Crown Estate is accountable and accessible. They view tenant liaison and stakeholder engagement as an important part of their work.

2.3 The RSA has access to personnel at all levels of The Crown Estate including the Chief Executive and attends many events and annual functions organised by The Crown Estate. The RSA attends meetings on a regular basis with The Crown Estate and their agencies, including:

- The Communications Forum—once a month.
- Regent Street Marketing and PR—once a month.
- The Consumer PR Forum—every two months.
- Frequent meetings with personnel from Regent Street Direct, Regent Street Office The Crown Estate’s managing and letting agents.
- Amenity Group meetings.
- Community Liaison Groups for all new developments.<sup>18</sup>

2.4 The Crown Estate and Regent Street Direct attend the RSA Council meetings as observers. The Crown Estate is a member of the New West End Company Operations and Strategic Boards and goes to the West End Marketing Alliance meetings.

2.5 Invitations to all RSA membership networking events, lunches and dinners are extended to The Crown Estate.

2.6 The Association has access to and the assistance of The Crown Estate’s corporate communications, consumer PR, and design agencies as if they were their own.

2.7 Contributions, both in terms of finance and human resources, to all the events organised by the RSA are always forthcoming, and in particular their generous contribution to the Christmas Lights should be recognised, and ensures the continuation of this magnificent display.

2.7 The Association also enjoys free office accommodation on Regent Street inclusive of rent, rates and service charge.

2.8 A very important part of the partnership is the engagement/liaison with the City of Westminster, Greater London Authority, including the Mayor’s Office:

Transport for London and Central Government. All of whom recognise the close relationship between The Crown Estate and RSA.

### 3. INVESTMENT IN REGENT STREET

#### *Redevelopment*

3.1 The Crown Estate’s Regent Street vision has created an international brand focus. Retailers are selected if they are consistent with Regent Street’s brand values of quality, heritage, style and success.

3.2 The Crown Estate is part way through an £750 million investment scheme for Regent Street. The work to date has been spectacular; some of the original buildings have been partially demolished but the original facades retained. This has created retail and office space, with much improved floor plates attracting world class retail and blue chip office tenants. The Association has been consulted on every aspect of the redevelopment plans and has had sight of all planning applications before being submitted to the local authority.

3.3 The Crown Estate runs regular community liaison groups throughout the construction of any development that they undertake on Regent Street. These provide a perfect monthly/bi-monthly opportunity for local stakeholders to hear about the construction progress direct from the development team and raise any issues that they might have.

3.4 Heritage and conservation play an important part of the redevelopment programme. The original features of the grade 1 art deco spaces in the Atlantic Bar and Grill and the Titanic Bar at the former Regent Palace Hotel will be restored as part of the new five star hotel due to open in 2011. The development known as Quadrant 3 includes a pioneering environmentally sustainable fuel cell and combined cooling heat and power plant.

#### *Public Realm*

3.5 As part of the redevelopment The Crown Estate has created two Regent Street Food Quarters, Heddon Street, and Swallow Street, both of which are pedestrianised and offer al fresco dining, which has greatly enhanced business for the restaurants. It is refreshing when a landlord recognises shopping can be a leisure activity and therefore it is essential there are oases of calm where visitors can relax.

3.6 The impact of the diagonal crossings at Oxford Circus, financed by The Crown Estate and Transport for London, has had an enormously beneficial effect on this busy junction. The pavement area has been increased by 70%, which has led to a vast improvement in pedestrian flows. This must be an award-winning scheme.

3.7 Regent Place is also a recently refurbished pedestrianised street financed by The Crown Estate.

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<sup>18</sup> See paragraph 3.3.

3.8 The Crown Estate works closely with adjacent landlords including Shaftesbury Plc, the landlords for Carnaby Street. A joint venture between Shaftesbury and The Crown Estate to refurbish Kingly Street will much improve the road which runs parallel to Regent Street, benefitting the tenants and visitors to both estates.

3.9 Major works are about to be completed on Argyll and Little Argyll Street which include improved surfaces, tree planting and traffic calming, again supported by The Crown Estate.

3.10 Another street much improved by pedestrianisation paid for by The Crown Estate is New Burlington Place, home to their headquarters. The Flare, a sculpture commissioned by The Crown Estate is a frequent talking point. The Crown Estate is a true supporter of public art.

3.11 The Quadrant redevelopment at the southern end of Regent Street includes Glasshouse Street, which will become a 44,000 sq ft pedestrianised area, the largest public realm improvement in Central London, after Trafalgar Square, for 30 years.

3.12 The Crown Estate has plans to make more room for pedestrians by widening the pavements on Regent Street.

#### 4. ENVIRONMENTAL INITIATIVES INTRODUCED BY THE CROWN ESTATE

##### *Sustainability*

4.1 All new office developments have or will have roof turbines, solar panels, grey water recycling, sensory lighting, rainwater harvesting, cycle racks and showers where possible.

4.2 The newly developed retail units have larger floor plates, more storage space for both stock and waste, with compactors and recycling facilities.

##### *Freight Consolidation for Retail and Office Tenants*

4.3 As part of their overall aim of reducing traffic movement by 25% in Regent Street, The Crown Estate has introduced a pioneering freight consolidation scheme. Goods are delivered to a warehouse some 14 miles outside London, and from there put into one vehicle which delivers them to Regent Street. To date twelve of the retailers are participating thereby cutting congestion and pollution, and reducing the number of delivery vehicles on Regent Street.

The Crown Estate partly subsidises the cost of retailer's deliveries when they use this centralised delivery service, run by Clipper, the chosen logistics company. Clipper will soon purchase two electrically powered delivery vehicles reducing emissions even further.

4.4 As an extension of this project The Crown Estate, together with the RSA, are working on the consolidation and centralising of office supply deliveries in Regent Street. Progress is being made.

##### *Consolidation of Refuse Collection*

4.5 Regent Street Direct, The Crown Estate's managing agents, together with the RSA, have worked hard to persuade all tenants to use the same refuse collectors to reduce the number of vehicles on the street.

##### *Recycling*

4.6 Recycling is key and especially where restaurants are concerned. The Crown Estate has introduced a comprehensive and efficient recycling scheme in Swallow Street whereby an electric vehicle collects the rubbish at various times of the day and takes it to a centralised collection point. The restaurants separate the waste into food, glass and other for ease of recycling.

Office tenants in Regent Street are provided with separate waste bags which are taken to a central point in each building to facilitate recycling.

##### *Buses*

4.7 The Crown Estate, the New West End Company and the RSA are continually discussing with Transport for London the feasibility of reducing the number of underutilised buses in both Oxford Street and Regent Street thereby improving the air quality and reducing traffic congestion. A report published recently by the London Assembly Transport Committee—"Streets ahead: Relieving congestion on Oxford Street, Regent Street and Bond Street" congratulated The Crown Estate on their input.

##### *Wayfinding and Walking Tours*

4.8 Legible London, a way finding scheme for pedestrians in the West End, specifically illustrating how easy it is to walk from one location to another, was launched a year ago with consultation and assistance from The Crown Estate. To complement this, The Crown Estate will launch a walking tour guide of Regent Street later this year.

### *Cycling*

4.9 Cycling is encouraged and all the new and refurbished offices have facilities which include cycle racks and showers.

### *Biodiversity*

4.10 To encourage biodiversity a beehive with 7,000 bees has been installed on the roof of 177 Regent Street; after a successful first year there are more to come. Green roofs, bird and bat boxes are included in other developments which The Crown Estate undertakes where suitable.

### *Carbon Offset*

4.11 To offset the power used for the Christmas lights The Crown Estate is planting trees in Scotland.

### *Social Responsibility*

4.12 To help the long term unemployed in Westminster, The Crown Estate in partnership with Westminster City Council and Cross River Partnership, have employed a work placement officer who focuses on seeking out work opportunities for unemployed Westminster residents with the members of the RSA. The tenants gain as there is no agency fee and the job seekers gain in that they have employment. Due to its success this has now been extended to the companies working on the development sites.

### *Local Community*

4.13 Engagement with the local community is all important to The Crown Estate; they together with the RSA work closely with, and support local amenity groups, schools, resident associations and other local organisations involved in the area.

4.14 A recent example was a project with Soho Parish School, when the children were invited to the burial of a time capsule under the Quadrant 3 development. The capsule contained poems from the children together with a copy of that day's *Times* newspaper, which will be dug up in 50 years time.

4.15 Representatives from the amenity groups are invited to all events and functions and will be consulted on any redevelopment, refurbishment or public realm improvement.

### *Tenants*

4.16 The Crown Estate is a conscientious and considerate landlord and shows much interest in the tenants and their wellbeing. Customer care is paramount and they are always willing to discuss issues with their tenants. In many instances the tenants will share their concerns with the Association who direct them to The Crown Estate.

4.17 "Vision" is a quarterly newsletter delivered to all tenants and stakeholders informing them of new store/restaurant openings, events, progress on developments and any other relevant news to the community. The website is also an important form of communication [www.regentstreetonline.com](http://www.regentstreetonline.com)

4.18 The Crown Estate discusses the suitability and calibre of every retailer/restaurant wanting to take space in Regent Street with the RSA. The Crown Estate recognises the importance of investing for the long term—and on Regent Street that means focussing on quality tenants, not just rents. And as their financial returns and the roll call of flagship stores show, the strategy works.

4.19 Within the last five years The Crown Estate has created a street of international flagship stores which attract large numbers of UK and overseas visitors, thereby creating increased trade for the retailers and attracting more visitors to the West End.

4.20 New retail and restaurant tenants have to adhere to The Crown Estate guidelines, a comprehensive guide as to the restraints on the internal fit out and external design of the units, which ensures the brand values are met and the appearance of the street is uniform; another advantage of sole ownership.

#### *4.21 Office Tenants*

4.21 The Crown Estate offers one year's free RSA membership to new office tenants who in turn benefit from the Privilege Card, incentivising them to shop locally and attend networking events, creating a community spirit.

4.22 Regent Street Office, part of Regent Street Direct, offers all inclusive flexible leases to small and medium sized companies.

4.23 Green leases are now part of the norm when tenants sign up to sharing the cost of sustainable improvements to the building.



## 5. CONCLUSION

5.1 The RSA enjoys working with The Crown Estate. The single ownership of Regent Street is a huge advantage and leads to consistency and efficiency. Their overall concern with regard to the tenants is appreciated and the traders recognise a well managed street leads to successful business.

5.2 The Crown Estate is able to plan long term so it can have a complete vision for the estate.

5.3 Those who visit, work and live in the street benefit from the single ownership, the ongoing improvements to the public realm and the much needed work on traffic reduction.

*February 2010*

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### **Written evidence submitted by the British Marine Aggregate Producers Association**

#### 1. EXECUTIVE SUMMARY

1.1 The British Marine Aggregate Producers Association (BMAPA) is the representative trade body for the British marine aggregate sector. The association represents 11 member companies who collectively produce over 90% of the 21.5 million tonnes of marine sand and gravel dredged from licensed areas in the waters around England and Wales each year.

1.2 Whilst terrestrial aggregate resources tend to be in private ownership, offshore the rights to marine sand and gravel are principally vested in the Crown, which owns most of the sea bed out to 12 nautical miles and the rights to exploit non-energy minerals on the remainder of the UK Continental Shelf. The rights to access and exploit these resources are managed by The Crown Estate, and for every tonne of marine sand and gravel landed a royalty payment is made. Over the period 2008–09, royalty payments from the marine aggregate sector contributed £20.3 million to the marine estate, representing over 40% of its total revenue.

1.3 As a monopoly mineral owner, The Crown Estate plays a key role in determining the ongoing viability and competitiveness of the British marine aggregate sector. In the short term, their approach and attitude towards managing existing interests is central to enabling the industry to maintain its contribution to existing, long term markets, with sufficient flexibility to allow operators to effectively respond to any changes in market demand. In the medium to long term, their strategy needs to provide long term certainty and confidence to the industry, which in turn will support the long term investment decisions required to maintain and enhance the capacity of the marine aggregate dredging fleet (which has a direct replacement value of £1 billion) and the associated wharf and processing infrastructure required to supply the construction market.

1.4 Over the last decade there has been a notable and visible change in the attitude, role and direction of The Crown Estate. It has become more professional and outward facing in delivering its stewardship functions, and more engaged and aligned with its tenants needs. In doing so, it has had to develop and expand its internal competencies, which in turn have allowed it to work more closely with industry. In turn, this has allowed the organisation to recognise and understand potential challenges to both their tenants and their own interests, and to help develop solutions to positively address these. In some cases this can be through their own proactive action, but increasingly there is good evidence of solutions being developed in partnership with industry.

