



The Crown Estate Bill: Committee Stage Briefing

Wildlife and Countryside Link (Link) is the largest environmental coalition in England, bringing together 86 organisations to use their joint voice for the protection of the natural world.

The Crown Estate plays a critical role in the stewardship of our seas. As well as large land holdings, the Estate manages the seabed around England, Wales and Northern Ireland, as well as 50% of the coastline. The Estate has been asked by the Government to support the tripling of the electricity sector's capacity with the deployment of 125GW of offshore wind by 2050¹.

During the Crown Estate Bill's Second Reading on 2nd September, peers from across the House came together to support placing an environmental duty on The Crown Estate.² Peers made clear that, as the Crown Estate moves away from being just an asset owner towards "delivering ... wider national policy objectives, across energy security, regeneration and growth,"³ its environmental responsibilities should increase commensurately.⁴

This briefing sets out the case for the committee stage amendment tabled by Baroness Hayman, Baroness Young of Old Scone, Lord Teverson and Lord Young of Cookham (see annex 2 for text), which would apply an environmental duty to the Crown Estate.⁵ This would require the Estate to contribute to delivery of statutory environmental targets and ensure that emerging environmental policies are properly embedded in corporate governance and decision-making.

The need for a legally binding environmental duty

During The Crown Estate Bill's Second Reading, the Bill Minister Lord Livermore suggested that the Crown Estate could deliver for nature without a duty as "there are existing governance structures in place to ensure that environmental impacts are a central consideration of its investment decisions."⁶ Whilst we welcome the Crown Estate's recent commitments to embed

¹ https://www.datocms-assets.com/136653/1726051230-tce_marine_delivery_routemap.pdf

² <https://hansard.parliament.uk/Lords/2024-09-02/debates/1CB252D7-FD89-446C-8730-5E8059671D74/CrownEstateBill%28HL%29>

See also Link's 2nd reading briefing here: <https://www.wcl.org.uk/docs/The%20Crown%20Estate%20Bill%20-%202nd%20Reading%20Briefing%20from%20Link.pdf>

³ <https://bills.parliament.uk/publications/55991/documents/4973>

⁴ <https://www.thecrownestate.co.uk/news/new-vision-for-uk-seabed>

⁵ <https://bills.parliament.uk/publications/56304/documents/5115>

⁶ <https://hansard.parliament.uk/Lords/2024-09-02/debates/1CB252D7-FD89-446C-8730-5E8059671D74/CrownEstateBill%28HL%29>



nature throughout its decision and policy making process⁷, these are no substitute for a legal requirement to contribute to nature-recovery and climate change mitigation. The Crown Estate's previous nature-based strategies have not to date prevented the Estate from taking decisions which have harmed marine wildlife (see 'See annex 1: Hornsea 3 offshore windfarm case study below). The Crown Estate only began engagement on a specific nature recovery strategy last year and the final document has yet to be released.

When an organisations primary obligation is to create wealth for His Majesties Treasury, as is the case for the Crown Estate, non-binding policy commitments to nature recovery could easily be neglected in practice or in future strategy development.⁸ Without a legal duty to consider targets under the Environment Act, profit from the Crown Estate's expanding investment powers and borrowing ability will potentially take precedent to the detriment of environmental considerations.

To ensure the Crown Estate makes an active contribution to meeting Environment Act nature recovery targets and contribute to climate mitigation and adaptation targets across the sweep of its work, a legally binding environment duty is needed. This would provide an assurance that nature would be built into Crown Estate decision making as it drives forward renewable energy deployment at sea, as well as in day-to-day decision making around the Estate's extensive land holdings, from upland habitats to farmland.⁹

The Scottish Crown Estate Act

Scotland provides a helpful precedent. In 2019, the Scottish Crown Estate Act sought to move the organisation away from solely maximising the value of its assets to align with alternative non-financial outcomes being sought by Scottish Ministers. It placed a duty on The Crown Estate Scotland to 'seek to manage [its] assets in a way that was likely to contribute to the promotion or the improvement in Scotland of (iv) environmental wellbeing.¹⁰ This meant The Crown Estate Scotland was legally obligated to manage its assets in a way that furthered the sustainable development of Scotland, including a clause which enabled the organisation to obtain less than market value for assets, when it was likely to contribute to the promotion or improvement of environmental or socio-economic factors in Scotland.¹¹ The Scottish Crown Estate Act has assisted the organisation to embed nature throughout its decision and policy

