



The Crown Estate Bill: Briefing for Report stage

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.

This briefing makes the case for the amendment tabled to the Crown Estate Bill by Baroness Young of Old Scone, which would apply a climate and nature duty to the Crown Estate Commissioners.¹ The amendment tabled by Baroness Hayman, to require Commissioners to review their impact on the achievement of sustainable development, would also be a welcome step forward in this area.

At the first day of Committee stage on 14th October, a large group of peers from across the house came together to ask Ministers to consider amending the Bill to increase the environmental obligations on the Crown Estate. In the words of Baroness Kramer:

*"There has been a clear message to the Minister that, in one way or another, this Committee feels strongly that we should have in statute an expression of the climate change, environmental and nature issues."*²

The Government should heed this message from peers, and adopt the report stage amendment to apply a climate and nature duty to the Crown Estate Commissioners on the following grounds.

Crown Estate modernisation should reflect the changing environment

When making the case for the Bill for the Government at Second Reading, Lord Livermore defined its purpose as being to *"bring legislation governing the Crown Estate into the 21st century"*.³ He set out how the Bill would broaden *"the scope of activities that the Crown Estate can engage in, enabling it to further invest in the energy transition"* and *"bring it into line with best practice for modern corporate governance"*.

These are laudable aims, reflecting that the fact that the legal duty Crown Estate works towards was set through the Crown Estate Act 1961 and has not been touched since. That duty is a simple one; the 1961 Act requires the Crown Estate Commissioners to maintain *'the Crown Estate as an estate in land (with such proportion of cash or investments as seems to them to be required for the discharge of their functions), to maintain and enhance its value and the return obtained from it, but with due regard to the requirements of good management'*.⁴ This requirement to enhance the value of the estate remains the sole legal governance duty on Crown Estate Commissioners.

¹ <https://bills.parliament.uk/publications/56678/documents/5282>

² [https://hansard.parliament.uk/lords/2024-10-14/debates/C5325404-29D7-49CA-8331-DDA96CBEB866/CrownEstateBill\(HL\)](https://hansard.parliament.uk/lords/2024-10-14/debates/C5325404-29D7-49CA-8331-DDA96CBEB866/CrownEstateBill(HL))

³ [https://hansard.parliament.uk/lords/2024-09-02/debates/1CB252D7-FD89-446C-8730-5E8059671D74/CrownEstateBill\(HL\)](https://hansard.parliament.uk/lords/2024-09-02/debates/1CB252D7-FD89-446C-8730-5E8059671D74/CrownEstateBill(HL))

⁴ <https://www.legislation.gov.uk/ukpga/Eliz2/9-10/55/section/1>



The Government's attempt to modernise the Crown Estate is compromised by the omission from the Bill of any changes to this outdated governance framework, especially regarding the impact of a germane factor largely unrecognised in 1961 - climate change and nature decline.

Other public bodies⁵ have had their purposes updated in recent years to reflect growing understanding of the severity of the climate and nature crisis, and the need for a coordinated response to it. From Ofwat (through the Water Act 2014⁶) to the NHS (through the Health and Care Act 2022⁷), a growing number of public bodies have had environmental duties (albeit sometimes imperfect ones, as was the case with the Water Act change) added to their governance frameworks to increase their contributions towards climate and nature efforts. The Crown Estate Bill provides an unparalleled opportunity to do the same for a public body that owns and manages a significant proportion of the land and sea resources required to achieve net zero and nature recovery goals.⁸ This opportunity has already been seized in Scotland, where the Scottish Crown Estate Act 2019 placed a duty on the Estate in Scotland to contribute to the promotion of environmental wellbeing.⁹

The decision not to use the Bill to give the Crown Estate an environmental duty in England, Wales and Northern Ireland, as part of legislation specifically intended to modernise and equip it to better contribute to the energy transition, is difficult to understand. A nigh-identical duty to that proposed by Baroness Young requiring contributions to targets set under the Climate Change Act and the Environment Act was applied to NHS Trusts through the Health and Care Act 2022 by the previous administration, with support from Labour, then in opposition.¹⁰ Ministers could be usefully asked why environmental considerations previously supported for the NHS are not now considered appropriate for a public body with significantly more natural habitats under its control.

The legal governance duty of the Crown Estate can only be expanded by primary legislation to amend the 1961 Act. If this Bill, which already includes changes to Crown Estate governance arrangements (clause 2, changing the number of Crown Estate Commissioners and their remuneration), continues not to touch upon the governance duties upon the Commissioners, it is highly unlikely that they will be changed within this Parliament. This will mean no action before the 2030 target date for reducing carbon emissions by 68% and for halting the decline in species abundance. A tailor-made opportunity to update the Crown Estate's antiquated governance duty, in good time to contribute to the achievement of looming environmental targets, will have been lost.