#### 2. BACKGROUND TO THE MARINE AGGREGATE SECTOR

2.1 The British Marine Aggregate Producers Association (BMAPA) is the representative trade body for the British marine aggregate sector. The association represents 11 member companies who collectively produce over 90% of the 21.5 million tonnes of marine sand and gravel dredged from licensed areas in the waters around England and Wales each year.

2.2 Marine dredged sand and gravel is principally used by the construction industry, and the marine contribution provides 20% of overall sand and gravel demand in England, 90% of fine aggregate demand in South Wales, 35% of total construction aggregate demand in South East England and over 50% of construction aggregate demand in London. In this respect, marine aggregate supplies play a key role in supporting the delivery of various Government policies, including Sustainable Communities, the regeneration of Thames Gateway and the 2012 Olympic Games. Some 30% of total production from English waters is exported (to Wales and the near Continent), making a contribution to the nations balance of payments.

2.3 Marine dredged sand and gravel also provide a strategic role in supplying large scale coast defence and beach replenishment projects—over 25 million tonnes being used for this purpose since the mid 1990's. With the growing threats posed by sea level rise and increased storminess, the use of marine sand and gravel for coast protection purposes will become increasingly important.

2.4 In the near future, marine sand and gravel resources can be expected to play a key role in supporting the successful delivery of major infrastructure projects associated with Government policies related to energy security and climate change, such as nuclear new builds, tidal power developments, port

developments and offshore wind farms. The coastal location of many of these developments means that the sector is ideally placed to supply the large volumes of construction aggregate and fill material that will be required.

2.5 To meet these various needs, the marine aggregate sector is dependant upon identifying and licensing economically viable sand and gravel deposits to secure sufficient reserves to maintain long term supply to existing and well established markets. The location of such deposits is extremely localised around the waters of England and Wales, restricted to their geological distribution and their geographical position related to the markets location.

### 3. BACKGROUND TO THE SECTORS INTERACTION WITH THE CROWN ESTATE

3.1 Whilst terrestrial aggregate resources tend to be in private ownership, offshore the rights to marine sand and gravel are principally vested in the Crown, which owns most of the sea bed out to 12 nautical miles and the rights to exploit non-energy minerals on the remainder of the UK Continental Shelf. The rights to access and exploit these resources are managed by The Crown Estate, and for every tonne of marine sand and gravel landed a royalty payment is made. Over the period 2008–09, royalty payments from the marine aggregate sector contributed £20.3 million to the marine estate, representing over 40% of its total revenue.

3.2 Companies secure exclusive interests to the mineral resources within defined areas of seabed through a competitive tendering process which is controlled and managed by The Crown Estate. During tender rounds, prospective developers are able to submit commercial proposals for defined areas, based on the duration of the proposed extraction activity, the extraction rate and the royalty payment. Successful tenders provide exclusive rights over a defined period of time for developers to search for, develop and exploit the mineral resources contained within it, with the option for this period to be extended.

3.3 In order to allow the removal of marine sand and gravel resources from the majority of the UK shelf area, the marine aggregate operators have to secure a production licence from The Crown Estate—essentially a commercial licence. However, such a licence will only be issued by The Crown if the operator is in possession of an environmental consent (Dredging Permission), issued by the Government regulator (Marine & Fisheries Agency or Welsh Assembly Government). The issue of Dredging Permissions is controlled under statutory Marine Mineral Dredging regulations and requires thorough environmental impact assessment. Ongoing dredging operations are monitored, managed and controlled through controls imposed by both the landowner (through the licence) and by the regulator (through the environmental consent).

### 4. ROLE OF THE CROWN ESTATE

4.1 As a monopoly mineral owner, The Crown Estate plays a key role in determining the ongoing viability and competitiveness of the British marine aggregate sector.

4.2 In the short term, their approach and attitude towards managing existing interests is central to enabling the industry to maintain its contribution to existing, long term markets, with sufficient flexibility to allow operators to effectively respond to any changes in market demand.

4.3 In the medium to long term, their strategy needs to provide long term certainty and confidence to the industry, which in turn will support the long term investment decisions required to maintain and enhance the capacity of the marine aggregate dredging fleet (which has a direct replacement value of >£1 billion) and the associated wharf and processing infrastructure required to supply the construction market.

4.4 In the past The Crown Estate could have been criticised for adopting a somewhat passive, inward looking role as landowner—taking the revenue generated, but offering little more in terms of adding value to the management of this asset or its tenants. At the time, there was probably not the same need or requirement for more proactive action, and there was less emphasis (or indeed willingness perhaps) on working together (on both sides).

4.5 That being said, in the case of the marine aggregate sector, certain ground breaking stewardship initiatives were established which remain in place today—such as the annual ‘Area Involved’ reporting initiative, where The Crown Estate and industry jointly report on the area of seabed licensed and dredged each year. This enjoyed its 10th anniversary in 2009 and represents a genuine world-class reporting initiative. While the original intention of the initiative was to improve the transparency of the industry’s activities and to encourage improvements in practice (which it has most certainly done), the policy, planning and regulatory environment in which both parties operate has undergone a fundamental Sea Change thanks to the Marine Act. In this respect, the initiative has yet to actually realise its true value in helping to support the sustainable management of marine aggregate extraction operations in UK waters.

4.6 Over the last decade there has been a notable and visible change in the attitude, role and direction of The Crown Estate. It has become more professional and outward facing in delivering its stewardship functions, and more engaged and aligned with its tenants needs. In doing so, it has had to develop and expand its internal competencies, which in turn have allowed it to work more closely with industry. In turn, this has allowed the organisation to recognise and understand potential challenges to both their tenants and

their own interests, and to help develop solutions to positively address these. In some cases this can be through their own proactive action, but increasingly there is good evidence of practical solutions being developed in partnership with industry—as highlighted in paragraphs 4.7 and 4.8 below.

4.7 The mechanism through which operators are able to tender for new areas of marine aggregate interest and which also defines the terms of managing existing licensed assets has evolved considerably over the last decade. This element is important to marine aggregate operators, as certainty of tenure/access to option and licence areas is critical in terms of business planning and investment. In 2007, The Crown Estate worked closely with the industry to develop and agree a management framework within which all option and licensed interests would be managed, including the tendering process for new areas.

4.8 Other examples of The Crown Estate working more closely with the marine aggregate industry include the establishment of a Crown/BMAPA Joint Research Working Group to better coordinate and focus research effort, and the development in partnership of various best practice guidance relating to health and safety and operational aspects of the marine aggregate business. The Crown Estate is also directly supporting the voluntary Regional Environmental Assessment process that is currently being undertaken by the industry to underpin the renewal of a large number of existing licensed areas.

4.9 The range of marine assets and interests managed by The Crown Estate are considerable. With the marine environment being characterised by its potential for multiple use, there is the risk of these interests compromising or conflicting with one another if they are not carefully managed—particularly as each operates under a separate regulatory regime and without a marine planning system. As the landowner for many of these activities, The Crown Estate should be in a strong position to help manage any potential conflicts in use across their estate. However, there have been examples where conflicts have arisen that could have been avoided—a gas pipeline laid across an active marine aggregate production licence area for example, and an offshore wind farm site awarded over an existing marine aggregate application area. In both cases there appeared to be a dislocation between the management of different assets. However, in the last five years there has been evidence of a more joined up and integrated approach to planning and management across the marine estate—a change which has coincided with the development and expansion in the organisations core competencies.

4.10 Stewardship is an important element of The Crown Estate’s role, and has a bearing on all of the assets that it is responsible to manage. At a strategic scale, the last decade has seen a major shift in the policy and regulation associated with managing marine activities—most notably in the successful introduction of the Marine & Coastal Access Act in November 2009. The Crown appears to have played an increasingly important role in contributing to these developments—both at a strategic scale and also at the sectoral, and again this involvement has coincided with the organisations change in direction and expanded competency. From a marine aggregate industry perspective, the expanded participation of The Crown Estate in these matters has been most welcome.

*February 2010*

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#### **Written evidence submitted by HM Treasury**

1. This note should be read in conjunction with the Crown Estate’s own submission.
2. It is important to bring out the unique position of The Crown Estate. While it is part of the public sector, it is not government property. Nor is it part of the monarch’s private estate. The Estate is part of the hereditary possessions of the sovereign; while its income forms part of Her hereditary revenues and is paid direct into the Consolidated Fund. This puts TCE in a different position to that of a non-departmental public body (NDPB).
3. The Crown Estate’s existing statutory framework clearly gives the primary responsibility for managing TCE to its Commissioners. The Treasury has certain limited powers of oversight. These include appointing the Commissioners, specifying the form of accounts, and a reserve power of direction.
4. Because of TCE’s unique position, the Treasury’s main concern is to make sure that TCE is well managed to modern professional standards and exercises its stewardship responsibilities prudently. Generally the Treasury is satisfied that the Estate is appropriately diversified in the UK property market, controls its risks and opportunities to suitable standards, and adopts a sustainable method of doing business.
5. It is pleasing to see that a number of the written submissions sent to the sub-committee confirm that TCE is generally seen as a valuable counterparty in the fields of business in which it operates. It is hardly surprising that some of TCE’s counterparties have highlighted current tensions in the current market.
6. TCE’s strategic direction is proposed by its board, taking a medium term view in the context of the current property market. Formally, the Treasury satisfies itself that these plans make sense annually. However, the plans presented are never a surprise as there is always active dialogue among officials about any significant or novel developments in the business before they are undertaken. This why the question of exercising the power of direction has never arisen. Similarly, it is rarely necessary to trouble Treasury ministers with matters involving TCE’s management in the round.

7. However, like other property estates, TCE often does have business which it needs to discuss with other departments of state. These include, DfT, DECC, Defra, the Scottish Office and the Scottish government. Discussions take place as issues arise; it is rarely useful for the Treasury to engage with these.

8. TCE takes accountability seriously. It lays in parliament informative reports and accounts annually. It also publishes a number of sectoral guides to the different areas of its business. These are available on its website, which also contains extensive background information about TCE and its place in the community. In addition, TCE has a consultative framework in the Scottish parliament.

*February 2010*

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**Written evidence submitted by the Crown Estate Residents' Associations at Victoria Park,  
Millbank, Lee Green and Cumberland Market**

**EXECUTIVE SUMMARY**

This statement summarises the concerns of residents and tenants of four residential estates currently owned and managed by the Crown Estate, on a proposal by the Crown Estate to sell the freeholds of these estates to a new owner. A “resident consultation process” and concurrent “marketing exercise” are underway, due to end on 23 March. We submit that: (1) residents are overwhelmingly opposed to the proposal; (2) such a proposal, if implemented, may contravene the Crown Estate Commissioners’ duty to act with regard to the requirements of good management and will certainly undermine several of the organisation’s stated objectives; (3) the sale of these valuable assets and of a stock of affordable and key-worker housing that currently provides considerable public benefit is not in the public or taxpayer interest, (4) there appear to be deficiencies in the way the proposal has been formulated and handled; (5) residents are deeply dissatisfied with a consultation process in which wholly inadequate information has been provided and which appears to accord little weight to their views; and (6) we ask the Treasury Sub-Committee to recommend that the proposal to sell is dropped.

**MEMORANDUM**

1. Ben Bowling is Chair of the Crown Estate Residents’ Association at Millbank. Madeleine Davis is on the committee of the Victoria Park Crown Residents’ Association. We have been nominated by the Chairs of the four residents’ associations to prepare this written evidence on behalf of all the associations.

*Background information*

2. On 26 January 2010 residents of Crown Estate (CE) affordable housing on the estates at Cumberland Market (near Regents’ Park), Millbank, Victoria Park and Lee Green received a letter informing them of a proposal to sell the freehold of these estates to a new owner (unspecified), and inviting them to participate in an eight- week consultation process due to end on 23 March. The consultation documentation provided consists of a letter and two leaflets, one entitled “What would the proposed change mean for my tenancy? Information about how the CE proposal would potentially affect different tenancy arrangements”, and the other “Have your say” with information about how to participate in the consultation, a consultation reply form and freepost envelope. Residents’ representatives requested a meeting to discuss the proposal and this took place on 12 February. Paul Clark, Director of Investment and Asset Management, and Jenny Mulligan represented the CE.

3. The number of people affected is not entirely clear. There are 539 units at Cumberland Market, 528 at Victoria Park, 367 at Millbank and 81 at Lee Green (total 1,515 properties). The units are a mix of family homes and flats of varying sizes. The tenancies are a mix of regulated tenancies (around 35% according to the CE website), assured tenancies, assured shorthold tenancies and residential long leases (the last numbering 305 according to CE internal documents). However our repeated requests for precise information on the number and proportion of the different types of tenancy on each estate have been ignored (including a request made under FOI legislation—see paragraph 10 below).

