

## **Item: 4**

**Special General Meeting of the Council: 19 December 2019.**

**Crown Estate Scotland.**

**Proposals for Allocation of Marine Estate Revenue Funding.**

**Joint Report by Chief Executive and Executive Director of Development and Infrastructure.**

### **1. Purpose of Report**

To consider proposals for the allocation of marine estate revenue funding from Crown Estate Scotland for 2019 to 2020, together with principles to guide the longer term funding allocation strategy.

### **2. Recommendations**

The Council is invited to note:

#### **2.1.**

That Scottish Ministers have confirmed that the net revenue generated from Crown Estate marine assets out to 12 nautical miles will be allocated to coastal local authorities.

#### **2.2.**

The expectation of Scottish Ministers that local authorities will use the revenues generated from Crown Estate marine assets for additional expenditure that specifically benefits coastal communities.

#### **2.3.**

That, in September 2019, the Council received an allocation of £774,000 from Crown Estate Scotland, being its share of the total net revenues for 2017 to 2018 being distributed in 2019 to 2020.

#### **2.4.**

That, although the Government expectation is that the Council will use the funding for additional expenditure in 2019 to 2020, any of the allocation that has not been spent, in full, by 31 March 2020 will be carried forward in a Crown Estate Fund.

## **2.5.**

That each coastal local authority's allocation is based on an interim formula agreed with the Convention of Scottish Local Authorities, whereby the allocations are calculated on the basis of the total marine area adjacent to each of the coastal local authorities' coastline.

## **2.6.**

That it is anticipated that the annual allocation of net revenues to Orkney in future years could be significantly less than the allocation received in September 2019 due to a planned review of the interim formula for payment calculation.

## **2.7.**

That the allocation of 2018 to 2019 net revenue, to be distributed in 2020 to 2021 will be on the same basis and therefore a similar allocation could be expected in September 2020.

## **2.8.**

The proposed guiding principles, detailed in section 6.3 of this report, to guide deployment of the Crown Estate revenue funding for 2019 to 2020 and the long-term funding allocation strategy for coastal community benefit in Orkney.

## **2.9.**

The proposed projects to be funded from the Orkney Crown Estate net revenue allocation for 2019 to 2020, at a total cost of £130,000, detailed at section 6.5 of this report.

### **It is recommended:**

## **2.10.**

That the guiding principles, detailed in section 6.3 of this report, be approved for the purpose of guiding deployment of the Crown Estate revenue funding for 2019 to 2020 and the long-term funding allocation strategy for coastal community benefit in Orkney.

## **2.11.**

That the undernoted projects be funded from the Orkney Crown Estate net revenue allocation for 2019 to 2020, at a total cost of £130,000:

- Bag the Bruck – £35,000.
- Marine Planning Partnership – £50,000.
- Coastal Core Paths – £35,000.
- Public Conveniences – £10,000.

## **2.12.**

That the Chief Executive should submit a report, to the meeting of the Policy and Resources Committee to be held on 21 April 2020, identifying projects to be funded from the remaining balance of £644,000 of the Crown Estate net revenue allocation for 2019 to 2020.

## **2.13.**

That the Executive Director of Development and Infrastructure should engage with the Convention of Scottish Local Authorities to seek to secure maximum income for Orkney from future allocations of Crown Estate net revenue funding, noting the baseline position established for 2019 to 2020.

## **2.14.**

That the Executive Director of Development and Infrastructure should submit a report, to the Policy and Resources Committee in due course, on the outcome of negotiations with the Convention of Scottish Local Authorities, together with a scheme for the long term allocation of Crown Estate funding to Orkney projects.

# **3. Background**

## **3.1.**

In Scotland, approximately half of the foreshore and vast majority of the seabed out to 12 nautical miles is managed by Crown Estate Scotland on behalf of Scottish Ministers. The Crown also has rights over the continental shelf area (12 to 200 nautical miles) to minerals and sedentary species. Hydrocarbons are excluded from any of the sea bed rights or ownership. Crown Estate Scotland grants leases over the foreshore and seabed it manages, and a lease is required for most marine developments requiring the payment of rent.