⁵ The Crown Estate is a public body, see <https://www.thecrownestate.co.uk/media/1751/the-treasury-and-the-crown-estate.pdf>

⁶ <https://www.legislation.gov.uk/ukpga/2014/21/section/22>

⁷ <https://www.legislation.gov.uk/ukpga/2022/31/section/53>

⁸ <https://www.thecrownestate.co.uk/sustainability/stewarding-the-natural-environment>

⁹ <https://www.legislation.gov.uk/asp/2019/1/section/11>

¹⁰ <https://hansard.parliament.uk/lords/2022-03-01/debates/1CBD4FA4-0922-4E2F-A727-1DE4FF5A8E45/HealthAndCareBill> (see columns 730 and 734)



Climate change and nature decline will deplete revenues from the Crown Estate

In responding to the committee stage amendment proposing a climate and nature duty at Committee stage¹¹, Bill Minister Lord Livermore stated that: *“The Government believe that the Crown Estate’s existing duties give it a clear focus, leading to a consistently significant return to the Exchequer to support the funding of public services.”* This argument was repeated in response to similar amendments, with the Minister expressing concern that any diminution of the *“clear commercial objective, as set out in the 1961 Act, to maintain and enhance the value of the estate”* could *“reduce the profits that the Crown Estate pays into the UK Consolidated Fund, reducing the revenues that can be allocated by the Government to the needs and priorities of the day, across all the UK.”*

This argument is adjacent to the train of thought sometimes stereotyped as ‘Treasury brain’; the focus on securing revenue in the short term rather than taking the steps to protect assets and develop infrastructure for long term growth.

The 185,000 acres of rural land in England and Wales owned by the Crown Estate¹², and the 50% of foreshore in England, Wales and Northern Ireland managed by it¹³, are natural assets whose long term profitability is jeopardised by climate change and nature’s decline. The ability of the Crown Estate’s rural holdings to produce food is already being actively reduced by more extreme weather associated with climate change¹⁴, a trend that will worsen with increasing climate volatility. In the words of the latest Food Security report: *‘The biggest medium to long term risk to the UK’s domestic production comes from climate change and other environmental pressures like soil degradation, water quality and biodiversity.’*¹⁵ Similarly, the value of the Crown Estate’s foreshore for leisure and aquaculture activities is diminished by increasing freshwater and marine pollution.¹⁶

Achieving the UK’s climate and nature targets provides the best chance of overcoming the environmental risks facing the Crown Estate’s profitability. Failure to address these risks will see the consistency and quantity of Crown Estate returns to the Exchequer degrade. Given the Crown Estate’s high exposure to climate and nature threats, a legal governance duty to contribute to targets set to overcome these risks can be justified on purely economic grounds, as well as environmental ones.

¹¹ <https://bills.parliament.uk/publications/56362/documents/5139> (amendment 25)

¹² <https://www.thecrownestate.co.uk/our-business/land>

¹³ <https://www.thecrownestate.co.uk/our-business/marine/coastal>

¹⁴ <https://eciu.net/media/press-releases/2024/confirmed-england-has-second-worst-harvest-on-record-with-fears-mounting-for-2025>

¹⁵ <https://www.gov.uk/government/statistics/united-kingdom-food-security-report-2021>

¹⁶ For more on economic risks, see: https://wwf.panda.org/wwf_news/?11191466/Ecosystem-tipping-points-understanding-the-risks-to-the-economy-and-financial-system



The Crown Estate needs a statutory climate and nature duty

At Committee stage peers clearly set out why environmental commitments made by the Crown Estate themselves, whilst welcome, are not a substitute for a statutory climate and nature duty. In the words of Baroness Young of Old Scone:

“The Minister may say that the Crown Estate already has a strategic objective on promoting the natural environment and biodiversity. Indeed, in one of his responses to an earlier amendment, he outlined a whole range of good things that the Crown Estate is doing on biodiversity—but they are all voluntary; they are all at the whim of the Crown Estate commissioners. That is just too risky in the case of an organisation as big, influential and crucial as it is to legal commitments that the Government must make.”

As Baroness Young predicted, the Minister did indeed go onto list a range of positive environmental commitments and workstreams from the Crown Estate. Those referenced included the Marine Delivery Routemap, a long-term strategy for the marine space which the Government has recently asked the Estate to lead work on, with a view to supporting the deployment of more offshore wind to help deliver the Government’s clean power mission.¹⁷ The Minister described the Routemap as providing “*holistic context across sectors and sea users to support and inform individual sector delivery planning*”.