4. The CE has provided affordable housing since the end of the First World War; Cumberland Market was built in the 1920s by the CE as part of the “Homes Fit for Heroes” campaign. The property portfolio includes period housing and purpose-built flats, a number of separate garages, and a unique amenity in the form of community allotments at Cumberland Market. Policies on who qualifies for affordable housing have altered over the years: the current policy is to let to key workers from nominated organisations on assured shorthold tenancies. Current rental policy is based on a discount of 40–60% of market rent, known as the ceiling rent. Precise information on the demographic of the resident population is not available to us: our local knowledge suggests that a fairly high proportion of residents are elderly or retired, having lived in their homes for decades, while newer tenants are key workers including health, education and transport workers, police officers, fire-fighters and House of Commons staff, and their families.

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*Summary of residents' concerns*

5. Our own discussions with residents show that the vast majority are opposed to the proposal to sell. A series of open meetings across the estates has seen several hundred attend so far and the overwhelming feeling is of worry and concern that any sale will have negative consequences including:

- the break-up of the estates and a concomitant loss of community cohesion;
- the ending or limiting of affordable and key-worker housing in these central London boroughs;
- rent rises for existing tenants and introduction of market rents for new lets;
- the possibility of regulated tenants being moved under “suitable alternative accommodation” arrangements;
- vacated properties being sold on the open market;
- increased charges for leaseholders; and
- the profit-driven redevelopment of sites such as the community allotments in Cumberland Market or the garages near Victoria Park.

Residents have launched a campaign to oppose the sale.

*Inadequacy of the case for a sale*

6. The consultation documents state that “the Crown Estate is considering this proposal because it has a duty to maintain and enhance the value of the land and properties it owns and the income they generate for UK taxpayers. A recent review of some of our residential estates suggests we should consider whether this could be better achieved through the sale of the properties to a focused provider of this type of housing with a greater scale of housing management expertise.”

7. Requests for information on the background to the sale proposal before our meeting with Paul Clark were refused. At the meeting Mr Clark said only that the CE is under no particular financial pressure to sell our homes, that their sale is not tied into development plans elsewhere, and that no firm decision to sell has yet been taken. He repeated the same formulations regarding the CE’s duty to the taxpayer and its lack of expertise in managing this type of residential housing.

8. We find the latter justification bizarre. We submit that the CE’s 90-year experience in provision of affordable housing makes a nonsense of this claim. Notwithstanding some specific concerns over the years, on the whole residents feel that the estate has been well-managed and that Housing Business Group staff have been reasonably responsive to our concerns. In any case, if absence of expertise in housing management is a genuine concern then recruiting more appropriately qualified staff would seem to be a less drastic option than selling the entire portfolio. The other more important claim, that selling our homes is consonant with the CE’s duty to maximise income for the Treasury, is contested in paragraphs 12–20 below.

9. Subsequent to our meeting with Mr Clark we have since obtained under Freedom of Information legislation a number of documents relating to the “review of residential estates” on which the sale proposal is apparently based. These consist of three papers marked “Confidential: Restricted” and headed “Housing Business Group: ‘Project Blue’” that were submitted to Main Board meetings on 27 January 2009, 21 July 2009 and 24 November 2009, plus extracts from minutes of the relevant board meetings.

10. Large parts of these documents have been redacted. The reason given for the redactions is commercial exemption. However redactions have also been made which, from the context, would not appear to be covered by this exemption. Redacted information seems to include: specific comments on the proposal by (unnamed) Board members; a breakdown of the number and proportion of different types of tenancy (CE2009:5 p 2); details of changes in rental policy (CE2009 p 3, and CE2999 51 p 2); almost all information relating to tenants’ rights to consultation (CE2009 51 p 3); information on the demographic profile of tenants (CE2099 80 p 3); information on planning restrictions (CE 2009 80 p 3); details of the “non-investment benefits” the portfolio may provide (CE 2009 80 p 4), the operational benefits of a sale (CE2009 80 p 7); some information on the “reputational considerations” of any sale and the strategy to be adopted to minimize these (CE 2009 80 p 7); the annexes relating to conduct of the consultation process and the communications strategy “to engage with . . . stakeholders”. We will complain about these omissions and if necessary seek recourse to the Information Commissioner.

11. Notwithstanding redactions, the documents give some insight into the sale deliberations. They show that:

- The proposal was under consideration for at least a year before residents were informed.
- Initially plans were made to inform the Treasury of the review, later it was decided that the Treasury did not need to be consulted, it was further “thought that they would be relaxed about disinvestment”.
- Other options considered as an alternative to selling were “retain and manage on a more commercial basis”, and a “joint venture”. These were rejected partly because of “reputational considerations”.

- The “reputational considerations” of selling were also considered. At one point “concern was expressed that the financial benefit from disinvestment could be outweighed by potential reputational damage” (Board Minutes 21/7/09, 9.1 c). In the end reputational damage was deemed to be manageable.
- What does not seem to have been considered are the interests of tenants, and the interests of stakeholders and the wider public in maintaining the stock of affordable housing and continuing to manage in a socially-responsible way. However one member of the Board was reported to have recommended that if the portfolio were retained “we should be clear that we were serving a wider social purpose and strive to be as good as the best landlords in the field” (Board Minutes 27/1/09, 7.3 d.)

12. It is clear that commercial considerations are paramount. We have no access to information on the financial benefits to the CE, but from our own knowledge of the nature and extent of these assets offer these comments and questions:

- The business case for a sale seems unproven. The CE is reputed to be looking to make some £250 million from the sale.<sup>19</sup> Though not inconsiderable, this does not seem a huge amount given that the estates are in prime central London locations including Regents Park and Pimlico, are generally in good condition and contain some fine period properties.
- Income generated from this sale is likely to be dwarfed by the income the CE is soon to realise from its offshore revenues.
- Unless the money is already earmarked for development currently underway we do not understand why a sale of these income-generating assets is being considered at all. The timing of the sale also seems questionable given that the value of the CE urban portfolio fell by 21.7% in the last year.<sup>20</sup>
- *Would it not make better business sense to hold on to these assets and continue to reap the rental income they generate?*
- *If money is urgently required, why is the CE targeting the most vulnerable of its tenants?* We are aware that at the same time as the CE seeking to sell our homes it is announcing major new investment projects in Regent St and elsewhere.
- It seems that the largest financial benefits of this sale, whether resulting from future rental income or from selling on/development of these properties, will in fact accrue to the purchaser rather than the CE or taxpayer. This amounts to a valuable public resource being sold off for private profit.

13. The specific role of Paul Clark in driving these proposals may bear investigating. Mr Clark was previously responsible for a strikingly similar sell-off of social housing belonging to the Church Commissioners for England in 2006. The similarities extend to the justifications given and language used (“focused housing provider”, “lack of housing management expertise”) and in the vagueness of the assurances given to residents. Tenants of the former Church properties have reported that after the sale to Grainger plc commitments on rents and key-worker allocation were not honoured, and properties were sold on with vacant possession. Mr Clark was also in charge when the decision was made the same year to invest some £40 million of Church pension funds in the Manhattan property market. The money has since had to be written off.<sup>21</sup> We hope it is not too impertinent to suggest that Mr Clark’s financial acumen is not infallible.

#### *Duties and objectives of the Crown Estate Commissioners (CEC)*

14. The primary legislation governing this is the 1961 Crown Estate Act, which imposes a general duty on the CEC, “while maintaining the CE as an estate in land . . . to maintain and enhance its value and the return obtained from it, but with due regard to the requirements of good management”.<sup>22</sup> The CEC are accountable to the Chancellor of the Exchequer who may issue directions to the Commissioners.<sup>23</sup>

15. Without the benefit of detailed legal advice we cannot make a judgement as to *whether the proposal to sell our homes contravenes the “good management” requirement, but we suggest that the Treasury Committee investigates this, and we also appeal to the Chancellor to use any powers of intervention on our behalf.*

16. It is not clear to us what, if any, level of accountability the CEC have to the Royal Family. According to the CE website, the commissioners are appointees of HM the Queen and Downing St. Roger Bright has recently been reported as saying that the Queen “takes an interest” in its activities.<sup>24</sup> It is certainly the case that many tenants, especially elderly tenants, regard themselves as tenants of the Queen, and indeed our tenancy agreements state that the agreement is “between (1) The Queen’s Most Excellent Majesty and (2) the Crown Estate Commissioners on behalf of Her Majesty acting under the Crown Estate Act 1961, and (3) [the tenant(s)]”. It would seem that HM the Queen is a party to the agreement. This Royal connection has been a source of pride to tenants over the years. In that context we also note the demonstrable interest

<sup>19</sup> Peter Bill, “Crown Estate’s £250 million sell-off looks like a right royal stink” *Evening Standard*, 12/2/10.

<sup>20</sup> Annual Report 2009 p 18.

<sup>21</sup> J Russell “Church defends disastrous £40 million Manhattan property deal”, *Daily Telegraph*, 20/2/10.

<sup>22</sup> CEA 1961 s 1 (3).

<sup>23</sup> CEA 1961 s 1 (4).

<sup>24</sup> G Ruddick “Crown Estate Chief Executive Roger Bright to face grilling from MPs”, *Daily Telegraph*, 15/2/10.

of HRH Prince Charles in issues of affordable housing and the sustainability of local communities. *We would like to know whether the Royal Family have been informed of plans to sell these homes, and whether their views have been sought.* For their part, many residents have written to HRH and the Queen to ask for their intervention.

17. *We request the Committee to address in detail the degree to which the CEC have a responsibility to consider the wider public interest in investment decisions.* Affordable housing provision in general, and access to social housing for key-workers in particular, is a stated government priority. Members of the Treasury committee, most notably the Chair, the Rt Hon John McFall MP have recently stressed the importance of this.<sup>25</sup>

18. The CEC's core principles are "commercialism, integrity, and stewardship". We note that the CEC's commitment to affordable housing has been routinely mentioned in publicity as evidence of a commitment to "stewardship". Although the Chief Executive has recently stressed the organisation's commercialism,<sup>26</sup> nevertheless the 2009 Annual Report and related document "Building in Partnership", as well as the Sustainability Strategy available online, specify a number of wider objectives including a "strong sense of stewardship and commitment to manage our assets sustainably",<sup>27</sup> "working toward thriving communities",<sup>28</sup> and ensuring business activities have a "positive economic, social and environmental impact on the wider community."<sup>29</sup> *We question how any of these objectives could be furthered by the sale of our homes.*

19. With specific regard to housing provision, "Contributing to affordable housing" is expressly mentioned in the Sustainability Strategy as an objective under "the wider community".<sup>30</sup> In the CE's "Building in Partnership" brochure, the Homes and Communities Agency Chief Executive is quoted as commending the CE on its commitment to "delivering much needed housing stock for families across the UK".<sup>31</sup> The same document contains a lengthy section on "Strong and vibrant communities" which declares "we support opportunity for people from all walks of life by working with local authorities and housing providers to create developments that meet local needs, for example, providing appropriate levels of affordable housing".<sup>32</sup> *Have the relevant local authorities and other "stakeholders" been consulted about the current proposals?*

20. We submit that the current proposals undermine publicly stated objectives of CE management and should be withdrawn on that basis.

#### *Consultation process*

21. It is clear that residents are dissatisfied with the consultation process and have little confidence that their views will be given serious consideration. Issues include:

- our request for a tenant ballot has been flatly refused, although this would be standard practice if a Local Housing Authority were considering a similar disposal/transfer of stock;
- we are told that after the consultation exercise, a "findings document" will be circulated. It appears that the intention is then to proceed to a decision, probably within four to six weeks, without any further tenant involvement. There appears to be no intention to share with us any information about prospective purchasers or to involve us in decision-making once preferred purchasers have been identified;
- requests from us and from our elected representatives, including MPs, for information on likely purchasers have been refused. We have been offered assurances that discussions are being conducted only with "blue chip private landlords" and "large housing associations", and that the CE's wish is to secure a sale to an entity in which a housing association has a material equity stake;
- requests for specific assurances that any purchaser will be legally bound on matters such as continued affordability policies and key-worker provision, or for information on exactly how current tenant rights eg those specified in the Tenancy Book, will be enforced under a new owner, have been refused;
- it is clear that the implications for tenants could vary widely depending on the objectives and policies of different owners. *We question how any consultation process in which the implications of a sale are not addressed can be meaningful;*
- we feel that residents' representatives have been treated in an exceptionally high-handed manner. A commitment given by Mr Clark to circulate a minute of our meeting with him is yet to be honoured (we have sent him our minute, which remains unacknowledged). We are still awaiting responses to questions that he personally undertook to convey to the Board, including the dates

<sup>25</sup> John McFall MP "Government must be bold to deal with recession", *The Guardian*, 24 October 2008.

