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Room T3.40  
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Dear Jenny

Thank you for your email of 17 November 2017 looking for more information and clarification on the Islands (Scotland) Bill following the evidence session on 8 November 2017. Please see the response below in relation to each of the questions you asked.

**John Mason MSP asked for more clarity on the scenario where a constituency ward is split where the ward includes both mainland and islands, and specifically what the impact would be for councillor numbers on the mainland (would mainland councillor numbers reduce, for example).**

In this scenario the new ward that wholly or mainly consists of one or more inhabited islands can have 1 or 2 councillors whereas the ward on the mainland would need to continue to have 3 or 4 councillors. It would be necessary to reconfigure the ward structure on the mainland to take this into account. This would be covered in the review of the electoral arrangements to be undertaken by the Local Government Boundary Commission for Scotland for each of the local authority areas as provided for in Section 15 of the Bill.

**John Finnie MSP asked for more clarity around the definition of dredging in the marine development section of the Bill. The background to this is that the Committee has heard contrasting views as to whether the dredging definition should or should not include fishing/ different types of fishing (see columns 21 - 23 of the Official Report).**

The inclusion of dredging under Section 16(1)(b) of the Bill was intended to include dredging as a works excavation activity only and is not targeted at licenced fishing activity. Scallop dredging and demersal trawling fishing activities are already licenced under UK fishery regulations. All registered vessels fishing commercially in Scotland are required to have a domestic fishing license which governs how and where they may fish. The four UK Fisheries Administrations have operated a restrictive licensing policy since the 1990s and no new licenses have been issued since then. The Scottish Government recognises that all fishing activity impacts on the marine environment and as responsible managers the Government takes steps to manage this. For example, fishing by dredge is prohibited in 11% of

Scotland's coastal waters (0 to 6 nautical miles) with further temporal restrictions also in place. While dredging as referred to in the Bill is similarly described in other legislation, such as section 21 of the Marine (Scotland) Act 2010, we are considering bringing forward an amendment to clarify this element of the Bill.

**John Finnie MSP and the Convener, Edward Mountain MSP, also asked about the capacity of communities to defend appeals against devolved marine licensing decisions (see columns 21 - 23 of the Official Report).**

The licensing of development activities under Part 5 of the Bill provides that it is local authorities who can request to be designated as a licensing authority and who would take the lead in the process and procedures to be developed in future regulations. We would welcome and encourage the involvement of local communities in the decision making process in relation to marine development licences but the local authority would be the appropriate body in any appeal process in relation to marine licence applications.

**Stewart Stevenson MSP asked for more clarity around the definition of 'inhabited island' in section 18 of the Bill (see columns 23 - 25 of the Official Report).**

Sections 17 and 18 define two terms for the purposes of Part 5 of the Bill: "Scottish island marine area" and "island licensing area". It would be in an "island licensing area" that a licence would be required to carry on a "development activity". Each "island licensing area" would be a subset of the "Scottish island marine area" and would be defined and designated as such in regulations made under section 18. Section 18(3)(b) refers to the regulations making provision about "the area and boundaries of the Scottish island marine area... (ii) which are allocated to a particular local authority for the purposes of the scheme [and] (iii) which are designated as an island licensing area."

The Minister for Transport and Islands mentioned at Committee that the demarcation of boundaries of the "Scottish island marine area" could be agreed through consultation and conversation between local authorities, as had been the case for the recent Scottish Marine Regions Order 2015 (SSI 2015/193). That would be relevant for section 18(2) which sets out two pre-conditions for any regulations under section 18 to establish a licensing scheme and designate an "island licensing area" for that scheme. The first is a local authority has applied for the designation and the second, at section 18(2)(b), is that "the area includes an inhabited island". The intention is that the area referred to is the local authority's area.

However, as Mr Stevenson noted, the area designated for licensing, as part of the "Scottish island marine area", is sea rather than land. That raises the technical question for section 18(2)(b) of whether an "island licensing area" can be said to include an island. The intention in the Bill is that it can, in sense that the sea which was allocated to a particular local authority's "island licensing area" would go round the entire boundary of each island within it and can therefore be said to "include" each island within it. The test of inhabitation would then be applied to the island. However, we are grateful for the point being raised and are reconsidering if that approach is appropriate and allows sufficient flexibility for the to-be-decided boundaries between local authorities for the purposes. Greater flexibility might require a small change to section 18(2)(b) to clarify that the "the area includes, or is adjacent to, an inhabited island".

## National Islands Plan Proposed Timeline

The Minister for Transport and Islands also agreed to provide the Committee with a timeline for the development of the first National Islands Plan. Please find this attached. Essentially we would intend to use the good-practice principles as set out in the [National Standards for Community Engagement](#), including a pre-consultation engagement phase with a range of stakeholders and communities. This pre-consultation engagement will help inform the shape and content of the draft National Islands Plan which will be fully consulted on from Autumn 2018.

To allow the fullest possible engagement on the draft plan, it is proposed that the consultation period will run for a 16 week period rather than the normal 12 weeks to ensure that communities and stakeholders have the opportunity to consider in detail the draft plan and submit their views.

For both the pre-plan engagement and the formal consultation, the Scottish Government intends to use various engagement methods and utilise the networks of partners, including Councils, third sector and community organisations. This is to help ensure that island communities have the fullest possible opportunity to contribute to the National Islands Plan.

I hope this response provides the information you were looking for and please get in touch if you have any questions.

**Ian Turner**  
Islands Bill Team