⁷ See https://www.datocms-assets.com/136653/1726051230-tce_marine_delivery_routemap.pdf & <https://www.thecrownestate.co.uk/news/new-vision-for-uk-seabed>

⁸ [Crown Estate Act 1961 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1961/11/section/1)

⁹ <https://www.thecrownestate.co.uk/en-gb/what-we-do/asset-map/>

¹⁰ <https://www.legislation.gov.uk/asp/2019/1/section/11>

¹¹ <https://www.legislation.gov.uk/asp/2019/1/section/11>



making process, and helped to combat the notion that wealth creation must come above environmental and socio-economic concerns.

Private vs. Public Company

Lord Livermore, speaking for the Government during the Second Reading debate, suggested that it was important to preserve the independence of the Crown Estate, enabling it to compete on an equal footing with other private sector operators.¹² However, The Crown Estate does not operate in the same way as other private sector organisations. Through The Crown Estate Act 1961, it was established under the stewardship of the Crown Estate Commissioners, belonging to His Majesty the King, and whose profits are paid into a Conciliatory Fund and available for government expenditure. It has a statutory function to deliver wealth creation for His Majesty's Treasury and assist in the delivery of governmental priorities of the day.

Similarly, within its newly published Marine Delivery Route Map, The Crown Estate outlines how it will assist in the delivery of government priorities. This includes aligning and helping to inform the National Energy System Operators (NESOs) Strategic Spatial Energy Plan, supporting Defra's Marine Spatial Prioritisation Programme and facilitating the roll out of environmental net gain. Similarly, within Future Offshore Wind scenarios the organisation suggests a tripling of green jobs through its offshore wind expansion programme directly seeking to create them in locations which complement the governments industrial strategy.¹³

These commitments to delivering governmental priorities clearly indicate that The Crown Estate is operating outside the boundaries of a commercial business and cannot be treated like other private sector companies operating in the UK. The Crown Estate must have parity of legal responsibility to deliver Environment Act and Climate Change Act targets as other government bodies if it seeks to expand its investment and borrowing remit.

The environmental duty amendment tabled by Baroness Hayman would achieve this and ensure that the Crown Estate contributes to Government environmental targets commensurate with the expanded role the Government is giving it through this Bill. We would appreciate peers speaking in support of the amendment at Committee Stage on Monday 14th October.

¹² <https://hansard.parliament.uk/Lords/2024-09-02/debates/1CB252D7-FD89-446C-8730-5E8059671D74/CrownEstateBill%28HL%29>

¹³ https://www.datocms-assets.com/136653/1725984848-tce_future-offshore-wind.pdf



The Environmental Targets (Public Authorities) Bill

Peers have a further upcoming opportunity to press for progress in aligning public bodies, including the Crown Estate, behind the achievement of Environment Act 2021 and Climate Change Act 2008 targets.

On Friday 18th October the **Environmental Targets (Public Authorities) Private Members Bill**, introduced by Lord Krebs, receives its second reading.¹⁴ The Bill would apply a strong environmental duty to a range of public bodies, including the Crown Estate, to ensure that the Government's legal environmental responsibilities are reflected in the day-to-day operations of regulators and decision-makers. This would drive action and investment in nature recovery, climate mitigation and climate adaptation.¹⁵

We would be grateful if peers could attend second reading and speak in support of Lord Krebs' Bill on Friday 18th October.