<sup>26</sup> G Ruddick "Crown Estate Chief Executive Roger Bright to face grilling from MPs", *Daily Telegraph*, 15/2/10.

<sup>27</sup> Annual Report p 2.

<sup>28</sup> <http://www.thecrownestate.co.uk/sustainability.htm>

<sup>29</sup> <http://www.thecrownestate.co.uk/sustainability/cr8community.htm>

<sup>30</sup> <http://www.thecrownestate.co.uk/sustainability/cr8community.htm>

<sup>31</sup> "Building in Partnership" p 8.

<sup>32</sup> "Building in Partnership" p 11.

of upcoming Board meetings, our request to attend such meetings, and to be formally included in the decision-making process. Invitations to CE staff to attend our open meetings have been declined; and

- *we would like the CE to conduct a tenant ballot on the proposal and agree to abide by the result.*

#### *Voids and suspension of new lets*

22. Key-worker applicants on the current waiting list for homes have been told that new lettings are suspended pending the outcome of the consultation process. Yet no mention is made of this on the CE's Choice-based Lettings website which continues to advertise the lettings system and apparently receive nominations from relevant organisations. *Have nominating agencies been informed of/consulted on the proposals?* At the same time we are aware that a number of properties that could be housing key-workers and their families are empty and have been so for some months. We have asked for information on the number of and reasons for voids but to date this has not been provided. *We would therefore like to know whether properties have been left deliberately empty pending a sale and if so, how the CE can justify this.*

#### CONCLUSION

23. As residents we have been repeatedly assured that “no decision has yet been made” on the proposal to sell our homes. That being the case, it is our view that the proposal should be abandoned. Residents oppose it. It does not appear consistent with the CECs' statutory duty of “good management”. It threatens an important resource of affordable and key-worker housing from which the wider public and relevant local communities currently derive substantial benefit, and therefore cannot be in the interests of taxpayers. Proper regard does not appear to have been paid in the CECs' deliberations to the organisation's own stated objectives on issues of stewardship, sustainability, corporate social responsibility and community involvement. The business case does not seem strong. We share the opinion of the unnamed Board member that the CE has through its 90-year provision of affordable housing served “a wider social purpose and [should] strive to be as good as the best landlords in the field”. We urge the Treasury Committee to recommend to the Crown Estate Chairman and Chief Executive that this proposal be abandoned and that instead the CEC should reaffirm its commitment to the continued provision of affordable housing in the capital.

*February 2010*

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### **Written evidence submitted by Regent's Park Ward**

#### BACKGROUND

My name is Councillor Heather Johnson and I represent the Regents Park Ward in the London Borough of Camden along with Councillors Nasim Ali and Theo Blackwell. The ward contains a large proportion of Crown Estate properties on the East side of Regents Park. Amongst these are the blocks on the Cumberland Market Estate that makes up part of the Housing Business Group's affordable housing portfolio. There are approaching 600 units on the Cumberland Market and further significant holdings in Westminster, Hackney, Tower Hamlets and Lewisham.

The properties on the Cumberland Market were built in the late 1930s, but affordable housing has been provided by the Crown Estate since shortly after the First World War and the days of Octavia Hill. The properties have always provided homes for local working people and now provide ‘key worker’ housing for teachers, nurses, police, emergency services and transport staff. Providing this type of housing in central London is important to local services and maintains stable, economically active, local communities. A good example of the importance this housing has for the local community was illustrated during the July 2005 bombings and more recently in the heavy snowfalls this winter, when nurses from University College London Hospital were able to walk to work and to the site of the bombings when other staff members were delayed by these events.

The Crown Estate affordable housing is very well managed and very popular with tenants. Considerable investment has been made in bringing properties up to the Government's decent homes standard and many homes have been included in works to bring them into line with the Crown Estate's energy efficiency standards. There is virtually no antisocial behaviour on the estates and residents of the Cumberland Market play an active role in the local community. The Crown Estate management team has also played a major role in the regeneration of the Regents Park area through its active support of local schemes for youth provision, involvement in the West Euston Partnership and the local Healthy Communities partnership. The affordable housing management team has also recently relocated the whole team into one office and delivered efficiencies across the estate by streamlining its management service.

In the light of the forgoing it is surprising to see the proposal to sell off the affordable housing to a more “focussed” housing provider. The Crown Estate has got close to a century of experience developing and managing key worker/affordable housing and in recent schemes small pockets of affordable housing are still being developed, eg four affordable units in a ten unit scheme in Burnhill Green. All this clearly demonstrates the complete nonsense of the notion that the Crown Estate is not “focussed” on its affordable housing.



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## CONSULTATION ON THE CURRENT PROPOSALS

There are serious flaws in the current consultation process which I believe demonstrate poor management at best and considerable obfuscation or bad faith at worse. It is clear even from the small amount of information given to tenants that a very different result will occur depending on the type of organisation the properties would be sold to. The consultation letters were delivered as unaddressed correspondence and so missed as “junk” mail by many tenants. In the literature tenants are effectively denied the real truth about the situation by a panacea of generalities. Tenants have also reported being intimidated at the “drop in” sessions, which turned out to be appointment based so a number of tenants were turned away. The timeframe is very short, barely two months and there has been no dissemination of answers to questions raised by tenants who did get to attend a consultation appointment.

A purchase by speculative developers and not for profit housing associations are among the possibilities that would have widely differing results for residents. Clearly a consultation that does not give a firm indication of the possible buyer and consequent outcome is meaningless, but the Crown Estate has refused a further consultation process once the preferred bidder is known. Tenants are told that their current terms and conditions will be honoured, but no indication of how this will be ensured. The tenants’ handbook provides for terms beyond those provided for in legislation, but no account has been taken of this or explanation given of the legal framework that will be used to protect these rights. There was no reply form or consultation questionnaire included in the documentation and moreover no assurances have been given regarding the weight that will be given to the views of tenants. Additionally a ballot of all tenants has been ruled out.

There are a number of other ways in which this consultation process falls outside the Government guidelines. As local Councillors we were not formally consulted, but simply informed of the consultation letter to residents. None of the other local stakeholders have been consulted, local authorities, nominating bodies (hospitals, education departments, the police etc.), Local Strategic Partnerships or the GLA, NHS or other strategic bodies.

In addition to these concerns, the Crown Estate has clearly been marketing the properties prior to the close of the consultation period. The choice based lettings scheme has been stopped, denying transfers to overcrowded families and the key worker waiting lists closed, with the result that there are a number of empty properties on the estate, while key workers in need of local affordable housing are left without homes. It is not surprising therefore that many residents feel the consultation to be a sham and firmly believe that a buyer has already been identified.

## THE CROWN ESTATE’S CORE VALUES

Amongst the Crown Estate’s core values are Integrity and Stewardship and sustainable communities are at the heart of its Corporate Responsibility Framework. Over many years these values have been demonstrated in the provision and management of the affordable/key worker housing provided across London. The Government has been clear that an increase in affordable housing stock is needed and that mixed communities are at the heart of sustainable housing provision. The Crown Estate is in a key position to make a contribution to these aims and the management of the estate should take these matters into account when looking towards the future. The benefit to the London and the Government from the provision of key worker, rented, housing far outweighs any short term financial gain to be made by the sale and effective loss of this vital housing stock and the communities within it.

*February 2010*

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### **Written evidence submitted by Caithness & North Sutherland Regeneration Partnership (CNSRP)**

Caithness & North Sutherland Regeneration Partnership (CNSRP) welcomes the opportunity to submit a response to the Committee. CNSRP is an informal partnership of the four key public sector organisations with particular responsibility for maintaining and developing healthy and successful communities and economies in the area forming the Travel-to-Work zone for the former Dounreay nuclear plant on the north coast of Caithness. Highlands and Islands Enterprise (HIE), The Highland Council (THC), The Nuclear Decommissioning Authority (NDA) and the Scottish Government jointly created CNSRP to drive the diversification of the area’s economy away from its dependence upon the nuclear industry as the Dounreay site’s decommissioning programme entered its latter stages.

CNSRP drew together an Action Plan to drive this process, and one of its key early opportunities was felt to be the development of a wave and tidal power industry around the waters of the Pentland Firth. In 2007, the CNSRP was instrumental in helping The Crown Estate create the Pentland Firth Marine Energy Project. This pro-active initiative saw The Crown Estate working together in conjunction with CNSRP’s partner organisations.

The partners applaud the vision shown by The Crown Estate in setting out its leasing programme for the Pentland Firth, offering the area the chance to become the first in the UK to offer commercial-scale wave and tidal sites. The Crown Estate also took the very positive step of employing a manager for its wave and tidal interests, based in Caithness. This enabled further integrated partnership working.

The Pentland Firth Round One leasing programme was announced in September 2008 by Scotland's First Minister, and local partners welcomed opportunity to develop economic benefits for the area economy.

However, partners became increasingly frustrated at the lack of interaction with the competition process. The area's ability to plan infrastructure developments and to enhance the capacity of local companies to engage with opportunities was affected by the terms of the competitive process. This discouraged information exchange between bidders and local agencies.

The 2009 Caithness Conference featured a keynote address from Jim Murphy MP, the Secretary of State for Scotland. Following this Caithness, Sutherland and Easter Ross MP John Thurso was able to convene a meeting at Dover House in London at which the Secretary of State for Scotland, CNSRP representatives and staff from the Crown Estate discussed issues arising from the lack of access to information on developer requirements, and the impact this had on local supply chain and infrastructure planning. It was agreed that more might be done to facilitate information exchange, and the regional development agency has subsequently been given permission to contact bidders directly.

However, local partners in Caithness have recently been involved in the commencement of the competition for the next Parent Body Organisation (PBO) for the Dounreay site, and feel that lessons might be learned from the way this competition is being run. Whilst issues of commercial confidentiality remain crucial in the Dounreay PBO competition, it has been launched with a public Industry Day at which local stakeholders can make contact with prospective bidders. This allows a rigorous yet fully transparent process. The partners feel that future Crown Estate activities of this sort would benefit from a similar ethos.

We would also welcome further development of the approach taken by The Crown Estate and Highlands & Islands Enterprise following the announcement of Round 3 of its Offshore Wind licensing programme. Here the two bodies staged a workshop for supply chain companies in the Highlands and Islands.

Finally we welcome moves to develop a memorandum of understanding between the Crown Estate and partners in the Highlands and Islands such as Local Authorities and Highlands & Islands Enterprise. It is our hope that this will further encourage communication between partners.

*February 2010*

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### **Written evidence submitted by Frank Dobson MP, Meg Hillier MP and Bridget Prentice MP**

#### **THE PROBLEM**

1. The Crown Estate is proposing to sell off some 1,500 homes in London to a combination of a private landlord and a registered social landlord. The homes in question are located at Cumberland Market in Camden, Victoria Park in Hackney and Tower Hamlets, Lee Green in Lewisham and Millbank in Westminster. At present they are managed as affordable housing with key worker nomination rights to vacant flats held by employing organisations such as local hospitals, education authorities, the fire brigade and the police. Tenure ranges from assured shorthold tenancies, through regulated and assured tenancies to leaseholders. They are all thriving and integrated local communities, some in blocks of flats and others in street properties. The proposed sell off is causing great anxiety amongst the residents who fear for their future security of tenure and rent levels and are concerned about the ending of the key worker scheme.

#### **THE CONSULTATION**

2. The Crown Estate commenced a process of "consultation" on 26 January which is due to finish on 23 March—a period of two months. They are dealing with residents individually. They are showing potential purchasers around the estates but have refused to disclose the identity of any of the organisations involved to residents or local MPs. They have refused to conduct a ballot of residents although this is a basic element of "stock transfers" in the public sector. In the case of a local authority, a transfer can only proceed if a majority are in favour. So far as we have been able to ascertain, the Crown Estate has not consulted the relevant local housing authorities nor the organisations who nominate key workers which include eight hospitals—Barts, Chelsea & Westminster, Homerton, King's College, Royal Free, St Mary's and University College Hospital—the London Ambulance Service, 10 NHS Primary, Community and Mental Health Trusts, the London Fire Brigade, London Underground and Transport for London, the Metropolitan Police, the Education Departments in Camden, Westminster, Hackney, Tower Hamlets and the House of Commons.

