

## PE1637/Q

Petitioner submission of 19 January 2021

The response from the Cabinet Secretary for Energy, together with previous responses from the Cabinet Secretaries for Communities, Transport, Environment, and Rural Economy, shows a consistent picture across the Scottish Cabinet. A position has been created where governance over Scottish trust ports has been relinquished in exchange for the removal of several hundred million pounds from Scotland's debt, (as recorded by ONS). It has been demonstrated that no matter what level of impacts there are for the environment or stakeholders, Scottish Ministers will not oppose Scottish Trust Ports in any way.

Mr Wheelhouse informs us that no financial assistance is available to stakeholders for expensive court proceedings against ports. Minor pre-court costs may be available but only to those in low wealth situations. This leaves community port stakeholders powerless to address issues such as STS which may require Judicial Review.

The response informs us that, when Scottish Ministers delegated authority from themselves to ports, access to the massive funding required to oppose improper activities in court, has been removed from all, Scottish Ministers included. Ministers have undoubtedly strengthened the hand of wealthy ports in dealing with complaints from stakeholders. MCA used exactly this situation of wealth advantage against Cromarty Rising when we challenged the validity of the Nigg STS Licence awarded in 2012. We were left with the choice of finding several hundred thousand pounds or give up.

The impacts from the Scottish Government's position have been made clear during this PPC case:

- Marine Scotland's scientific inputs & consultation response to the STS licence were knowingly withheld.
- While significant issues were identified in the MS response to the STS consultation, the Cabinet Secretary at the time issued a disingenuous press statement quashing all Marine Scotland scientific responses to consultation.
- A formal complaint was made to the EU Commission against the United Kingdom for failing to properly consider European Protected Species inside the Moray Firth SAC.
- Millions of pounds of public funding have been awarded to Scottish ports despite Ministers guidance and previous statements to the PPC, that ports receive no public funding and are entirely separate from government.
- Scottish Trust Ports regulate themselves and communities or individuals are powerless.

Cromarty Rising are of the opinion that the key legislation in the form of the Harbours (Scotland) Act 2015 and guidance in the form of Modern Trust Ports for Scotland: Guidance for Good Governance 2012, have left the Scottish government with no fiscal, fiduciary, legal or operational control over Scottish trust ports.

We thank the PPC for the support we have received throughout this process, the responses from Scottish Minister and other have not provided any evidence to the contrary with the same responses being rolled out time and time again. A Scottish Trust Port could put in a new application for STS in the open sea within a protected area -this has not changed and the PoCF application process shows that there are not sufficient safeguards. Trust Ports have no external governance. They control national assets, responsible to themselves and their self-appointed boards. There is no regulation, no real accountability and no audit of their action. We believe our petition case is still as valid as the day it was submitted 4 years ago.

We ask the PPC to consider how they may address the issues raised by PE1637. Our view is that:

- Trust Port guidance needs to be revised to address the true position on access to public funding.
- Trust port guidance needs to become governance with effect in law.
- Stakeholders need to be provided with a meaningful process to challenge trust ports should they feel aggrieved that does not rely on self-funding court proceedings
- Trust ports need to be brought to account by the Scottish Government when port activities bring environmental, socioeconomic or public health impacts
- Trust port activities should be subject to independent external audit
- Trust Port boards need to be appointed externally by fair and open competition with member from a varied and diverse background.