This rather proves the point made by Baroness Young. The Government has given the Crown Estate the power to set much of UK’s policy for sea-use, across different sectors. The Estate, boosted by the borrowing and investment powers the Bill gives it, is due to increasingly function as a delivery arm of Government, especially for renewable energy deployment at sea.¹⁸ However unlike Government departments proper, the Crown Estate will not have a legal duty to contribute to the achievement Climate Change Act and Environment Act targets. There is a clear risk here. The Government is outsourcing key policy mechanisms, essential for achieving its environmental targets, to a body that currently has a single governance duty that is wholly economic.

The risk can and should be mitigated by giving the Crown Estate Commissioners the climate and nature duty proposed by Baroness Young’s amendment to make the Estate’s environmental responsibilities more commensurate with its growing environmental powers. In the absence of a statutory duty, those powers are currently not always being used for environmental good. At sea, Crown Estate leases have underpinned projects which can harm nature, including marine dredging at scale¹⁹ and energy developments in extremely sensitive locations. For example, the Dogger Bank South Offshore Wind Farms, which were licensed under the Crown Estate’s most recent offshore wind licensing round, are likely to have very high impacts on seabirds, with no guarantee that mitigation and compensation

¹⁷ <https://www.thecrownestate.co.uk/our-business/marine/Marine-Delivery-Routemap>

¹⁸ See the partnership between the Government’s Great British Energy and the Crown Estate, announced in July: <https://www.gov.uk/government/news/new-great-british-energy-partnership-launched-to-turbocharge-energy-independence>

¹⁹ See <https://www.thecrownestate.co.uk/our-business/marine/mineral-resources> & for research on potential impacts from dredging: <https://www.jstor.org/stable/4299272>



measures will limit these impacts. This is not the first time that the Crown Estate has licensed offshore wind in sensitive areas for seabirds, which has caused significant delay to projects on top of impacts on sensitive species (see box below). The exercise of the Crown Estate's mineral rights on land has also caused problems. A 2016 initial mineral extraction agreement between the Estate and a mining company in Northern Ireland²⁰ has led to years of debate about potential carbon emissions and environmental impacts on the Sperrin Mountains Area of Outstanding Natural Beauty.²¹

As the Crown Estate takes on more powers and responsibilities through the Bill, a climate and nature duty is needed to prevent more such missteps. An environmental delivery partner for a Government with a key green mission needs an environmental delivery duty, not just a revenue raising one.

A statutory duty could help speed up critical net-zero infrastructure

A climate and nature duty is not only essential to protect critical habitats and species but also to speed up the delivery of net-zero infrastructure, especially offshore wind. The Crown Estate has, on several occasions, leased the seabed for offshore wind development in areas with a high concentration of sensitive species. This has meant very long delays to planning approval while mitigation and compensation measures are worked out.

For example, In 2015, The Crown Estate granted Orsted the seabed rights to develop a site known as Hornsea 3 for renewable energy. Due to the scale of negative impacts on seabirds from the planned development, Orsted was required to prepare a Compensatory Plan for kittiwakes. Disputes and judicial reviews on the subject of the compensation meant planning approval took over 5 years. This means a delay in the delivery of renewable energy generation.

Nor is this an issue of the past. The Planning Inspectorate recently took the decision to [delay](#) beginning the examination process for the planning application for RWE's Dogger Bank South Offshore Windfarms. This has again been caused by the seabed lease being granted by the Crown Estate in a highly sensitive area for seabirds, resulting in a need for extensive information about compensation and mitigation to limit impacts on seabirds. As RWE has been unable to adequately demonstrate it has considered the impact on seabirds, this is now delaying the project as the Planning inspectorate have asked for further information before they proceed with examining the application.

If the Crown Estate were obliged to consider Environment Act targets from the very start when making business decisions, similar situations are more likely to be avoided. The impacts on nature of licensing decisions could be considered upfront, leading to leasing in less sensitive areas, rather than poor decisions causing delays long after leases are made. This would not only better protect nature, but would speed up the delivery of net-zero infrastructure.

²⁰ <https://www.datocms-assets.com/136653/1726230585-summary-of-crown-estate-terrestrial-mineral-extraction-agreements.pdf>

²¹ <https://www.bbc.co.uk/news/uk-northern-ireland-49341664>



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Link's Lord Committee stage briefing can be found [here](#).

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