3. The proposed sale is being promoted by Paul Clark, the Crown Estate's Director of Investment and Asset Manager. In a previous incarnation, Paul Clark was responsible for the sale of affordable housing in south London by the Church Commissioners to Grainger plc in partnership with Genesis Housing Association. Despite initial assurances that existing tenants' rights would continue under the new landlord, rents rose, the keyworker scheme was abolished and some of the properties have been sold off. Local MPs

and councillors are still dealing with the aftermath. Mr Clark has been publicly quoted as saying in his role at the Crown Estate “It is very important to me that we are seen as an organisation that is open for business with anyone who has a proposition for us”. However, he told Meg Hillier and Frank Dobson that he wanted to sell the estate to organisations with the same “management tone” as the Crown Estate.

#### RESPONSE OF RESIDENTS

4. Within days of receiving notice of the proposed sell off, residents started campaigning against it. Public demonstrations have been held in Victoria Park, Cumberland Market, Millbank and Lee Green. Individual residents and their Residents’ Associations have been making representations. The overwhelming majority of residents wish to stay with the Crown Estate. They are demanding that the Crown Estate organise a ballot to be carried out by an independent reputable body or, failing that, meet the cost of such a ballot conducted on behalf of the residents. They also believe that a consultation in which the preferred purchasers aren’t identified is a mockery.

5. The residents challenge the Crown Estate to comply with their statutory duty to “maintain an estate in land” and to “maintain and enhance its value” with “due regard to the requirements of good management” and live up to the objectives set out in the Crown Estate Annual Report 2009 which include:

- the highest standards of conduct whose hallmark is quite simply “trust”;
- working towards thriving and sustainable communities;
- ensuring their business activities have a positive economic, social and environmental impact on the wider community; and
- effective stakeholder commitment which is central to their commitment to working together.

6. At meetings with residents and Meg Hillier and Frank Dobson, Mr. Clark and other representatives of the Crown Estate have refused to say that if the sale went ahead:

- tenants presently protected by phasing of rent increases would still be entitled to phasing;
- tenants wouldn’t be subject to compulsory transfers to “suitable alternative accommodation”;
- the keyworker scheme wouldn’t be terminated;
- empty flats wouldn’t be sold off to the highest bidder; and
- assured shorthold tenants wouldn’t have their homes reposessed.

7. Vague undertakings about the transfer of tenants’ rights have been given but it is not clear, where terms and conditions are not protected by statute, how the continued right to such benefits could be enforced against a new landlord. The rights of tenants are set out in a Tenants’ Handbook but this has been withdrawn for new lettings which raises questions about the good faith of the Crown Estate.

8. Far from working together with “stakeholders”, the Crown Estate has refused to disclose information which the Estate holds on such matters as the number and proportion of different types of tenancy on each estate, details of changes in rental policy, information on tenants’ rights to consultation, on the demographic make-up of the residents and on planning considerations. All this information and more was held back by redaction on the grounds of commercial confidentiality when the Crown Estate responded to a Freedom of Information request. The residents suspect that such information has been disclosed to potential purchasers.

9. The residents fear for the future security and affordability of their homes and the ending of the current allocations policy which has resulted in cohesive communities living in pleasant environments. They see their futures being sacrificed to raise money for the Crown Estate to invest in commercial property development and the refurbishment of more upmarket residential property which is not being sold off. The Cumberland Market Estate includes an allotment of around two acres which would be worth a fortune if it were built on. The allotment is included in the property being touted around the potential purchasers. Residents are also at a loss to understand why the Crown Estate wish to sell to a combination of a registered social landlord and a private landlord. They don’t see what would be in it for the private landlord unless rents went up and vacant flats and other assets were to be sold off.

10. As local MPs, we share the concerns of the residents. The Crown Estate properties are settled communities, including a fairly high proportion of elderly people who have lived in their homes for a long time and do not wish to be disturbed. Many of the younger people secured their tenancies under the key workers’ scheme which enables them to get a decent home at rents they can just about afford. We share their doubts about the validity and enforceability of any undertakings given about the transfer of their existing terms and conditions to a new landlord, particularly in view of the fairly recent experiences of a similar stock transfer by the Church Commissioners. Even if the existing tenants’ needs for security of tenure and affordability can be met under a new landlord, as local MPs we remain concerned about future lettings. At the moment, the key worker scheme ensures that people vital to the functioning of this great city—nurses, teachers, ambulance, train and bus crews, firefighters and police—have access to these flats. It seems unlikely that this will continue if a private landlord is to be involved because either selling or letting vacant flats on the open market is the obvious way to maximise the return on their investment.

11. The Crown Estate claim there are two reasons for wishing to sell off their affordable housing, firstly financial and secondly that they lack expertise in managing this type of residential property. Suspicions have arisen that this proposal may arise from pressure from the Treasury. However, when Mr. Paul Clark was asked by Meg Hillier whether this was the case, he said it was not. His reply is backed up by the fact that while it has just been announced, the Crown Estate has been planning the sell off for well over a year. Also, the documents released under the Freedom of Information Act record that initially plans were made to inform the Treasury but later it was decided that the Treasury need not be consulted though it was “thought that they [the Treasury] would be relaxed about disinvestment”.

12. We would argue that the Crown Estate is not just a property company. By statute and its own published policy objectives the Crown Estate has additional obligations to promote positive economic, social and environmental benefits for the wider community and to work towards thriving and sustainable communities. This proposal runs plain counter to those objectives as the Crown Estates affordable housing holdings are good examples of thriving and sustainable urban communities.

13. We find the Crown Estate’s claim of lack of expertise in managing affordable housing rather odd to say the least. They have been managing these properties for 90 years. They haven’t been perfect but the tenants are generally satisfied with the service they receive. In our experience as local MPs, their performance as housing managers is better than both local councils and Housing Associations. As they have managed to provide a generally satisfactory service for 90 years there seems little reason to assume they can’t continue to do so.

14. We see no good reason why the Crown Estate should proceed with this sell-off. They haven’t made out a good case for jeopardising the security and affordability of these homes. Their consultation has been most unsatisfactory. We believe that the Crown Estate should commission a ballot of tenants to be conducted by a reputable and experienced body such as the Electoral Reform Society and agree to abide by the result. In the meantime, we believe the Crown Estate should agree to fund the services of an independent lawyer to advise individual tenants and the Residents’ Associations and release to the Residents’ Associations and their elected representatives any information held by the Estate except for any which is strictly commercially confidential.

*February 2010*

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#### **Written evidence submitted by the British Property Federation**

I am writing with regard to the Treasury Committee’s inquiry into the Crown Estate.

We were initially invited to give a formal submission to the inquiry, but declined because we thought it might not be appropriate for us to do so, given that the Crown Estate is a member of our organisation, the British Property Federation, the representative trade body for the property industry, and it is not our normal practice to comment on the activities of individual members.

We have since decided that in view of the particular status of the Crown Estate and the role it has played, and is playing, in the commercial property industry that the Committee might find it useful to have a brief comment from us. What we have not done and cannot do, however, is comment in any way on the specifics of the Crown Estate’s business activity, not least because we have insufficient knowledge of the particulars.

My organisation, the British Property Federation, represents commercial and residential landlords, developers, property investors and other businesses which support them, including the major banks, law firms, accountancy firms and specialist professional services firms serving the property sector. We are the leading organisation for the property sector, representing more square footage and more investment than any other property representative body in the UK. Our principal aim is to work with the government, parliament and public bodies to develop workable policy solutions that improve the built environment.

In broad terms, our membership tends to represent the upper tier of the property market. Our members are often relatively high profile organisations which feel the imperative to act responsibly. For many, membership of the BPF represents a statement of the value that they place on improving the sector and working constructively with the government and other public bodies to find workable solutions.

The Crown Estate has been a member of the British Property Federation for many years, going back to as far as our records show. Over the years, the Crown Estate has been an active member, working with us on a range of issues. Most recently, it has been hugely active in our work on promoting sustainability best practice.

The Crown Estate’s continual involvement and time commitment in working with us demonstrates its desire to share its own experience and knowledge in support of our efforts to improve the professionalism, expertise and best practice in the property sector.

I would like to put on record that, so far as we are able to judge from our dealings with it, the Crown Estate has always been at the forefront of the sector, working with the British Property Federation to improve the sector and the services that our sector provides to British businesses and individuals.

March 2010

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### Written evidence submitted by Christopher Fisher and Teresa Hogan

I would like to offer the following information to the Treasury Committee, to illustrate the inconsistencies in the Crown Estates proposals and to show that far from moving away from providing affordable housing they are in fact entering into an expansion phase concerning their activities in housing.

#### THE CONSULTATION PROPOSALS

In response to the Crown Estates consultation proposal as set out in their booklet “Have Your Say” we made the following observations which formed part of our own personal response to the consultation process.

The Crown Estates have put forward the proposal that they are not focussed housing providers and that they do not have management capacity compared with other housing providers. Their second proposal is that they have a duty to maintain the value of the land and properties it owns and the income they generate for UK taxpayers.

The first part of the proposal as set up above seems a strange statement to make when nearly all the income from the estates comes from the renting and letting of land and property. The idea that within that portfolio, the housing sector is singled out as an example where because of its relative size you do not feel you have the management capacity to operate effectively cannot be the case. Much of the corporate management must be common to all sectors of an organisation, for the Crown Estates business is renting, letting, and managing property.

The second part of the proposal is a very simplified and narrow view of what maximising the income for the taxpayer is. In fact the Crown Estates Act 1961, Chapter 55, s 1(3) uses the term return, rather than income and stresses the application of good management. The whole issue of maximising a return for the UK taxpayer may appear simple in terms of a balance sheet, but it does not take into account the wider aspects of providing affordable housing, promoting stable and happy communities, and providing a good social mix of people. Selling off the estates to the private sector, means an end to affordable rents, communities will be broken up, and the area will be the poorer for it. At this time of economic instability offloading tenants into the hands of the private sector is an abdication of responsibility. The Crown Estates as a public body know very well what the ultimate fate of all tenants and even lease holders will be. At a time when your good stewardship should be providing stability for communities, you would be throwing them into chaos.

#### OTHER DOCUMENTS

The Crown Estates have recognised themselves, that value to the taxpayer is not just made up how to maximise profit in terms of a balance sheet. In published articles they have stated that they recognised that affordable housing and communities are an important part of what the Crown Estate provides as part of their stewardship. In 2005, *Housing News* published an article “Introducing Elspeth Miller” Head of Customer Management; the article makes plain that affordable housing and the value of communities is important to how the Crown Estates see themselves as responsible landlords. In the Crown Estate document “Building in Partnership“, published spring 2009, the Executive Summary describes the Crown’s commitment to sustainability the importance of retaining local communities. As an example on page 12 of that document, in support of the executive summary you quote in bold type “The Homes and Communities Agency sees the Crown Estate as a responsible landowner capable of delivering much-needed housing stock for families across the UK. Its approach to bringing forward sustainable new schemes in partnership with local communities, business and developers should be commended”—Sir Bob Kerslake, Chief Executive, the Homes and Communities Agency. Following this article we found the Crown Estates had entered into Partnership with HCA (Home and Communities Agency) to support the delivery of 2 million homes by 2016 and 3 million homes by 2020. This document entitled “Homes & Communities Agency and The Crown Estate” is signed by Roger Bright, Chief Executive and Second Commissioner, for the Crown Estates. It states for example on page 5, and the 2nd and 3rd bullet points in particular, under communications:

There are several key messages that can be promoted through joint working between The Crown Estates and HCA; in particular:

- creating and sustaining communities, quality development and place making; and
- providing affordable housing where appropriate in places where people want to work and live.

So as a body, the Crown Estates hold the view that affordable housing, community and stability are part of good management and stewardship. So why have the Crown Estates suddenly retreated behind a rather narrow definition of maximising revenue for the taxpayer, by which they clearly mean to mean maximising the money you get from selling off tenants homes to a private buyer.

#### IN CONCLUSION

At this time people are losing their jobs, the future is uncertain, the best thing that the Crown Estates or any other public body could do at the present time is to try and provide stability. To talk about maximising immediate revenue to the taxpayer, in such a narrow way, is distorting what you believe has been your role as responsible landlords. At present what is important is stability and to take such a drastic step which will affect so many of us is irresponsible, unnecessary and cruel.

The Crown Estates should not consider selling off the estates as a proposal for discussion. We would say that the Crown Estates have a duty to help stabilise our conditions as tenants especially during these uncertain economic times, rather than to create panic among its tenants over their future.

*March 2010*

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### **Written evidence submitted by London Borough of Camden**

#### ABOUT LONDON BOROUGH OF CAMDEN

1. Camden is a borough in inner north London, of diversity and contrasts. The borough stretches from Hampstead Heath and Highgate in the north through Camden Town, and Kings Cross to central London. It has almost 250,000 residents many with low incomes as well as some localities with very expensive housing.