## **3.2.**

The Our Islands Our Future campaign successfully made the case for rental income from Crown Estate marine assets located with the Scottish Islands to be reinvested by Islands Councils for the benefit of Island communities. The case was made that revenues from the marine estate should be reinvested at the local level to provide the necessary infrastructure to support coastal and marine development, support sustainable management and address any potential impacts on local communities.

## **3.3.**

Prior to recent devolution of the management of the Scottish Crown assets to Scottish Ministers, revenues from seabed assets in Orkney were paid to the Crown Estate Commissioner and profits were in turn paid to the UK Treasury with no direct reinvestment of revenues within host communities.

### **3.4.**

In 2014, the Scottish Government recognised that Islands Councils should have a central role in ensuring that Crown Estate marine revenues be invested within their communities. This resulted in a political commitment that 100 per cent of the net income from the islands' seabed be passed to island communities. This commitment now extends to all coastal communities in Scotland.

## **4. Net Revenue Allocations for 2019 to 2020**

### **4.1.**

The net revenue generated from the marine assets (seabed) out to 12 nautical miles have been allocated to coastal local authorities to fund coastal community benefit. Scottish Ministers have agreed that annual allocations should be distributed in arrears following finalisation of the annual accounts for Crown Estate Scotland. The allocation for 2019 to 2020 relates to the net revenue generated in 2017 to 2018. The estimated net revenue for Scotland in 2017 to 2018 totalled £7,500,000, resulting in an allocation of £774,000 for 2019 to 2020 to Orkney Islands Council. For purposes of comparison, £1,009,000 was allocated to Shetland Islands Council and £1,702,000 to Comhairle nan Eilean Siar for 2019 to 2020.

### **4.2.**

Each coastal local authority's allocation is based on an interim formula agreed with the Convention of Scottish Local Authorities (COSLA). Revenue allocations were calculated on the basis of the total marine area adjacent to each local authority's coastline and with a minimum payment of £1,000 paid to eligible councils. This is an interim method for payment calculation. COSLA and the Scottish Government have agreed that there is scope to calculate allocations differently in the future and this will be considered as part of a planned review process.

### **4.3**

Scottish Ministers have announced that they do not plan to run any future rounds of the Coastal Communities Fund (CCF) in Scotland. This fund was a competitive fund previously. Projects which achieved funding in Orkney included Papay Development Trust for the Kelp Store development and Stronsay Community Council for the Fish Mart development. However, overall the uptake/success has not been high with only £259,000 coming to Orkney in the last 10 years. It is proposed that the CCF in Scotland be replaced with the new arrangements for funding coastal community benefit from Crown Estate Scotland net revenue. Recognising that some of the current CCF projects are still underway, Scottish Ministers have agreed to ensure that funding is available to complete the projects in the current CCF round which are anticipated to complete by the end of this year. The total funding available for Scottish coastal local authorities in 2019 to 2020 is therefore approximately £7.2 million (£7.5 million less £300,000 that has already been committed to projects funded under the current CCF round).

## **5. Future Review of Net Revenue Annual Allocations**

### **5.1.**

As part of the negotiations on the interim formula-based approach detailed at section 4.1 above, Scottish Government and COSLA have agreed that the formula-based arrangement will be reviewed and this review is anticipated during 2020 to 2021. It is not anticipated that a review will take place in time for the distribution of 2018 to 2019 net revenue in 2020 to 2021.

### **5.2.**

Future annual allocations to individual local authorities will fluctuate depending on the net revenue generated by Crown Estate Scotland marine assets out to 12 nautical miles in the relevant year. It is also anticipated that the Orkney allocation of net revenues in future years beyond 2020 to 2021 could be significantly less than the allocation in 2019 to 2020. This is due to the potential for future allocations based on seabed revenues directly generated within Orkney's marine region, as opposed to the proportion of the total Scottish revenues currently applied through the interim formula. This potential change in the revenue allocation calculation will be considered as part of the review process referred to above.

