

T: 0300 244 4000

E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Edward Mountain MSP  
Convener  
Net Zero, Energy and Transport Committee  
Scottish Parliament

25 September 2023

Dear Edward,

### **Scottish Land Commission – Extension of Chair**

Thank you for your letter dated 12 September in relation to the decision to extend the appointment of the Chair of the Scottish Land Commission (SLC).

Scottish Ministers are responsible for making appointments in accordance with the Ethical Standards Commissioner's Code of Practice and Guidance ("the ESC code"), and all other applicable legislation which in this case is the Land Reform (Scotland) Act 2016 ("the 2016 Act"). I am grateful to the Committee for their oversight of the public appointments process in accordance with the 2016 Act. However, designing a process that ensures we meet the requirements of both the 2016 Act and ESC code has taken some time. The current timetable for the appointments process is challenging given that the terms of the SLC Chair, Andrew Thin, and two Land Commissioners, David Adams and Megan MacInnes, come to an end on 18 December 2023.

Although the SLC could continue to function with the remaining three Land Commissioners through to February 2024, I felt that extending the term of the Chair would ensure strong corporate governance and continuity of the SLC during the appointments process, and provide an opportunity for a handover once the new appointments are made. It also provides necessary mitigation if unforeseen events impact the appointments process.

The extension of Mr Thin's current appointment is not a reappointment. The 2016 Act is silent in relation to extensions, however Section 10(3) prescribes that Land Commissioners can serve for a period, "not exceeding five years, as the Scottish Ministers may determine", before they would need to be reappointed which requires Parliamentary approval.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)

Mr Thin was first appointed on 19 December 2016, and then reappointed on 19 December 2021, as approved by Parliament. He will have served just over seven years as Chair of the SLC on 18 December 2023, and the three month extension is still within the 8 year appointment limit stipulated in the ESC code, set out below.

Consultation with the ESC is not required for extensions. As set out in the Code of Practice for Ministerial Appointments to Public Bodies in Scotland, extensions may be made by Scottish Ministers, provided the following conditions are met:

“F1 The Scottish Ministers may reappoint a board member to the same position or extend a member’s appointment term provided that:

- i. the member’s performance has been properly appraised as being effective during the current term and the member has been given the opportunity to demonstrate that they have the appropriate skills, knowledge and experience and other attributes required
- ii. the reappointment or extension will continue to meet the board’s needs for the period concerned
- iii. the member’s total period of appointment will not exceed 8 years.”

I took the decision to extend the term of the Chair on 18 August, and wrote to Mr Thin with the offer of an extension on 25 August. I received acceptance on 27 August, and my officials began making the necessary arrangements as soon as possible thereafter. This included writing to the NZET Committee on 4 September.

I hope this letter helps to clarify the 2016 Act requirements and the ESC Code requirements, the timing and the reasons for extending Mr Thin’s appointment.

Yours sincerely,

**Mairi Gougeon**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew’s House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)

**INVESTORS IN PEOPLE™**  
We invest in people Silver