#### BACKGROUND

2. The Crown Estates Commission (CEC), which has important financial linkage to the Treasury, is proposing to sell off 1,300 mainly rented dwellings in four London estates in the London boroughs of Camden, Greenwich, Hackney and Westminster. Around 500 homes are in Camden in the Cumberland Market estate. Almost 30% residents are regulated (long-standing) tenants, 40% assured tenants and 30% assured shorthold tenants. The last category of tenants have no long term security of tenure.

3. Recent lettings have been assured shorthold tenants (ASTs) with little long term security of tenure. All recent lets have been to key workers such as teachers, NHS workers, ambulance drivers. This type of housing has very significant economic and wider social benefits for the local community and London's economy.

4. CEC's public consultation launched at the end of January concludes on 23rd March.

5. CEC have already stopped letting flats as they become vacant. They started stockpiling vacant flats a week after the consultation began.

#### RESIDENT CONCERNS

6. Residents in Camden are concerned that after the sale, an incoming landlord may wish to sell off flats as they become vacant—a so called “trickle” sales programme. There is also a concern that future lettings of flats may be at full market rents which could well put the homes beyond the reach of workers such as nurses.

7. The concerns meant Cumberland Market Residents Association had 300 people to their last meeting. Their deputation to the Council on Monday 1 March said they were worried that the strong local community could be weakened by changes in letting policy.

8. Camden supports homes at below market (“intermediate”) rents to households on modest incomes. This helps people with a wide range of incomes live in the borough.

#### SECURITY

9. CEC have a consultation process, but key information for residents has been kept secret. CEC has refused to disclose to residents even what its existing rent policy is.

10. When approached by Council officers, CEC has effectively refused to provide information to Camden Council about the possible sale of the estate in Camden other than what is on the website. The Council therefore cannot assess what the terms of the sale would allow an incoming purchaser to do.

11. Potential purchasers, including housing associations who are Camden's long term social housing partners, have told the Council that they are prevented by the confidentiality clause imposed by CEC from telling the Council anything about the terms of the sale.

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 AVAILABLE INFORMATION

12. The CEC website says “existing tenancies would remain in place”. There is however no commitment to letting flats as they become vacant. ASTs occupied by the key workers expire after a specified period of time (which can be as little as six months). They are renewed or continued at the discretion of the landlord.

13. On rents the CEC website says that “the rental framework and policy that is currently in place for existing tenants would not change”. The reference is not totally precise and further does not seem to apply to any future tenants opening the door to letting at rents that exclude modestly paid key workers.

## THE COUNCIL’S ASSESSMENT

14. Camden thinks there is a need to maintain and increase the amount of intermediate housing in the borough available to modestly paid people such as key workers.

15. CEC housing provides a valuable under-provided type of housing. Current Homes & Communities Agency rules limit severely the scope for replacing this type of housing.

16. There is serious risk that the proposed terms of sale might mean that more socially responsible purchasers would be outbid. Any purchaser buying on the basis that they can sell vacant flats would be locked into a business plan which precluded a continuation of the current socially responsible arrangements. Tenants encountered such problems after a sale of part of the Church Commissioners’ residential estate.

17. Hence we fully understand residents’ concerns about the break up of their community.

## REQUESTS

18. We urge the Treasury Select Committee to ask Crown Estates Commissioners to:

- (a) end the secrecy surrounding the proposed terms of sale, and ask for the residents to be involved in the evaluation of the bids for their estates;
- (b) recognise the unique nature of the Crown Estates, reassess the terms of the sale and halt the sale while this reassessment is taking place; and
- (c) if the sale does go ahead, to ensure that the winning bid recognises the beneficial effect that key worker housing has on London’s economy and community infrastructure by selling to a registered social landlord.

19. Finally, we ask the Treasury Select Committee to write to the Chancellor of the Exchequer to ask for the sale to be stopped, or alternatively for the estates to be sold to a registered social landlord.

*March 2010*

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**Written evidence submitted by Angela Harvey, Alan Bradley, Nick Evans, Members, Tachbrook Ward,  
Danny Chalkley and Steve Summers, Members, Vincent Square Ward**

**CROWN ESTATE—POTENTIAL SALE OF FOUR AFFORDABLE  
RESIDENTIAL ESTATES IN LONDON**

## SUMMARY

I understand that your Committee is reviewing the management of the Crown Estate at its meeting tomorrow, Wednesday 4 March. As Graham Brady lives in my ward and in which we have an estate for sale, I met with him yesterday to brief him on this matter and he has asked me to prepare a note for you.

In summary, we believe that the disposal of the Crown Estate affordable<sup>33</sup> residential estates will give long term poor value for money to the taxpayer, while damaging cohesive communities and losing essential key worker accommodation for London’s workers. We ask that the Treasury Select Committee investigate the long term benefits of this sale to the taxpayer. We also ask the Committee to ask Crown Estate to affirm the nature of the guarantees to current tenants.

## DETAILS

The Crown Estate has been a much valued landlord of key worker housing. In London they are currently consulting on the sale to as yet unknown bidders for four of their long established estates, Millbank (Westminster), Cumberland Market (Camden), Victoria Park (Hackney & Tower Hamlets) and Lee Green (Lewisham). There are 1,300 residents on the four estates, with 350 residents on our Millbank properties. The residents, who form an integral part of our mixed communities here in Pimlico, work for the public services and include teachers, medical staff, fire and police officers, as well as people who serve Parliament.

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<sup>33</sup> Technically, as this housing has not been funded by the taxpayer, this is a loose use of the word affordable. Nonetheless as the rents are at 60% of market rates such housing would be understood by the public to be affordable.

Millbank primarily comprises flats in Pimlico grid properties in places such as Ponsonby Place, Terrace etc, plus some modern purpose built flats. Many of these flats are in terraced properties, whole houses of which currently fetch up to £1.5 million on the market.

We understand that the Treasury requires the Crown Estate to get best value for the tax payer. However, selling affordable intermediate rental properties at this time, so that it requires replacement in the medium and short term may be seen as something similar to the sell off of the UK's gold reserves—sold cheaply, requiring more costly replacement at taxpayers' expense. In Westminster we are committed to mixed communities which we believe are essential to the social health of our population.

You may recall that the Church Commissioners sold their affordable properties about four years ago to a joint venture between Genesis Housing (an RSL) and Grainger Asset Management. Although a social housing provider, Genesis has held their share of the asset outside their social housing portfolio and as properties have become vacant they have been put on the market, either for sale or rental at full market prices. The Church Commissioners claimed they were no longer in a position to own affordable housing. This is not the case with the Crown Estate.

Although the Crown Estate has assured tenants that the various kinds of tenancies will be guaranteed, they have identified no benefits from the sale for the residents. So, the key question is what will become of the properties once they become vacant. We can see no financial advantage to an RSL to take on the ownership if the intention is to keep the properties as affordable housing. An RSL would be able to build new properties with grant funding more quickly, rather than wait for < 10% annual attrition rate for release of properties. We must, therefore, believe that the new owner will seek the opportunity to release such vacated properties to the market, leaving the public sector to pick up the increased need for affordable housing. In Westminster where land is costly it is not easy to find opportunities for new affordable housing and thus grant support needs to be higher.

Our local MP Mark Field fully supports this campaign. We have spoken with the Mayor's Director of Housing who is also concerned about the potential loss of these estates across London, as in David Lunts, the Homes and Community Agency London Regional Director.

*March 2010*

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#### **Supplementary written evidence submitted by the Royal Institution of Chartered Surveyors (RICS)**

Thank you for inviting RICS to give evidence on the Crown Estate Commissioners on 24 February. I am writing to offer additional evidence for your consideration ahead of the publication of your report.

Prior to the hearing RICS was invited to submit evidence to the inquiry. As a number of RICS members are employed by the Crown Estate to manage its property portfolio, we declined to comment as we deemed our ability to offer an objective point of view was impaired. We agreed to appear before the Committee as it is within our remit as a public interest body to describe, in broad terms, some of the challenges faced by rural estate managers. We hope you have found our evidence useful to that effect.

In preparing for our oral evidence to the Committee we identified a number of these challenges. While assessing the work of Crown Estate Commissioners we would urge the Committee to take these points into consideration:

1. The length of tenancy terms and the rental value of Crown property should be considered in the wider context of the economy. Tenancy arrangements are but one of many components which reflect on the performance of the rural portfolio. The RICS rural market survey indicates that the main performance driver in 2009 has been an exceptionally low supply, coupled with rising demand in farmland. This has resulted in increased prices and expectations. The consensus amongst surveyors is that a very thin market is likely persist during 2010 and this in turn is expected to drive farmland prices even higher.<sup>34</sup>
2. Rural estate managers are likely to face significant challenges in complying with the Land Registration Act 2002 which requires all land and property interests to be recorded. This is a complex process as managers employed by the Crown Estate must assess the extent of land ownership. Considerable time will be required to identify all of the interests within such a varied estate, therefore overriding interests<sup>35</sup> risk being lost on transfer after 2013 if the CEC fails to comply with the timetable set by the Land Registration Act 2002. The Committee may wish to consider whether exemptions or protection have been given to the CEC in the event that it fails to register before the deadline.
3. Management of minerals, including severed minerals (this refers to minerals not attached to surface ownership) may be of interest to the Committee. Minerals are an important part of the Crown Estate, comprising 115,473 hectares, but were not specifically listed within the scope of the Committee's inquiry.

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<sup>34</sup> RICS rural land market survey H2 2009, <http://www.rics.org/ruralmarketsurvey>

<sup>35</sup> Overriding interests are that which do not appear in the Land Register but which override the interest of the surface owner, for example minerals interests.



I hope you will find these additional points helpful and we look forward to your final report.

March 2010

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**Further written evidence submitted by the Gas Storage Operators' Group (GSOG)**

On Wednesday 3 March 2010 the Treasury Sub-Committee held a meeting as part of its inquiry into the Management of the Crown Estate and took evidence from Mr Roger Bright CB, Chief Executive, the Crown Estate.

During this meeting Mr Bright was asked if the approach the Crown Estate was currently taking to offshore gas storage projects was purely focused on revenue generation and would be of potential huge detriment to other Government policies.

In reply Mr Bright said that the Crown Estate was doing “all we can to facilitate....On gas storage, we have made available our proposed terms since 2007 and have been in negotiation with four main operators in this area. We have reached agreement with three and one we have not reached agreement with because they have a fundamentally different view—they want a cost plus basis. We have offered to go to independent arbitration and they have refused”.

This statement is misleading and false; the purpose of this supplementary note is to present the sub committee with the correct facts.

There are four gas storage operators currently developing offshore gas storage; two have agreed terms; two have not. The following table identifies the current offshore projects, company, size and whether or not agreement has been reached with the Crown Estate.

Project	Bains	Baird	Hewett	Gateway	Infrastrata
Company	CSL	CSL	ENI	Stag	Infrastrata
Asset size (MCM)	570	1,700	5,000	1,500	500
Signed Terms	N	N	N	Y	Y

By way of relevance the following table helps provide a comparison of the offshore capacity signed up with the crown estates.

Not Signed Terms (MCM)	7,270
Signed Terms (MCM)	2,000
% signed terms	22%

In addition, Mr Bright's comment that agreement has not been reached with one company because “they have a fundamentally different view—they want a cost plus basis” is also misleading. Both CSL and ENI (and indeed other operators) believe that rental charges based on a cost plus basis is appropriate given the Crown Estate's monopoly status in the provision of offshore strata and the clear excess of supply over current and forecast demand.

The GSOG would like to formally register its disappointment that this important area of debate was effectively curtailed by the use of incorrect and misleading evidence.

March 2010

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**Supplementary written evidence submitted by The Crown Estate (Crown Estate Commissioners)**

At the Sub Committee hearing on 3 March I agreed to let you have certain information within seven days of the hearing. For the sake of clarity I have in each case first specified what information was requested and then provided the information itself.

1. *How many vacancies in the housing estates do you currently have?*

There are currently 35 vacant units (as opposed to the 32 I mentioned at the hearing) out of 1,234 rented units involved in the consultation on the four estates; a vacancy rate of less than 3%. The units are vacant for a number of reasons, including refurbishment. Some are also being held vacant temporarily to facilitate the marketing exercise that is underway so that potential purchasers can view empty properties with minimal disruption for existing tenants.