## **6. Commitment of Revenues by the Council**

### **6.1.**

Scottish Ministers' expectation is that local authorities will use the revenues for additional expenditure that specifically benefits coastal communities. Individual local authorities can make decisions on the funding of projects and services to benefit coastal communities. Local authorities are required to be transparent and accountable for this expenditure. The Council will therefore establish an Orkney Crown Estate Fund for the purpose of managing income and expenditure. The Scottish Government has indicated that guidance may be produced on use of Crown Estate revenues in future, although no guidance is currently in place.

### **6.2.**

It is recommended that the Orkney Islands local authority area and Orkney Islands Scottish Marine Region will be the geographic focus of investment of Crown Estate revenues. All communities within this geographic area would therefore be eligible to benefit from this Crown Estate funding.

### **6.3.**

To guide deployment of the Crown Estate revenue funding for 2019 to 2020 and the long-term funding allocation strategy for coastal community benefit in Orkney, it is recommended that the following principles be adopted by the Council:

- Support the sustainable development and management of coastal and marine resources.
- Support and maintain a healthy, clean and safe coastal and marine environment.

- Support growth and job creation in the coastal and marine economy.
- Support strategic coastal and marine planning, partnership working and good governance to enable sustainable development and resource management.
- Support investment in the infrastructure required for coastal communities across all of Orkney to thrive.
- Support and empower coastal communities across all of Orkney to deliver projects to realise sustainable social, economic and environmental benefits.
- Support improvements in the long-term productivity of the coastal and marine economy by promoting investment in innovation, education and skills.
- Support the transition to a low carbon economy.
- Support measures that mitigate the effects of climate change, adapt to climate change and build greater resilience to the effects of climate change.
- Support research, knowledge and data to unlock sustainable development and resource management benefits.
- Support and enable best practice to manage and make use of coastal and marine resources.
- Support the cultural and social wellbeing of local communities including the maintenance and enhancement of quality of life.

#### **6.4.**

Due to the late notification of funding allocation for 2019 to 2020, which came in September 2019, and the potential changes to the revenue allocation calculation outlined in section 5 above and potential future Scottish Government guidance, there is significant uncertainty regarding the amount of Crown Estate funding that will be allocated to the Council in future years and how this funding should be deployed. It is therefore challenging to design an appropriate and proportionate long-term mechanism for the deployment of the Crown Estate revenue funds by the Council at this stage. The deployment of funds beyond the current allocation, and the more long-term funding administration and distribution mechanism, should be subject to further appraisal. This appraisal will be informed by the outcome of the revenue allocation calculation review outlined in section 5, and the Council should engage with COSLA to seek to secure maximum income for Orkney from future allocations of Crown Estate Scotland net revenue funding, noting the baseline position established for 2019 to 2020. A report will be considered at a future meeting of the Policy and Resources Committee on the outcome of the COSLA negotiations together with a scheme for the long-term allocation of Crown Estate funding to Orkney projects.

#### **6.5.**

To realise immediate benefit for Orkney communities, proposed projects have been identified for immediate delivery. It is recommended that the following projects be funded from the Orkney Crown Estate net revenue allocation for 2019 to 2020 at a total cost of £130,000 and undergo further appraisal to identify future potential funding support:

- Bag the Bruck:
  - This clean-up initiative is a local project that would benefit significantly from Crown Estate revenue funding.
  - Bag the Bruck draws in many volunteers throughout Orkney and each year there is a real sense of pride in their achievements. Their work in collecting litter transforms beaches, road verges and other public spaces, helping protect wildlife and improve the appearance of the Orkney coastline. The Council distributes black bags and protective gloves to over 70 individuals, groups and organisations, and collects and disposes of waste from sites all over Orkney.
  - These costs have been historically unbudgeted costs within Development and Infrastructure and contributed to year on year pressure within the Environmental Services budget. Allocating these costs to the Crown Estate Fund will remove the risk of these non-statutory services having to be reduced or cut through the Council's General Fund budget setting process.
  - It is recommended that £35,000 is allocated towards these project costs.
- Orkney Islands Marine Planning Partnership and Regional Marine Planning:
  - In early 2020, the Council will commence local delivery of statutory regional marine planning functions for the purpose of managing sustainable development and resource use in Orkney waters.
  - Officers are currently preparing a statutory State of the Environment Assessment which is required to establish an up to date environmental, social and economic baseline in advance of preparing an Orkney Islands Regional Marine Plan. This assessment identifies priority data gaps for the purpose of taking forward effective marine planning and management in Orkney.
  - It is recommended that £50,000 is allocated towards the set-up costs for the Marine Planning Partnership, addressing priority data gaps and associated marine planning projects to support sustainable development in Orkney waters.
- Enhancement of the coastal core path network:
  - Current limitations include a lack of parking and limited signage, and insufficient funding to undertake pro-active maintenance including ditch cleaning or addressing erosion issues.
  - It is recommended that £35,000 is allocated towards these project costs to deliver benefits in terms of tourism and countryside access.
- Public Conveniences:
  - Public conveniences are an important part of the community infrastructure, and support tourism. However, the Council has no statutory responsibility for provision of public toilets which cost the Council £93,000 per annum to operate while the annual budget allocation to these facilities is only £86,000.