Annex 1:

Hornsea 3 Offshore Windfarm: A Case Study

In 2015, the Crown Estate granted Orsted the seabed rights to develop a site known as Hornsea 3 for renewable energy.¹⁶ Located 160KM off the Yorkshire coast, the development project and its associated infrastructure was found to have likely significant effects on the marine environment which in turn, would impact the conservation objectives of the Marine Protected Areas the wind farm interacted with.¹⁷ Specifically, in combination with the surrounding windfarms the project's Environmental Statement highlighted adverse effects on protected seabird populations. Due to the scale of the negative impact, under the Habitat Regulations Assessment, Orsted was required to prepare a Compensatory Plan for kittiwakes.¹⁸ However, the extent to which the array and its associated infrastructure required compensation was highly disputed. The Secretary of State for the Department for Energy Security Net Zero, the Planning Inspectorate and Statutory Nature Conservation Bodies (SNCBs) had to reset dozens of statutory timelines to try to resolve the issue.

¹⁴ <https://bills.parliament.uk/bills/3749>

¹⁵ https://www.wcl.org.uk/docs/Briefing_Environmental_Targets_Bill_Sep_24.pdf

¹⁶ [Hornsea 3 - About The Project | Ørsted \(hornseaproject3.co.uk\)](https://www.hornseaproject3.co.uk/Hornsea-3-About-The-Project-Orsted)

¹⁷ [how03_6_non-technical-summary.pdf \(ordstedcdn.azureedge.net\)](https://www.ordstedcdn.azureedge.net/how03_6_non-technical-summary.pdf)

¹⁸ [HOW03 Granted DCO \(hornseaproject3.co.uk\)](https://www.hornseaproject3.co.uk/How03-Granted-DCO)



In the Spring of 2020, five years after the seabed rights were awarded by The Crown Estate, against advice from the Planning Inspectorate and Statutory Nature Conservation Bodies, the Department for Energy Security Net Zero awarded Orsted a Development Consent Order. As a result, a Judicial Review was petitioned causing a further six-month delay before consent was eventually granted. It is estimated that disputes surrounding a suitable Compensatory Plan, and the Judicial Review added a minimum of 18 months to the project timeline and cost Orsted hundreds of millions of pounds in options fees.¹⁹ The final Compensatory Package included three artificial nesting reefs off Lowestoft South Beach to the sum of approximately £25 million, the efficacy of which is still disputed by environmental organisations and SNCBs.

The Hornsea 3 Case Study highlights why it is imperative The Crown Estate is obligated to consider targets under the Environment Act when making business decisions, specifically around seabed leasing. The exceptionally environmentally sensitive site should not have been made available to lease by The Crown Estate, the decision to do so caused environmental damage (and resulted in a lengthy, contested process, not to the benefit of any parties). An environmental duty is needed to prevent any further missteps for nature, as the Crown Estate spearheads the expansion of renewable energy at sea.

Annex 2: Text of amendment tabled by Baroness Hayman, Baroness Young of Old Scone, Lord Teverson and Lord Young of Cookham²⁰

'Insert the following new clause –

Climate Change and Nature Duty of Crown Estate Commissioners

(1) The Crown Estate Act 1961 is amended as follows.

(2) In section 1 (general provision about Crown Estate Commissioners), after subsection (3) insert-

1A Duty of the Commissioners to contribute to climate change and nature targets

(1) In complying with the general duty under subsection (3) and in exercising their functions the Commissioners must take all reasonable steps to contribute to-

¹⁹ <https://www.thecrownestate.co.uk/news>

²⁰ See online here: <https://bills.parliament.uk/publications/56304/documents/5115>



- a. *the achievement of targets set under Part 1 of the Climate Change Act 2008;*
- b. *the achievement of biodiversity targets set under sections 1–3 of the Environment Act 2021; and*
- c. *the delivery of the programme for adaptation to climate change under section 56 of the Climate Change Act 2008.*

(2) In carrying out the duty set under (1), The Crown Estate must include conditions in all seabed leases that require the leaseholder to contribute to the conservation and overall enhancement of the natural environment.'

Member's Explanatory Statement

This amendment would give The Crown Estate a new climate change and nature duty requiring it to take all reasonable steps to contribute to the achievement of the Climate Change Act 2008 and Environment Act 2021 targets in exercising its functions. The duty requires the inclusion of nature conservation measures in all seabed licences granted by the Crown Estate.

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