2. *Please confirm that tenants' existing rights under the handbook will be protected in the event of sales*

As I indicated at the hearing, I can confirm to the Sub Committee that, should this proposal proceed, any new owner would manage the properties subject to the tenants' existing rights as set out in their tenancy agreements and, for those that were issued with a tenants' handbook, the rights outlined within that handbook; a new landlord, or indeed any subsequent landlord, would not be able to change this. These protections are encapsulated in the Law of Property Act 1925 and the Landlord and Tenant (Covenants) Act 1995.

It is also worth adding that if the proposal goes ahead, the rental framework that is currently in place would not change. It would be transferred to the new owner. For residents on regulated tenancies, rent levels are determined by the Rent Officer. This would not change. For residents whose rent levels are currently subject to a "ceiling rent"—a maximum possible rent as a percentage of the market rent—this also would not change.

3. *How many of your housing tenants have exercised their option for leasehold enfranchisement?*

In the financial year 2008–09, 19 properties across The Crown Estate's four London housing estates—Cumberland Market, Millbank, Victoria Park and Lee Green—were enfranchised. The total over the last five years is 83. This includes (long) lease extensions, leasehold enfranchisements and collective enfranchisements.

In addition, there are two points on which I would like to give further clarity.

Firstly, I referred to a loss of £18 million from our investment in the Gibraltar partnership. In fact this was the sum, as at March 2009, we had voluntarily placed on deposit to support the partnership's banking covenant as the value of the investment declined. The deposit is returnable once values recover and the banking covenant is being fulfilled. It is therefore not irretrievable. The loss in value since our investment was made in 2007 is an impact of market fluctuation for this type of asset and asset values are now improving once again.

Secondly, I would like to clarify the position in relation to gas storage projects. In my oral evidence to the Committee I said that we had settled terms with three gas storage developers which is what I understood to be the case. I now need to correct the record as the precise position is that we have reached settled terms with two and are close to settling all but the rent with a third. My evidence was given in good faith and I apologise for this inaccuracy, which arose from a genuine misunderstanding and was unintentional.

In light of the supplementary submission received yesterday from the Gas Storage Operators Group I would like to provide the Committee with more detailed information in relation to the above matter. I shall therefore be writing further to the Committee tomorrow in response to this submission.

I shall supply a formal note to the Committee covering the above points for the record at the same time as I submit any proposed corrections to the transcript, but I thought I should draw them to your attention without delay.

*March 2010*

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**Supplementary written evidence submitted by HM Treasury**

**THE CROWN ESTATE: DIRECTIONS**

At your hearing on 3 March, I undertook to send you some further observations on the Treasury's powers to direct the Crown Estate (TCE).

As I said, this is not a power to be used lightly. Exercising it would not necessarily, as Lord Thurso suggested, be an admission of failure. But it is not the first course that I would take in dealing with TCE's business. Let me explain why.

Perhaps the first point to make is about what can be deduced from the structure of the Crown Estate Act 1961. The high level powers, framed almost half a century ago in a very different age, provide little detail to go on. But section 1(1) clearly puts the primary responsibility for managing the Estate in the hands of the Commissioners, with certain specific statutory duties, articulated in section 1(3)—namely to maintain and enhance the value of and return from the Estate, subject to the requirements of good management. While these are general principles, they do have clear meaning, and they can be interpreted in line with their dictionary definitions.

It is against that background that any use of the power of direction in section 1(4) should be judged. The Act clearly expects the power to be used exceptionally, and only within the requirements of section 1(3)—for example, as I mentioned last week, to bring the activity of the Estate in line with section 1(3). Similarly, a direction could not seek to impose a duty on the Commissioners to depart from section 1(3). Nor could it seek to interfere with the trust like nature of the Estate's constitution. This is brought out in section 2(4) of the Act, which requires the Commissioners to maintain an appropriate balance between capital and income.

Another powerful reason that I was unable to give you a full account of how the power could be used is simply that it never has been used. There are no precedents to illuminate Ministers' judgements on its use. And a great deal of judgement would clearly have to be applied if use were ever seriously contemplated.

However, with these caveats, some principles can be inferred from the context and style of the legislation. These include:

- reasonableness: as I said last week, an implied requirement of any use of powers in legislation;
- consistency: any direction would have to steer the Crown Estate to operate within the terms of the 1961 Act and not beyond it; and
- in particular, acting within (and not beyond) the public purposes set out in s4 of the Act, which permits the Commissioners to enhance the value of the Estate and to allow land to be used for defined charitable and public functions provided those are for the benefit of the land of the Estate or those who live or work on it.

It might perhaps help if I sketch out some circumstances in which it would probably not be proper to use the power:

- to frustrate TCE's ability to meet its business objectives in section 1(3);
- to further the interest of a particular group over and above the wider benefit to the Estate as a whole;
- to further some frivolous purpose; and
- to limit the Estate's ability to take advantage of opportunities or manage its risks where the action contemplated might damage its ability to carry out good management of its properties.

It is not just because of these uncertainties that successive generations in the Treasury and Scottish Office have not used the direction power. It is also because a great deal can be accomplished by simple agreement. I make no apology for repeating the proposition that it can be better to strike an amicable agreement than to seek to exercise the formal power. An agreement can be just as effective, and more flexible.

I am sorry that I cannot give you a more definite exposition of the scope for the use of the power of direction. But I hope this is of some use to the Sub-Committee.

*Sarah McCarthy Fry MP*  
Exchequer Secretary

*March 2010*

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#### **Further supplementary written evidence submitted by The Crown Estate (Crown Estate Commissioners)**

##### **CROWN ESTATE RESPONSE TO THE SUPPLEMENTARY SUBMISSION MADE BY THE GAS STORAGE OPERATORS' GROUP**

The Crown Estate would like to offer the following comments to the Treasury Sub-Committee in response to the Gas Storage Operators' Group (GSOG) supplementary submission to the Committee received on 8 March 2009. The supplementary submission alleges that my following statement to the Committee on 3 March was misleading and false.

“... The position on gas storage is that we have made available our proposed terms for the renting of gas storage facilities undersea since, I think, 2007. We have been in negotiation with four main operators in this area. We have reached agreement with three of the four operators and there is one that we have not reached agreement with. The one that we have not reached agreement with takes a fundamentally different view from us about the basis on which we should charge. They say that we should charge on a cost plus basis; we say that we should not. We have offered to go to independent arbitration but this fourth company has so far refused to go to independent arbitration.”

I therefore address each of the elements of this statement below.

#### **1. TERMS HAVE BEEN AVAILABLE SINCE 2007**

- Since 2007 we have regularly engaged with both the GSOG and the individual developers named in the supplementary submission in relation to the terms upon which we would propose to lease gas storage sites. These heads of terms did not include rent levels as they are site specific and subject to individual negotiation. This was an iterative process as feedback enabled us to further develop terms which would be fair to all concerned.
- By May 2009 draft terms for offshore gas storage projects had become more widely developed. GSOG were informed that these revised terms were available to their members who were encouraged to engage with The Crown Estate should they wish to enter into discussion on the grant of an Agreement for Storage Lease and Lease.

- Stag, Infrastrate and ENI took up this opportunity and we were able to agree terms with Stag and Infrastrate. We have also been in regular dialogue with ENI to the extent that (apart from the rent) we are close to finalising terms with ENI. Both ENI and ourselves have committed to each other to achieve this by the end of this month.

## 2. SETTLED TERMS WITH THREE OPERATORS

- As the Committee is already aware I made a genuine error in reporting to this Committee that we had settled terms with three gas storage developers which is what I understood to be the case. I have sought to correct the record as the precise position is that we have reached settled terms with two and are close to settling all but the rent with a third. My evidence was given in good faith and I apologise for this inaccuracy, which arose from a genuine misunderstanding and was unintentional.
- Of the two operators with whom we have not agreed terms correctly named by GSOG as CSL and ENI, meaningful negotiation of the rent levels have only been taken up by CSL in that they made a counter-offer to our initial proposal. The conclusions of the report by Oxera referred to below confirmed our original rental value which was therefore reiterated in the last week.
- To date, ENI have made no counter proposal to our initial proposal for rent.
- We had elected to commission an independent report in November 2009 in an effort to progress negotiations and both CSL and ENI were informed of and approved of our intention.

## 3. LEVEL OF RENT AT HIGHER THAN COST PLUS

GSOG have stated in their supplementary submission that CSL and ENI (and indeed other operators) believe that rental charges based on a cost plus basis is appropriate given The Crown Estate's monopoly status. GSOG define cost plus in their submission to the Committee as "administrative cost plus a reasonable return for risk undertaken (if any)".

The Crown Estate's position is that undersea gas storage is a commercial activity in a competitive market and that it is fair and reasonable to charge a commercial rent for this activity; and that such a rent may legitimately exceed the cost plus basis favoured by GSOG without offending the rules around anti-competitive behaviour. Nevertheless in order to be certain of our position we have undertaken the following:

- (a) commissioned an independent report from Ernst & Young;<sup>36</sup>
- (b) offered to refer the matter of rental valuation for determination by the Valuation Office;
- (c) when the proposal for a valuation office determination was declined we commissioned a further independent report from highly regarded consultants Oxera;
- (d) we have sought legal advice from energy specialist law firm Hunton & Williams.

This work is further discussed below. The conclusion of this work is that to charge above cost plus is not an abuse of our monopoly position.

### *Ernst & Young report, September 2008*

In 2008 The Crown Estate commissioned a report from Ernst & Young to ensure that the level of rent proposed (and now agreed with two of the four developers) was fair to both The Crown Estate and to the developer. The conclusion was that our rent levels were indeed fair. The rent levels assessed by Ernst & Young were above cost plus.

The findings of the Ernst & Young report have formed the basis of the levels of rent proposed by The Crown Estate in all its gas storage negotiations.

### *Referral to the Valuation Office*

Given that The Crown Estate must not and does not, take advantage of its monopoly status we have committed to refer disputed levels of rent on our Marine portfolio to the Valuation Office. Valuation Office direction requires the calculation of value to be the value of the site to the grantee and in particular that the value, if any, to the grantee as a special purchaser, should be taken into account.

The Valuation Office has been used for Crown Estate valuations on a number of occasions. The determination of the Rough Field gas storage site (operated then by British Gas and now by Centrica following a £300 million purchase) was an example of such a case in 1983. In this case, the District Valuer carried out the valuation for a capital payment and the award of the capital sum was not on a "cost plus" basis. We have not supplied the actual capital figure to the Committee but with CSL's consent, would be willing to do so, to demonstrate this point. A rental valuation which is not based on cost plus therefore dates back to the 1983 Rough storage valuation by the Valuation Office.

<sup>36</sup> The reports we have commissioned have been obtained from Ernst & Young and Oxera in relation to gas storage. I would like to correct my statement to the Committee on 3 March which made reference to these reports being commissioned in relation to carbon capture and storage.

The Crown Estate has offered to refer the determination of the level of rents for both ENI and CSL projects to the Valuation Office to act as an independent valuer and which we would accept as a binding decision, but they have declined.

*Oxera Report, February 2010*

Since ENI and CSL declined a reference to the Valuation Office we commissioned a report from Oxera as an alternative approach to obtaining an independent view.

The key conclusion from the Oxera report is that The Crown Estate is not required only to look for a cost plus basis of setting rents for gas storage and is entitled to recover a commercial rent from gas storage projects;

*Legal Advice from Hunton & Williams*

We have received legal advice in order to address concerns raised by GSOG that we might be abusing our position of dominance in making charges at a level above cost plus and by implication that we are charging “excessively”. We have been advised that in determining whether there might have been an abuse of a dominant position, a reviewing court or enforcement agency will test whether the price charged is disproportionate to the economic value of the product or service. In making such a determination, it will have regard not only to the cost of the product to the grantor but also to the revenue-earning potential of the grantee. The economic value of gas storage is in the course of being determined in the market in the ongoing negotiations between The Crown Estate and potential purchasers.

Consequently, the legal advice received supports our view charging on a more than cost plus basis is not in contravention of the relevant law.

*Independent Third Party Determination*

Should we remain unable to settle the level of rents with ENI and CSL The Crown Estate would wish to jointly agree a reference to an alternative Independent Valuer (as opposed to the Valuation Office).

We can supply the Committee with the further background to the advice we have received if the Committee would find this helpful.

In conclusion, we believe we have ensured that the rent levels we proposed to operators are based on sound and expert analysis and advice; moreover our willingness to refer rent levels to independent review is a demonstration of our commitment to charging rents at levels which are fair and reasonable. We also believe that this demonstrates The Crown Estate’s recognition of the strategic importance of gas storage and our commitment to work with the industry to realise the opportunities for gas storage in the UK.