- Work had been underway to explore the option of introducing a charge (fee) for use of public toilets to recover this budget deficit. However, as an alternative to introducing charges, it is proposed to fund the budget deficit through the Crown Estate funding, in so doing retaining free to use public conveniences in Orkney.
- It is recommended that £10,000 is allocated towards the cost of operating public conveniences in Orkney.

## **6.6.**

Further detailed project development and appraisal is required to identify projects, to be funded from the remaining £644,000 of the Crown Estate net revenue allocation for 2019 to 2020, that will delivery maximum benefit for Orkney communities.

Examples of projects that could potentially be further appraised include:

- Supporting local fisheries science, research and management with Orkney Sustainable Fisheries a key partner.
- Funding support for additional agricultural lairage at Orkney Auction Mart to enable logistics for islands-based farming arising from a wetter climate.
- Investment in coastal protection and flooding infrastructure.
- Infrastructure investment and management measures to support sustainable economic development in Orkney.

## **6.7.**

It is proposed that the Chief Executive should submit a report, to the Policy and Resources Committee on 21 April 2020, on the further detailed project development and appraisal of the projects listed in section 6.6 above, to determine whether they should be funded from the remaining Crown Estate net revenue allocation for 2019 to 2020.

# **7. Links to Council Plan**

## **7.1.**

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Council Plan strategic priority theme of Enterprising Communities.

## **7.2.**

The proposals in this report relate directly to Priority 4.5, Establish Crown Estates marine management pilot status and Marine Planning Authority Functions – with focus on Island Authority governance and local expertise model, with one of the outcomes being “transfer of functions and income”.

## **8. Links to Local Outcomes Improvement Plan**

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Local Outcomes Improvement Plan priorities of Strong Communities and A Vibrant Economy.

## **9. Financial Implications**

### **9.1.**

The Council has received an allocation of £774,000 from the net Crown Estate income for 2017 to 2018.

### **9.2.**

The report recommends the allocation of £130,000 of the Crown Estate income that has been received towards the following projects:

- Bag the Bruck – £35,000.
- Marine Planning Partnership – £50,000.
- Coastal Core Paths – £35,000.
- Public Conveniences – £10,000.

### **9.3.**

The recommended spend of £130,000, if approved would leave a further £644,000 to allocate. Any balance that is unspent at the end of the year will be carried forward in a Crown Estate Fund.

## **10. Legal Aspects**

There are no direct legal implications associated with the recommendations contained in this report.

## **11. Contact Officers**

John Mundell, Interim Chief Executive, extension 2101, Email [john.mundell@orkney.gov.uk](mailto:john.mundell@orkney.gov.uk)

Gavin Barr, Executive Director of Development and Infrastructure, extension 2301, Email [gavin.barr@orkney.gov.uk](mailto:gavin.barr@orkney.gov.uk)

Roddy MacKay, Head of Planning, Development and Regulatory Services, extension 2530, Email [rodny.mackay@orkney.gov.uk](mailto:rodny.mackay@orkney.gov.uk).

James Green, Senior Policy Planner, Development and Marine Planning, extension 2516, Email [james.green@orkney.gov.uk](mailto:james.green@orkney.gov.uk)