*March 2010*

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**Written evidence submitted by the Marine Environmental Information Network and  
the North Sea Action Group**

**CONCERN ON MARINE ESTATE OFFSHORE AGGREGATE DREDGING  
LICENSING PROVISION**

1. PREAMBLE

(a) *Marine Aggregate Dredging Concern*

MARINET and the North Sea Action Group (NSAG) would wish to bring to the new Inquiry on the Management of the Crown Estate, the Marine Estate being the “owners” of the seabed from the low tide point to 12 miles offshore. Our concern is regarding Crown Estate ready provision of licences to dredging companies to extract aggregate from the sea bed, particularly those permitting further exploitation off the coastline of East Anglia.

The majority of the product, around 57%, is landed in UK ports and supplies the construction industry. Some 8% of the product is placed back on the shoreline to refurbish popular holiday beaches damaged by erosion (usually caused by the dredging itself!) and 35% of the product is taken abroad to overseas ports such as Nieupoort, Amsterdam and Flushing. The reason for this export of UK sand and gravel is because Holland and most of coastal Europe do not allow the commercial exploitation of the offshore seabed for aggregate materials due to the damage this would cause to their marine environment, shoreline and fishing industry. Holland and Belgium do not allow dredging of sand and gravel deposits within 25 km of their shoreline or in coastal waters whose depth is less than 20 metres other than to maintain the shipping channels essential for port navigation. Maps present in our briefing show all UK dredging sites well within these limits.

This process, known as Offshore Aggregate Dredging or Marine Aggregate Dredging, is seen to be environmentally damaging to the fishing industry, the marine ecosystem and to the shoreline, hence the local economy. MARINET & NSAG hold that the cost of the ongoing damage created to the shoreline, tourist

industry and business, the sea bed eco-system, to longshore fishing and the aesthetic value of our seaside, coupled with the impending loss of our sea defences and the threatened inundation of The Broads and seven Norfolk villages is considerably greater than the economic gain made by the dredging companies, the Crown Estate and the Treasury, created by the dredging industry.

We further hold that the Environmental Impact Assessments (EIAs) demanded in the past by DETR, DEFRA, EA and now MFA are not fit for purpose, being deficient in their content, lacking in meaningful evidence and partisan to the commercial profit and short-term economic gain aspect only.

(b) *Aggregate Levels Landed and results*

Statistics provided by The Crown Estate and the British Marine Aggregates Production Association (BMAPA) show that over the past 10 years alone over 20 million metric tonnes (ca 12 million cubic metres) of seabed have been removed nationally, 8.8 million tonnes from off the Great Yarmouth area alone. In fact some three times this level was dredged, with one third, the cohesive sand, coarse stone and shingle suitable for concrete manufacture screened out (< 5mm in size) and gravel (5mm to 40mm in size) is then retained for landing at the wharf, and with two thirds washed back overboard to the sea to smother additional prior living seabed downtime.

Over the period of cumulative intensive dredging the sea has deepened between three and five metres, up to 80 metres of beach and dune have been eroded by the natural replacement demand of the voids remaining following removal of the dredged material. Sea defences are threatened by undermining, over 100 coastal bungalows have been lost to the ocean and the sea has advanced inland by up to 120 metres this, being some eight times that accountable for by sea rise and land sink.

A further point is that when dispersed and arriving on the beaches, this finer less cohesive material replacing the previous more stable beach sand and shingle serves to destabilise the previous cohesivity so permitting wave action to further erode the shoreline. The deepening of the sea further permits wave of greater crest height so more erosive to further denude the beaches.

It is the shingle, coarse sand and grit that forms the habitat for fish spawning, their feeding ground and refuge. It is also a main flora bed. Sadly, this is the very material targetted by the dredgers, as this is the basis of the best concrete. It is no coincidence that fish stocks have diminished massively since offshore aggregate dredging escalated to such a level as today.

Finally, the lowering of the sandbanks close to the dredging sites, once with marram dunes, seal colonies and nesting terns, have resulted in their demise, and are now below water on all but the very lowest tides. This has markedly reduced their original ability to break the high waves onshore, so further increasing the erosive impact.

(c) *Profits from Aggregates*

This trade is highly remunerative, not only to the companies concerned but to the Treasury also, who apply VAT at 17.5% on each tonne sold. The aggregate sells at ca £20.00 per metric tonne (£23.50 including VAT) thus the government coffers benefit by £3.50 for each tonne sold. Over the 13-year period between 1989 and 2002 the Treasury benefited by £1,031,342,805.50p. £479,500,000 of this revenue arose from the sand and gravel taken offshore to Norfolk. Altogether in just 13 years the total government treasury income amounted to £1,178,677,942. A small fraction of this would be more than sufficient to protect our vulnerable coastline.

The Crown Estate benefits from the levy on each tonne of aggregate extracted as the fee for the licence provided. They receive royalties of between 40p and 60p for each metric tonne taken. The Crown Estate netted over £10 million in the year 2001–02 from national offshore dredging, over £4.5 million of this from East Anglian capture alone where consequently the greatest level of erosion and loss of fish stock has resulted. Between 1989 and 2002 The Crown Estate benefited by £147,334,686.50p nationally, with £68,908,782 of this total coming from East Anglia's offshore contribution alone.

(d) *Licence Provision*

For licence granting the DETR, later DEFRA, now the MFA, only take into account the information contained in EIA's (Environmental Impact Assessments) made for the dredgers licence applications by those selected, appointed and paid by the dredgers themselves. No other evidence is acknowledged and no second opinion is allowed. These EIA's intentionally do not research those issues that would provide meaningful evidence, nor do they follow up with post dredging research. It can take one or more years before the erosion results from a distant offshore dredging operation.

(e) *Evidence of Impact*

The MFA (and their predecessors) refuse to recognise any non-partisan independent research, and require no empirical research to qualify the computerized assumptions maintained to attempt to prove that offshore dredging is benign. Yet numerous independent scientific research projects show that erosion results from cumulative offshore aggregate dredging. The levels of resultant erosion of each area correlate quite

powerfully with the levels dredged offshore, as does the lowering of the seabed when related to the cumulative active dredging areas. Thus, we have the situation that despite the overwhelming evidence of the damage created, not a single application for dredging off our eastern seaboard has ever been refused.

In addition to the many scientific papers listed under “Scientific Studies from around the world on the erosion resulting from offshore sand and gravel dredging” to be located by visiting [www.marinet.org.uk/mad/scientificstudies.html](http://www.marinet.org.uk/mad/scientificstudies.html) others exist such as the study report “Processes of selective grain transport and the formation of placers on beaches” by: Paul D Komar, College of Oceanography, Oregon State University Corvallis, Oregon 97331 USA. and Chi Wang, Sandong College of Oenology, Quindao, the Peoples Republic of China. Other important evidencing papers such as the “Sandpit Report” (to be found by visiting <http://sandpit.wldelft.nl/reportpage/reportpage.htm>) show that the increased beach slope due to gravitational and tidal bourn sand flow to the pits left after dredging is responsible. Another additionally deals with the loss of beach sand cohesivity brought about by dredging to be seen under <http://www.marinet.org.uk/mad/earod09may.html>. A research paper specifically recognising the dredging cause of the erosion in North Norfolk can be seen in the 29th October 2005 EUROSION Report at [www.marinet.org.uk/mad/scientificstudies.html#eep](http://www.marinet.org.uk/mad/scientificstudies.html#eep) whilst our own correlation of cumulative dredging levels, timing and consequent loss of beach depth and tidal incursion is available at the conclusion of our comprehensive briefing on the overall impact of Marine Aggregate Dredging to be seen at <http://www.marinet.org.uk/mad/madbrief.html>

(f) *History*

One hundred years ago, the British Government set up this Royal Commission on Coastal Erosion “. . . to reach some conclusion with regard to the amount of land which has been lost in recent years by the encroachment of the sea on the coasts of the United Kingdom . . .”. The Minutes of this appeared in 1908 and 1909, and the Final Report in 1911 expressed concern that removal of sand and gravel from beaches caused or accelerated coastal land loss.

There followed bitter arguments about the effects of extraction and how both the Government and the dredging contractors responded to land and property losses. The Government responded by setting up this Royal Commission on Coastal Erosion, following on the practice that Royal Commissions were established to inquire publicly about very important issues of national concern. This Royal Commission on Coastal Erosion that started work in 1907 presented its Final Report in 1911. It was required to inquire and report:

“(a) *As to the encroachment of the sea on various parts of the Coast of the United Kingdom and the damage which has been or is likely to be caused thereby; and what measures are desirable for the prevention of such damage*”. It further considered what powers were needed for protection and if changes to the law were merited. The Royal Commission Final Report (1911 p158) concluded:

*“The removal of materials from many parts of the shores of the Kingdom and the dredging of material from below low water mark, have resulted in much erosion on neighbouring parts of the coast” and that “Removal of sediments from the shore should be illegal” ( Para 7(a) p 160).*

It further recommended “systematic observations” of change below low water, deep water sediment travel and sandbanks movements for which “information at present is scanty and vague”. Little subsequent action was taken, nor has it to this day.

The Final Report (1911, Part II) said that on the basis of foreshore losses “*the gradient of the foreshore must be becoming steeper.*” (p 45). However, there was no recognition by the authorities of the implications. More recently, Taylor *et al* (2004) report that 61% of the coastline was steepening and 33% had flattened. This recognition, long before the onset of Global Warming, is critical to the debate about coastal changes, especially in the discussion of sand-mining impacts, as it indicates a progressive exposure of beaches to serious damage.

Despite the extensive damage to the English North Sea Coast in 1953, the Waverley Committee on Coastal Flooding (1954) failed to comment on this, but merely noted an increasing frequency of severe storms. However it stressed that research into the movements of beach material, offshore sand banks and related coastal problems was urgent (Summary of Recommendations Para 114-(3), p 28).

(g) *Conclusion*

We are now in the grip of Global Warming induced sea rise, the governments ‘Managed Retreat’ policy no longer providing adequate protection of our coast and its infrastructure from the sea and under the auspices of the Shoreline Management Plan that has in effect written off large areas of our land to marine inundation. Further, with the Mediterranean tourist spots becoming too hot and too expensive for the ailing UK Pound exchange rate and the environmental and capital costs of flying, we need to retain our seaside and coastal resorts for the future. To permit the continuity of providing licences to an industry that is seen to further bring about such loss cannot be seen as aesthetically acceptable, morally and ethically viable nor economically sensible.

We ask that the Treasury Committee consider and ponder this serious situation and attempt to apply such measures as they feel fitting so as to maintain our precious shoreline and its attributes from plunder and the threatened loss of many low laying villages and areas of the best agricultural land in Britain, a vital necessity with world grain and food shortages on the horizon.

*March 2010*

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### **Supplementary evidence submitted by the Crown Estate**

EVIDENCE TAKEN BEFORE TREASURY SUB-COMMITTEE BY ROGER BRIGHT WEDNESDAY 3 MARCH 2010  
CORRECTIONS OF FACT OR INTERPRETATION

1. [Question 147]: I referred to our having to “put in” £18 million to the Gibraltar partnership. To avoid any misunderstanding, this was the sum, as at March 2009, we had voluntarily placed on deposit to support the partnership’s banking covenant as the value of the investment declined. The deposit is returnable once values recover and the banking covenant is being fulfilled. It is therefore not irretrievable. The loss in value since our investment was made in 2007 is an impact of market fluctuation for this type of asset and asset values are now improving once again.

2. [Question 154]: I referred to our net sales and disposals amounting to some £500 million, whereas in fact I intended to refer to our sales and purchases having a combined value of that figure; sales and disposals meaning the same thing. Paragraph 33 of our 18 January submission refers.

3. [Question 178]: There are currently 35 vacant units (as opposed to the 32 I mentioned at the hearing) out of 1,234 rented units (as opposed to the 1,220 I mentioned at the hearing) involved in the consultation on the four estates; a vacancy rate of less than 3%. The units are vacant for a number of reasons, including refurbishment. Some are also being held vacant temporarily to facilitate the marketing exercise that is underway so that potential purchasers can view empty properties with minimal disruption for existing tenants.

4. [Question 184]: For the purposes of clarification, my use of the term open market value in response to this question was a reference to valuation with full vacant possession.

5. [Question 214] : I would like to clarify the position in relation to gas storage projects. In my oral evidence to the Committee I said that we had settled terms with three gas storage developers which is what I understood to be the case. I now need to correct the record as the precise position is that we have reached settled terms with two and are close to settling all but the rent with a third. My evidence was given in good faith and I apologise for this inaccuracy, which arose from a genuine misunderstanding and was unintentional.

6. [Question 216]. I mentioned in the context of carbon capture and storage that we had taken advice from Ernst and Young and Oxera. The advice from those two consultants in fact relates to gas storage (see 5 above).

*March 2010*

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